

## BUILDING ACT 2004 CERTAIN WORK EXEMPT

Schedule 1 of the Building Act 2004 exempts certain works from requiring a building consent pursuant to Section 33 or Section 45 of the Act. However, it is pointed out that any exempted work MUST still comply with the Act and applicable regulations.

**OVERVIEW** *The Building Act prescribes the process that building consent authorities and building owners must comply with when undertaking building work. The Act requires people intending to undertake building work to apply for a building consent unless the work is 'exempted'. Schedule 1 of the Act lists the building work that does not require a building consent.*

### SEEKING ADVICE ON EXEMPTED BUILDING WORK

Obtaining a building consent for building work is the responsibility of the building owner. It is important therefore to obtain good advice before deciding that the building work is covered by exemption provisions set out in Schedule 1.

When exemptions apply will depend on the kind of work being undertaken, the scope of the work, and the extent of the proposed building work. For example, a retaining wall may be exempt if the dimensions of the retaining wall are such that the wall is less than 1.5 metres in height and the retaining wall is not supporting surcharge or additional loads such as vehicle access or foundation.

While the Building Act provides for exemptions there might be other regulations that you need to comply with. These include but are not limited to the following:

- the Building Code
- the Resource Management Act 1991
- the Plumbers, Gasfitters and Drainlayers Act 1976
- the Electricity Act 1992
- the Health Act 1956
- any local government bylaws

## **WHAT BUILDING WORK IS LISTED AS EXEMPT BUILDING WORK**

Schedule 1 of the Building Act 2004 sets out the circumstances where building work is exempt from needing a building consent. Its intent is to apply an appropriate balance between minimising compliance costs (by exempting low risk and minor building work from the consent process), and requiring some consistent regulatory oversight of building work that could risk health and safety.

### **EXEMPTION CATEGORIES (Building Consent Not Required)**

- (a) Any lawful repair and maintenance using comparable materials except in:
  - (i) Complete or substantial replacement of a specified system.
  - (ii) Complete or substantial replacement of any component or assembly contribution to the “building’s structure” or fire safety.
  - (iii) Repair or replacement of any building component that has failed to satisfy provisions of the building code for durability.
  - (iv) Repair or replacement of any water storage heater – must be done by a registered plumber. Check for more details.
  
- (b) Construction of any road sign, stopbank, culvert or other similar structure which is owned/operated by a network utility operator.
  
- (c) Construction of any retaining wall that retains not more than 1.5m depth of ground and any surcharge or any load in addition to the retained ground, e.g. vehicles on a road.
  
- (d) The construction of any wall (except a retaining wall) or fence not exceeding 2m.
  
- (e) The construction of any tank or pool and the supports thereto (except a swimming pool, in as defined in Section 2 of the Fencing or Swimming Pools Act 1987).
  - (i) Not exceeding 35,000 litres and is directly supported by the ground.
  - (ii) Not exceeding 2000 litres and supported not more than 2m above the supporting ground.
  - (iii) Not exceeding 500 litres and supported not more than 4m above the supporting ground.

- (f) The erection of any marquee up to 100m<sup>2</sup> where for private use and up to 50m<sup>2</sup> when intended for public assembly.
- (g) The construction of any platform, bridge or the like from which it is not possible for a person to fall more than 1m even if it collapses.
- (h) The construction of any temporary storage stack of goods and materials.
- (i) Building work in connection with any detached building closer than its own height to any residential accommodation or to any legal boundary that:
  - (i) Houses fixed plant or machinery etc and the only normal visits are for maintenance/inspection.
  - (ii) Into which people cannot normally go.
  - (iii) Is used only by people engaged in the construction of another building for which a consent has been issued.
  - (iv) Does not exceed one storey and does not exceed 10m<sup>2</sup> in floor area and does not contain sleeping accommodation or sanitary facilities or facilities for the storage of potable water.
- (j) Any other building work in respect of which the territorial authority considers a building consent is not necessary for – because that building work:
  - (i) Unlikely to be carried out otherwise than in accordance with the building code;  
or
  - (ii) If carried out otherwise than in accordance with the building code, is unlikely to endanger people or any building, whether on the same land or on other property.

#### **RECENT FURTHER AMENDMENTS TO SCHEDULE 1**

- Removal / Alteration of a wall that is non-load bearing and not a bracing element.
- Awnings, pergolas or a verandah over a deck.
- Installation or replacement of windows, or exterior doors or roof windows, provided structural elements are not modified.
- Alterations of dwellings for access purposes including doorway modifications and access ramps, but excluding wet area showers.

- Internal shop or office fit out where the work does not modify, or require modifications to any specified system or means of escape from fire.
- Alterations to existing plumbing in bathrooms, kitchens, laundries, toilets, including minor drainage alterations (e.g. shifting a gully trap), but excluding services where:
  - Work is carried out by a registered drainlayer in accordance with the Plumbers, Gasfitters and Drainlayers Acts 1976 and 2006

## **IS MY PROPOSED WORK EXEMPTED?**

Firstly, check through the list of exemptions. Please note however, that they have been shortened from the Act for the sake of providing general guidance only and the full text of Schedule 1 will need to be referred to.

Secondly, seek confirmation from the Opotiki District Council Building Consent Authority as to whether exemption provision of Schedule 1 apply to your proposal. Council will require a set of plans and written detail on the building work you propose to do.

Thirdly, Council will advise you in writing as to whether:

- Your proposal is exempt
- Your proposal is NOT exempt and how to go about applying for the requisite building consent

Fourthly, remember that some work will have to be done or supervised by a registered tradesperson or other approved person. You are urged to have that person provide you with a Statement in writing that the work meets building code standards. A copy should be provided to Council.

Council will place all paper work on your building file as proof of the decisions made which may be required in the future.

A lodgement fee of 80.00 will be required before considering any application.