

13. FACT SHEET ON PREMISES AND ENVIRONMENT



This fact sheet summarises an organisation's obligations relating to the use and construction of premises. This includes responsibilities for buildings, facilities, amenities and consents for activities that affect the environment. The fact sheet covers the Building Act 2004, the Fire Safety and Evacuation of Buildings Regulations 1992, the Health Act 1956, the Smoke-Free Environments Act 1990, and the Resource Management Act 1991.

BUILDING ACT 2004

The Building Act 2004 provides the necessary controls relating to building work and the use of buildings. It applies to organisations that own or manage any building. The Building Act defines a "building" as any temporary or permanent structure, whether movable or immovable.

Breaches of the Building Act can attract penalties up to \$200,000, and up to \$20,000 a day for a continuing offence.

Access by people with disabilities

- Organisations need to ensure that any construction or alteration of its buildings adequately provides for access, parking and sanitary conveniences for people with disabilities. This applies to all buildings that the public have access to and that people with disabilities are likely to work in or visit.
- Organisations need to display a notice outside each relevant building that incorporates an internationally identifiable symbol, indicating access for people with disabilities.
- If an organisation operates a home of more than five beds for the general welfare and residential care in the community of disabled people, the organisation needs to be certified and to meet standards under the Health and Disability Services (Safety) Act 2001.

Compliance schedules

Each building (other than single residential dwellings) must have a compliance schedule issued by a building consent authority if the building has any of the systems listed below. The schedule specifies the inspection, maintenance and reporting procedures to be followed by independent qualified people.

A compliance schedule is necessary for the following systems:

- Automatic systems for fire suppression (such as sprinkler systems)
- Electromagnetic or automatic doors or windows (for example, those that close when a fire alarm activates)
- Automatic or manual warning systems for fire or other dangers
- Emergency lighting systems
- Escape route pressurisation systems
- Riser mains for the use of fire services
- Automatic back-flow preventers connected to a potable water supply
- Lifts, escalators, travelators or other systems for moving people or goods within buildings
- Mechanical ventilation or air-conditioning systems
- Building maintenance units that provide access to the exterior and interior walls of buildings
- Laboratory fume cupboards
- Audio loops or other assisting listening systems
- Smoke control systems
- Emergency power systems for, or signs relating to, any of the systems or features listed above

The organisation must ensure that:

- the compliance schedule is kept in the relevant building or in some other building agreed by the owner and the territorial authority
- the compliance schedule is available to be inspected by those with a right to inspect the building under any Act
- the compliance schedule is kept within the district of the territorial authority
- a statement issued by the territorial authority (as prescribed under the Building Act) relating to the compliance schedule is displayed publicly for the first year of the compliance schedule.

Building warrant of fitness

If a building has a compliance schedule, the owner must supply the territorial authority with a building warrant of fitness each year.

The building warrant of fitness must be publicly displayed in the building in a place to which building users have ready access.

Building consents and building work

Organisations need to:

- obtain a building consent for any building work (except in some limited cases)
- comply with the Building Code (a set of technical requirements in the regulations under the Building Act) for all building work, whether or not a building consent is required
- notify the territorial authority once any building work is completed
- comply fully with any “notice to fix” received from a territorial authority for any failure to comply with the Building Act of regulations, an error in a building warrant of fitness, or a failure to comply with procedures in a compliance schedule.

“Building work” means work for, or in connection with, the construction, alteration, demolition or removal of a building, including site work and design work.

Dangerous and insanitary buildings

Organisations need to ensure that their buildings are not dangerous. A building is dangerous if:

- in the ordinary course of events (excluding earthquakes), it is likely to cause injury or death to a person or damage to other property, or
- in the case of a fire, someone in the building or on the property is likely to be injured or killed because of fire hazard or the occupancy of the building.

Organisations need to ensure that buildings are not insanitary. A building is insanitary if:

- it is offensive or likely to be injurious to health because of how it is situated or constructed or because it is in a state of disrepair
- it has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or any adjoining building
- it does not have a supply of potable water that

is adequate for its intended use

- it does not have sanitary facilities that are adequate for its intended use.

FIRE SAFETY AND EVACUATION OF BUILDINGS REGULATIONS 1992

These regulations, made under the Fire Service Act 1975, impose duties on the owners and managers of certain buildings, including:

- centres that provide childcare services
- premises that provide accommodation to the public
- centres that house facilities for early childcare, specialised nursing, medical or geriatric care, or specialised care for people with disabilities
- places of worship
- places of assembly (such as auditoriums or clubrooms)
- other buildings to which the public are admitted.

Breaches of the regulations can attract penalties of up to \$200, and up to \$20 a day for a continuing offence.

Evacuation procedures

The Fire Safety and Evacuation of Buildings Regulations require organisations to:

- have an evacuation procedure for the safe, efficient evacuation from the building to an assembly point, so that all building occupants can be accounted for
- ensure that information is available to building occupants about the fire evacuation procedure, fire exit routes, fire alarm signals and any fire-fighting equipment for occupants to use
- fix signs and notices in appropriate places in the building to indicate the evacuation procedure and the fire exits
- maintain a means of escape from fire to evacuation points and an assembly point clear of the building
- ensure that evacuation and assembly points are kept clear of obstacles, that exit doors are not locked or blocked, and that smoke-control and fire-stop doors are kept closed.

Fire prevention

Organisations must take reasonable fire prevention precautions in relation to electrical, gas and flammable

liquids by providing appropriating equipment and appliances. The local fire department can advise organisations on whether their fire prevention precautions are adequate.

People with disabilities

An organisation cannot limit or prevent any person with a disability from entering a building on the grounds of problems of fire safety and evacuation if that person would otherwise be permitted to enter the building.

HEALTH ACT 1956

The Health Act 1956 provides for the maintenance and enhancement of public health. There are two parts of the Health Act that may be relevant to organisations:

- The Act defines a number of statutory nuisances. Every person who causes one of the nuisances commits an offence and is liable for a fine. The Court can also make a variety of other orders, including prohibiting an offending building from being used.
- Part of the Health Act prescribes rules relating to the condition of buildings. If a building does not meet certain standards of cleanliness and repair, a local authority can make a “cleansing order” or, in an extreme case, a “closing order”.

Nuisances

The Health Act provides an extensive list of nuisances. Among other things, an organisation must not:

- have a pool, ditch, gutter, water course, sanitary convenience, cesspool, drain or vent pipe somewhere offensive or likely to harm a person’s health
- keep any building in a state likely to harbour rats or other vermin
- overcrowd any building in a way likely to injure the health of the occupants
- operate any factory, workroom, shop, office, warehouse or other place of trade or business unless there are facilities to carry off any fumes, gases, vapours, dust or impurities generated in the building
- allow a chimney or fire to send out smoke in a way or of a quantity likely to harm a person’s health

- place or construct any source of water supply for domestic purposes in such a way that it is offensive, liable to contamination or likely to injure a person’s health
- otherwise keep any street, road, right of way, passage, yard, premises or land in such a state as to be offensive or likely to injure a person’s health.

Buildings

Any building intended to house people must include an adequate and convenient supply of water, suitable appliances to dispose of waste water in a sanitary manner, and sufficient sanitary conveniences.

If an organisation owns or occupies any building and uses it to house people, the organisation must keep the building fit for human occupation and in a state that does not endanger human health.

SMOKE-FREE ENVIRONMENTS ACT 1990

One of the purposes of the Smoke-Free Environments Act 1990 is to reduce the exposure of non-smokers to any detrimental effect on their health caused by others who smoke.

The Act imposes duties on employers to regulate smoking in the workplace. Smoking is prohibited in workplaces except in special circumstances.

Places in which employers must ensure that smoking does not occur include restaurants, licensed premises, schools, early childhood education centres, casinos, certain travel premises and certain gaming machine venues. This prohibition does not apply to “open areas”.

Each employer must establish a written smoking policy and, if possible, settle complaints received about breaches of the policy. The Act requires an employer to investigate any complaint within 20 working days of receiving it.

It is an offence to breach the Act, punishable by a fine.

RESOURCE MANAGEMENT ACT 1991

The Resource Management Act 1991 governs the use of land, air and water. The overriding purpose of the Act is to promote sustainable management of natural and physical resources.

RESOURCE MANAGEMENT ACT 1991 (CONTINUED)

The concept of “use” is defined very broadly in the Act. The Act will impinge on almost any substantial initiative an organisation undertakes that uses land, air or water.

The Act regulates the use of land, air and water primarily through regional and district plans (drafted by regional authorities and local councils), and also through specific prohibitions and allowances in the Act and through resource consents.

Breaches of the Act can result in abatement notices or enforcement orders being issued, requiring costly steps to remedy the breach. Most breaches are also offences, which attract fines.

Organisations need to:

- consider the effects that their activities may have on the environment (including temporary, permanent, future, cumulative and potential effects), and take reasonable steps to remedy or mitigate any adverse effects
- comply with the terms of any applicable resource consent or regional or district plan
- ensure they have the consent of the relevant authority to carry out any activity that contravenes a designation or heritage order
- ensure they have the necessary consents to subdivide land.

“Environment”, in the Resource Management Act, includes ecosystems (and their constituent parts, including people and communities), natural and physical resources, and amenity values.

RESOURCES

Websites

www.building.govt.nz

The Department of Building and Housing’s website provides information leaflets on the Building Act.

www.rmaguide.org.nz

The Environmental Defence Society has developed a guide to the Resource Management Act for community organisations.

Publications

A Constructive Guide to the New Zealand Building Act. Available from the Department of Internal Affairs.

Other sources

The local fire service provides information and advisory services.

An environmental health officer from the relevant local authority can help organisations to understand compliance with the Health Act.

