



Building (Accreditation of Building Consent Authorities) Amendment Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 13th day of February 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 402(1)(k), (t)(i), (ta), and (w) of the Building Act 2004—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Building and Construction.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal regulations	2
4	Regulation 3 amended (Interpretation)	2
5	New regulation 3A inserted (Transitional, savings, and related provisions)	3
	3A Transitional, savings, and related provisions	3
6	Regulation 4 amended (Criteria and standards for accreditation as building consent authority)	3
7	Regulation 5 amended (Requirements for policies, procedures, and systems)	3
8	Regulation 6 amended (Building consent authority's observance of policies, procedures, and systems)	3
9	New regulation 6A inserted (Notice)	4

	6A	Notice	4
10		Regulation 10 amended (Establishing and assessing competence of employees)	5
11		Regulation 11 amended (Training employees)	5
12		Regulation 12 amended (Choosing and using contractors)	5
13		Regulation 17 amended (Assuring quality)	5
14		Regulations 18 and 19 replaced	5
	18	Requiring technical qualifications	6
	19	Fees	6
15		Schedule replaced	6
16		Consequential revocation	6
17		Consequential amendment	6
		Schedule	7
		Schedule replaced	

Regulations

1 Title

These regulations are the Building (Accreditation of Building Consent Authorities) Amendment Regulations 2017.

2 Commencement

These regulations come into force on 1 July 2017.

3 Principal regulations

These regulations amend the Building (Accreditation of Building Consent Authorities) Regulations 2006 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, insert in its appropriate alphabetical order:

specified New Zealand qualification means any of the following qualifications offered by a New Zealand tertiary education provider:

- (a) National Diploma in Building Control Surveying (Small Buildings):
- (b) National Diploma in Building Control Surveying (Medium and Large Buildings):
- (c) Diploma in Building Surveying:
- (d) Diploma in Construction Management:
- (e) Diploma in Construction:
- (f) Diploma in Quantity Surveying:
- (g) Diploma in Architectural Drafting:

- (h) Diploma in Architectural Technology:
- (i) Bachelor of Applied Technology - Building:
- (j) Bachelor of Architecture:
- (k) Bachelor of Architectural Studies:
- (l) Bachelor of Building Science:
- (m) Bachelor of Construction:
- (n) Bachelor of Engineering:
- (o) a qualification in the field of building design or construction—
 - (i) at or above level 6 in the New Zealand Qualifications Framework administered by the New Zealand Qualifications Authority (established under Part 20 of the Education Act 1989); or
 - (ii) equivalent to a qualification in subparagraph (i)

- (2) In regulation 3, definition of **building control function**, replace paragraph (r) with:

- (r) section 102:
- (ra) sections 103 and 104:

5 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

6 Regulation 4 amended (Criteria and standards for accreditation as building consent authority)

Revoke regulation 4(2) to (5).

7 Regulation 5 amended (Requirements for policies, procedures, and systems)

- (1) In regulation 5(b), after “purposes”, insert “; and”.
- (2) After regulation 5(b), insert:

- (c) implemented in a consistent and effective manner.

8 Regulation 6 amended (Building consent authority’s observance of policies, procedures, and systems)

- (1) In the heading to regulation 6, replace “**observance of**” with “**decisions under**”.
- (2) Revoke regulation 6(a).

9 New regulation 6A inserted (Notice)

After regulation 6, insert:

6A Notice

- (1) A building consent authority must have a system for notifying the building consent accreditation body and the Ministry of any of the following matters within 20 working days of the matter taking place:
 - (a) a significant change in the legal, commercial, or organisational status of the building consent authority or the wider organisation in which it operates;
 - (b) the departure of the building consent authority's authorised representative or responsible manager;
 - (c) in any one quarter of a calendar year, a reduction of 25% or more of employees doing technical jobs who are not replaced with employees who have equivalent qualifications and competence;
 - (d) a transfer under section 233 or 244 of the Act of—
 - (i) 1 or more functions of the building consent authority to another building consent authority;
 - (ii) 1 or more functions of another building consent authority to the building consent authority;
 - (e) an arrangement being made under section 213 of the Act for—
 - (i) another building consent authority to perform a significant amount of the functions of the building consent authority;
 - (ii) the building consent authority to perform a significant amount of the functions of another building consent authority;
 - (f) a material amendment to the building consent authority's policies, procedures, or systems required by these regulations.
- (2) A building consent authority that is not a territorial authority or a regional authority must also have a system for notifying the building consent accreditation body and the Ministry of any of the following matters within 20 working days of the matter taking place:
 - (a) any professional misconduct of the building consent authority or its management (including conduct that may give rise to a professional misconduct action being taken by a professional association);
 - (b) a civil claim being made against the building consent authority or its management in relation to contract or tort;
 - (c) a conviction of, or pending proceedings against, the building consent authority or its management, in New Zealand or in another country, for—
 - (i) a crime involving dishonesty;
 - (ii) a building control offence.

- (3) In this regulation,—
- building control offence** means an offence against any of the following Acts or against any regulations or orders made under those Acts:
- (a) Building Act 2004:
 - (b) Construction Contracts Act 2002:
 - (c) Resource Management Act 1991:
 - (d) Weathertight Homes Resolution Services Act 2006
- crime involving dishonesty** has the same meaning as in section 2(1) of the Crimes Act 1961
- management**, in relation to a building consent authority, means the chief executive officer and every manager or director who is responsible for directing or controlling the building control functions of the authority.

10 Regulation 10 amended (Establishing and assessing competence of employees)

In regulation 10(2), replace “regularly” with “frequently”.

11 Regulation 11 amended (Training employees)

In regulation 11(2)(a), replace “regular” with “annual (or more frequent)”.

12 Regulation 12 amended (Choosing and using contractors)

In regulation 12(2)(f), replace “regularly” with “annually (or more frequently)”.

13 Regulation 17 amended (Assuring quality)

- (1) In regulation 17(1), after “building control functions”, insert “and of the policies, procedures, and systems required by these regulations”.
- (2) In regulation 17(2)(a), replace “regulations 5 to 16” with “regulations 5 to 16 and 18”.
- (3) In regulation 17(2)(d), after “review”, insert “annually (or more frequently)”.
- (4) In regulation 17(2)(h), replace “within 12 months of the completion of the last internal audit of the function” with “annually (or more frequently)”.
- (5) Revoke regulation 17(2)(n).
- (6) In regulation 17(5), replace “periodically” with “annually (or more frequently)”.

14 Regulations 18 and 19 replaced

Replace regulations 18 and 19 with:

18 Requiring technical qualifications

- (1) A building consent authority must have a system for ensuring that each employee and contractor who performs the authority's building control functions by doing a technical job—
 - (a) has an appropriate specified New Zealand qualification; or
 - (b) is working towards having an appropriate specified New Zealand qualification within a reasonable time; or
 - (c) has an appropriate foreign qualification recognised in New Zealand that is equivalent to a specified New Zealand qualification.
- (2) However, subclause (1) does not apply in respect of employees and contractors identified and recorded by the building consent authority's system required by subclause (3).
- (3) The building consent authority must have a system for—
 - (a) establishing circumstances of employees and contractors that would make it unreasonable and impractical for the authority to implement the system referred to in subclause (1) in respect of those employees and contractors; and
 - (b) identifying and recording which employees and contractors have those circumstances.

19 Fees

- (1) The fees set out in Schedule 2 are payable in respect of the matters to which they relate.
- (2) The fees set out in Schedule 2 are exclusive of goods and services tax.

15 Schedule replaced

Replace the Schedule with the Schedules 1 and 2 set out in the Schedule of these regulations.

16 Consequential revocation

The Building (Consent Authority Accreditation Fees) Regulations 2007 (SR 2007/102) are revoked.

17 Consequential amendment

- (1) This regulation amends the Building (Registration of Building Consent Authorities) Regulations 2007.
- (2) In regulation 3, replace the definition of **building control function** with:
building control function has the same meaning as in regulation 3 of the Building (Accreditation of Building Consent Authorities) Regulations 2006

Schedule

Schedule replaced

r 15

Schedule 1

Transitional, savings, and related provisions

r 3A

Part 1

Provisions relating to Building (Accreditation of Building Consent Authorities) Amendment Regulations 2017

1 Administrative overhead cost

- (1) This clause applies if a building consent authority has been granted accreditation before commencement.
- (2) In the case of the first audit of the building consent authority to take place on or after commencement,—
 - (a) for the purposes of clause 6(1) of Schedule 2, the date that the building consent authority was originally granted accreditation is deemed to be commencement; and
 - (b) for the purposes of clause 6(2) of Schedule 2, the date that the previous audit took place is deemed to be commencement.
- (3) In this clause, **commencement** means 1 July 2017.

Schedule 2

Fees

r 19

Part 1

Fees payable

1 Accreditation application fee

The accreditation application fee payable by an applicant in connection with an application made under section 250 of the Act is the amount calculated in accordance with the following formula:

$$a + b + c = d$$

where—

a is the personnel cost calculated in accordance with clause 3 of Part 2

- b is the technical expert cost calculated in accordance with clause 4 of Part 2
- c is the disbursement cost calculated in accordance with clause 5 of Part 2
- d is the amount payable.

2 Audit fee

The audit fee payable by a building consent authority in connection with an audit conducted under section 249 of the Act is the amount calculated in accordance with the following formula:

$$a + b + c + d = e$$

where—

- a is the personnel cost calculated in accordance with clause 3 of Part 2
- b is the technical expert cost calculated in accordance with clause 4 of Part 2
- c is the disbursement cost calculated in accordance with clause 5 of Part 2
- d is the administrative overhead cost calculated in accordance with clause 6 of Part 2
- e is the amount payable.

Part 2 Calculation of costs

3 Personnel cost

- (1) The personnel cost is calculated in accordance with the following formula:

$$(a \times \$215) + (b \times \$105)$$

where—

- a is the sum of the number of hours (including part-hours) spent by each building consent accreditation body staff member performing the accreditation assessment or the audit (as applicable)
 - b is the sum of the number of hours (including part-hours) spent by each building consent accreditation body staff member travelling for the purpose of performing the accreditation assessment or the audit (as applicable).
- (2) However, the maximum amount of the personnel cost in respect of any one building consent accreditation body staff member for any one day is capped at \$1,720.
- (3) For the purposes of this clause and clause 5, **performing the accreditation assessment or the audit** may include the following (as applicable):
- (a) accepting and processing an application for accreditation:

- (b) desk-based document review:
- (c) on-site pre-assessment meeting:
- (d) on-site assessment, including witnessing and auditing and engagement on corrective actions:
- (e) report writing:
- (f) following up on an audit, including corrective actions:
- (g) confirmation of accreditation (or revocation) proceedings:
- (h) any follow-up on-site assessment required.

4 Technical expert cost

- (1) The technical expert cost is calculated in accordance with the following formula:

$$(a \times \$156) + (b \times \$105)$$

where—

- a is the sum of the number of hours (including part-hours) spent by each building consent accreditation body technical expert supporting the accreditation assessment or the audit (as applicable)
 - b is the sum of the number of hours (including part-hours) spent by each building consent accreditation body technical expert travelling for the purpose of supporting the accreditation assessment or the audit (as applicable).
- (2) However, the maximum amount of the technical expert cost in respect of any one building consent accreditation body technical expert for any one day is capped at \$1,248.

5 Disbursement cost

The disbursement cost is the actual and reasonable costs incurred by—

- (a) each building consent accreditation body staff member in connection with performing the accreditation assessment or the audit (as applicable), including accommodation and travel costs; and
- (b) each building consent accreditation body technical expert in connection with supporting the accreditation assessment or the audit (as applicable), including accommodation and travel costs.

6 Administrative overhead cost

- (1) If the building consent authority has not had a previous audit, the administrative overhead cost is calculated in accordance with the following formula:

$$a \times \$106.25$$

where—

- a is the number of whole months since the date that the building consent authority was originally granted accreditation.
- (2) If the building consent authority has had a previous audit, the administrative overhead cost is calculated in accordance with the following formula:
- $$b \times \$106.25$$
- where—
- b is the number of whole months since the date that the previous audit took place.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 2017, amend the Building (Accreditation of Building Consent Authorities) Regulations 2006 (the **principal regulations**).

The purpose of the principal regulations is to prescribe the criteria and standards that an applicant must meet in order to be accredited as a building consent authority under the Building Act 2004 (the **Act**) and to prescribe the fees payable under the Act in relation to the accreditation and audit of building consent authorities.

The purpose of these regulations is to—

- specify the qualifications that employees and contractors of building consent authorities who perform the authority's building control functions by doing a technical job must have (or be working towards):
- require building consent authorities to notify the building consent accreditation body and the Ministry of Business, Innovation, and Employment of certain specified matters:
- prescribe the fees payable for an accreditation application and an audit:
- revoke the current prescribed form for accreditation applications.

New Schedule 2 prescribes the method by which accreditation application fees and audit fees are to be calculated for the purposes of the Act. Previous provisions regarding fees were contained in the Building (Consent Authority Accreditation Fees) Regulations 2007 (the **fees regulations**). *Regulation 16* consequentially revokes the fees regulations.

Clause 1 of new Schedule 2 sets out how the accreditation application fee is calculated. The accreditation application fee is payable by an applicant in connection with an application made under section 250 of the Act.

Clause 2 of new Schedule 2 sets out how the audit fee is calculated. The audit fee is payable by a building consent authority in connection with an audit conducted under section 249 of the Act.

Regulation 17 consequentially amends the Building (Registration of Building Consent Authorities) Regulations 2007 so that a consistent definition of building control function is used in all relevant regulations related to building consent authorities.

These regulations are being made following a review by the Ministry of Business, Innovation, and Employment of the framework for building consent authority accreditation. The review identified that the purpose of the building consent authority accreditation scheme is to set out the minimum policies, procedures, and systems that a building consent authority must have, and consistently and effectively implement, to perform its building control functions.

The review also identified that the objectives of the building consent authority accreditation scheme are that—

- building consent authorities—
 - have appropriate policies, procedures, and systems as required by the principal regulations:
 - have appropriate policies, procedures, and systems in relation to quality assurance:
 - have sufficient skills and resources to undertake their building control functions:
 - have employees and contractors with appropriate building control competencies and qualifications; and
- the scheme supports—
 - territorial and regional authorities with regard to transferring functions:
 - building consent authorities with regard to outsourcing arrangements with other building consent authorities:
 - building consent authorities to align policies, procedures, or systems on a national or regional basis.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/publications-research/publications/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

**Building (Accreditation of Building Consent
Authorities) Amendment Regulations 2017**

2017/14

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