



## ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. Records</p> <p>4. Charges by territorial authorities</p> <p>5. Buildings not to be constructed, altered, or demolished without consent</p> <p>6. Exemption for energy work</p> <p>7. Referral of application relating to energy work</p>	<p>8. Code compliance certificate</p> <p>9. Establishing compliance with building code</p> <p>10. Buildings which are deemed to be earthquake prone</p> <p>11. Offences</p> <p>12. Limitation defences</p> <p>13. Transitional provisions relating to energy work</p>
---	---

1992, No. 126

**An Act to amend the Building Act 1991**

[17 December 1992]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Building Amendment Act 1992, and shall be read together with and deemed part of the Building Act 1991 (hereinafter referred to as the principal Act).

(2) Except as provided in sections 2 (6), 5 (4), 6 (2), 7 (2), and 9 (5) of this Act, this Act shall come into force on the day after the date on which this Act receives the Royal assent.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Energy work” means—

“(a) Gasfitting:

“(b) Prescribed electrical work:

“Energy work certificate” means a certificate of the kind referred to in section 50 (1) (e) of this Act:

“Gasfitting” has the same meaning as in section 2 of the Plumbers, Gasfitters, and Drainlayers Act 1976:

“Prescribed electrical work” has the same meaning as in section 2 of the Electrical Registration Act 1979:”.

(2) Section 2 of the principal Act is hereby amended by repealing the definition of the term “energy work certificate” (as inserted by subsection (1) of this section), and substituting the following definition:

“‘Energy work certificate’ means a certificate of the kind referred to in paragraph (e) or paragraph (f) of section 50 (1) of this Act:”.

(3) Section 2 of the principal Act is hereby amended by repealing the definition of the term “prescribed electrical work” (as inserted by subsection (1) of this section), and substituting the following definition:

“‘Prescribed electrical work’ has the same meaning as in section 2 (1) of the Electricity Act 1992:”.

(4) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “scaffolding”, the following definition:

“‘Secretary’ has the same meaning as in section 2 (1) of the Electricity Act 1992:”.

(5) Section 2 of the principal Act is hereby amended by repealing paragraph (b) of the definition of the term “network utility operator”, and substituting the following paragraph:

“(b) Is an electricity operator or an electricity distributor as defined by section 2 (1) of the Electricity Act 1992 for the purposes of any works as defined by that Act:”.

(6) Subsections (2) to (5) of this section shall come into force on the 1st day of April 1993.

**3. Records**—Section 27 (2) (b) of the principal Act is hereby amended by inserting, after the word “fitness,”, the words “any energy work certificates received by the territorial authority,”.

**4. Charges by territorial authorities**—Section 28 (3) of the principal Act is hereby amended by inserting, after the word “Act,”, the words “or an energy work certificate,”.

**5. Buildings not to be constructed, altered, or demolished without consent**—(1) Section 32 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) Any building work specified in the Third Schedule to this Act as being work for which a building consent is not required; or

“(ba) Any building work in respect of which the obtaining of a building consent in advance would be impracticable because it is necessary to carry out the work urgently—

“(i) For the purpose of saving or protecting life or health or preventing serious damage to property; or

“(ii) In order to ensure that any system or feature that is contained in a building and that is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building, is maintained in a safe condition or is made safe; or”.

(2) Section 32 (2) of the principal Act is hereby amended by inserting, after paragraph (ba) (as substituted by subsection (1) of this section), the following paragraph:

“(bb) Any energy work that, by virtue of section 32A of this Act, does not require a building consent; or”.

(3) Section 32 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Where, in reliance on subsection (2) (ba) of this section, any building work is carried out without a building consent having been obtained in respect of that work, the owner shall, as soon as practicable after the work is begun,—

“(a) Take all reasonable steps necessary to obtain a building consent in respect of the work; and

“(b) In the case of work done in relation to a system or feature that is covered by a compliance schedule, supply to the relevant territorial authority such information as the territorial authority may reasonably require for the purposes of enabling the territorial authority to determine, in accordance with section 44 (7) of this Act, whether or not the provisions of the compliance schedule should be amended.”

(4) Subsection (2) of this section shall come into force on the 1st day of April 1993.

**6. Exemption for energy work**—(1) The principal Act is hereby amended by inserting, after section 32, the following section:

“32A. (1) Subject to subsections (2) to (4) of this section, energy work does not require a building consent.

“(2) Subsection (1) of this section does not apply in respect of any energy work that relates to any system or feature—

“(a) That is contained in, or proposed to be contained in, any building (whether existing or proposed); and

“(b) That—

“(i) In the case of any such existing system or existing feature, is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building;

“(ii) In the case of any proposed system or proposed feature, will be required to be covered by a compliance schedule.

“(3) Subsection (1) of this section does not apply in respect of any energy work in any case where, if that work required a building consent, such a consent could not be granted unless it were granted subject to a waiver or modification of the building code or any document for use in establishing compliance with the building code.

“(4) Where any owner wishes to obtain a building consent in respect of any energy work that does not require a building consent, the owner may apply for a building consent in respect of that work (whether or not the application also relates to any other building work), and in any such case this Act shall apply in all respects as if the energy work to which the application relates required a building consent.”

(2) This section shall come into force on the 1st day of April 1993.

### **7. Referral of application relating to energy work—**

(1) The principal Act is hereby amended by inserting, after section 34, the following section:

“34A. (1) Notwithstanding anything in section 34 of this Act, where an application for a building consent is made to a territorial authority in respect of any energy work, then, in so far as the application involves the grant or refusal of a waiver or modification of the building code, or any document for use in establishing compliance with the building code, in respect of that energy work, the territorial authority shall refer the application to the Authority for a decision on—

“(a) Whether or not that waiver or modification should be granted; and

“(b) If the Authority determines that the waiver or modification should be granted, whether or not any conditions should be imposed in respect of that grant, and, if so, the terms of the conditions.

“(2) A referral to the Authority pursuant to subsection (1) of this section shall be deemed to be an application made to the Authority under section 17 of this Act by the applicant for the building consent to which the referral relates, and Part III of this Act, so far as applicable and with all necessary modifications, shall apply accordingly.

“(3) In determining, in relation to any application referred to the Authority pursuant to subsection (1) of this section, whether or not a waiver or modification of the building code or any document for use in establishing compliance with the building code should be granted, the Authority shall consult with the Secretary, and shall have due regard to any advice received from the Secretary in relation to the matter.”

(2) This section shall come into force on the 1st day of April 1993.

**8. Code compliance certificate**—(1) Section 43 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) In any case where the building work comprises or includes energy work in respect of which a building consent has been issued, the owner shall include with that advice any energy work certificate that relates to that energy work.”

(2) Section 43 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Failure to provide to a territorial authority an energy work certificate in respect of any energy work in respect of which a building consent has been issued shall be sufficient grounds for the territorial authority to refuse to issue a code compliance certificate in respect of that energy work.”

**9. Establishing compliance with building code**—

(1) Section 50 (1) of the principal Act is hereby amended by adding the following paragraph:

“(e) In so far as compliance with any requirements imposed by any regulations made under the Electricity Act 1968 or the Gas Act 1982 is compliance with any particular provisions of the building code, a certificate issued pursuant to either of those Acts or the Electrical Registration Act 1979 or pursuant to any such regulations and to the effect that any energy work complies with any such requirements.”

(2) Section 50 (2) of the principal Act is hereby amended by omitting the expression “and (d)”, and substituting the expression “(d), and (e)”.

(3) Section 50 (1) of the principal Act (as amended by subsection (1) of this section) is hereby amended by adding the following paragraph:

“(f) In so far as compliance with any requirements imposed by any regulations made under the Electricity Act 1992 or the Gas Act 1992 is compliance with any particular provisions of the building code, a certificate issued pursuant to any such regulations and to the effect that any energy work complies with any such requirements.”

(4) Section 50 (2) of the principal Act (as amended by subsection (2) of this section) is hereby amended by omitting the expression “and (e)”, and substituting the expression “(e), and (f)”.

(5) Subsections (3) and (4) of this section shall come into force on the 1st day of April 1993.

**10. Buildings which are deemed to be earthquake prone**—Section 66 (3) of the principal Act is hereby amended by omitting the expression “Part III”, and substituting the expression “Part V”.

**11. Offences**—Section 80 (1) (a) of the principal Act is hereby amended by inserting, after the expression “section 32 (2)”, the expression “or section 93A (2)”.

**12. Limitation defences**—Section 91 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) For the purposes of subsection (2) of this section, if—

“(a) Civil proceedings are brought against any person; and

“(b) The proceedings arise out of the issue of an energy work certificate,—

the date of the act or omission is the date of the issue of the certificate.”

**13. Transitional provisions relating to energy work**—The principal Act is hereby amended by adding, after section 93, the following section:

“93A. (1) In this section, unless the context otherwise requires, the term ‘interim period’ means the period beginning on the date of the commencement of this section and ending with the close of the 31st day of March 1993.

“(2) Subject to subsections (3) and (4) of this section, during the interim period energy work does not require a building consent.

“(3) Subsection (2) of this section does not apply in respect of any energy work that relates to any system or feature—

“(a) That is contained in, or proposed to be contained in, any building (whether existing or proposed); and

“(b) That—

“(i) In the case of any such existing system or existing feature, is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building;

“(ii) In the case of any proposed system or proposed feature, will be required to be covered by a compliance schedule.

“(4) Where, during the interim period, any owner wishes to obtain a building consent in respect of any energy work that does not require a building consent, the owner may apply for a building consent in respect of that work (whether or not the application also relates to any other building work), and in any such case this Act shall apply in all respects as if the energy work to which the application relates required a building consent.

“(5) Subject to subsection (6) of this section, where, during the interim period, any energy work that does not require a building consent is commenced under an authorisation granted before the expiry of the interim period, that work may continue as if this Act had not been passed.

“(6) If—

“(a) After the expiry of the interim period, any energy work to which subsection (5) of this section applies is being carried out; and

“(b) Reasonable progress to the satisfaction of the territorial authority concerned has not been made on that work for 4 calendar months,—

then subsection (5) of this section shall cease to apply with respect to that energy work.

“(7) Every building consent that is issued during the interim period and that relates to energy work shall have endorsed on it a statement to the effect that the carrying out of the energy work to which the building consent relates is subject to compliance with the requirements of the Electricity Act 1968 or, as the case requires, the Gas Act 1982.”

---

This Act is administered in the Department of Internal Affairs.

---