

Section 1

THE CHURCH & BUILDING LAW

The following section endeavours to identify the main ramifications of the following legislation:

1. Building Act 2004
2. Building (Earthquake-prone Buildings) Amendment Act 2016
3. Resource Management Act 2020
4. Fire and Emergency NZ (Fire Safety Evacuation Procedures and Evacuation Schemes) Regulations 2018
5. Heritage New Zealand Pouhere Taonga Act 2014
6. Health and Safety at Work Act 2015 (and associated regulations)
7. Residential Tenancies Amendment Act 2020.

These laws and regulations affect the obligations and duties of building owners, managers and employers of staff, tenants, visitors and volunteers within buildings.

The information has been prepared for Methodist entities and property held in the name of the Methodist Church of New Zealand, Methodist Trusts and Methodist Church of New Zealand property in Union or Co-operating Parishes.

The Building Act 2004

If building, renovating, demolishing, or carrying out maintenance on new and existing buildings throughout New Zealand, it is likely you will be affected by the Building Act 2004.

The Building Act 2004 sets standards and procedures for those involved in building work to ensure buildings are constructed to comply with the current Building Code. The Building Code covers how work can be done, who can do it, and when it needs to be inspected.

The aim of the Building Act is to improve control of and encourage better practices in building design and construction.

The Act sets out the following principles of building control:

- Safeguard the health and wellbeing of people using any building
- Ensure that each building is durable for the intended use
- Recognise any special traditional and cultural aspects of the intended use of a building
- Promote the importance of standards of building design and construction in achieving compliance with the Building Code whilst allowing for continuing innovation in methods of building design and construction
- Protect those entering a building to undertake rescue operations or firefighting from injury or illness
- Provide protection to limit the extent and effects of the spread of fire
- Protect other property from damage while building, using or demolishing a building

- Provide (both to and within certain buildings) access and facilities for people with disabilities
- Facilitate the preservation of buildings of significant cultural, historical, or heritage value
- Facilitate the efficient use of energy and the use of renewal sources of energy in buildings
- Facilitate the efficient use of water and water conservation in buildings
- Facilitate the efficient and sustainable use of materials in buildings, and reduce the generation of waste during the construction process
- Ensure that owners, managers, designers, builders and building consent authorities are each accountable for their role in ensuring that the necessary Building Consents and other approvals are obtained for proposed building work and that work complies with the Building Code whether or not Building Consent was required.

There are other laws that could affect a building project. These include council bylaws, the Resource Management Act and the laws specifying that certain plumbing, gas and electrical work must be done by licenced, qualified professionals.

Building Controls

Building controls are important to ensure we live, worship and work in quality buildings that are safe, healthy and free of defects.

Building Controls ensure that buildings:

- are designed and built by skilled, capable people who stand behind their work
- meet or exceed minimum requirements
- are constructed according to clear, upfront, contracted agreements between all parties regarding what is going to be built, how any faults will be fixed, and how arguments will be resolved
- are appropriately maintained by well-informed owners/managers
- are overseen by authorities who target their regulatory control according to the level of risk and the consequences of failure.

Building Code

Under the Building Act 2004, all building work in New Zealand must comply with the Building Code.

The Building Code does not prescribe how work should be done but sets minimum standards of functional requirements and performance criteria that buildings must meet, such as:

- protection from fire
- structural strength
- moisture control and durability.

To ensure your project goes smoothly, it is important that those who draw up your project plans and specifications understand the Building Code requirements and how to meet them and that the builder works to the approved plans.

The Church requires that plans are prepared by an appropriate design consultant. The appropriate consultant will vary with the job. For a bathroom or kitchen renovation, a professional designer could be appropriate. For a minor remodelling, a master builder or architectural draughtsperson could be acceptable. For major renovations and new church complexes, it is unlikely that anything other than a registered architect will be acceptable. If you are uncertain as to whether a registered architect would be required, please contact the Connexional Office, 03 366 6049 or email to info@methodist.org.nz

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Building plans and specifications are assessed by Building Consent Authorities (BCA), who are usually the local territorial authority, to ensure that the completed building work will comply with the Building Code. Only when the BCA is satisfied will a Building Consent for the work to proceed be issued.

Building Consents

The purpose of the consenting process is to ensure that building work is safe, durable and does not endanger health, both for the current users of the building and for those who may buy and use the property in the future. The consenting process also ensures that all building work complies with the current Building Code. As the owner/manager of a property, ultimately, it is your responsibility under the Building Act to make sure that any work undertaken on a property is done in accordance with the law and completed to a good standard.

If you are planning on the construction of a new building or doing alterations, you have to get a Building Consent from your local territorial authority/BCA before construction starts unless the building work is exempt.

BCAs will undertake inspections during construction and issue Code Compliance Certificates to certify that the finished work complies with the Building Code.

Building without a Building Consent (if one is required) is an offence that could result in fines and possibly the removal of the building work. It may also make it difficult to sell the building or to get insurance. Some building work will also require Resource Consent under the Resource Management Act.

Building Alterations

Building Consent cannot be granted for the alteration of an existing building unless the territorial authority is satisfied that, after the alteration, the building will:

- comply with the Building Code for means of escape from fire and for access and facilities for people with disabilities (if required) as near as possible as if it were a new building
- continue to comply with the other provisions of the Building Code, at least to the same extent as before the alteration.

It is also important to check before work is undertaken whether intended alterations will require significant additional work to bring the rest of the building up to the current Building Code.

Before undertaking any alterations or renovations, check with your local council territorial authority to see if Building Consent is required for the proposed work.

Changing the Use of Buildings

If you are proposing to change the use of a building, for example, converting a church hall to commercial use or converting a warehouse into a church or church hall, consent will be required. The territorial authority will need to be satisfied that the building in its new role will comply with the provisions of the Building Code relating to:

- means of escape from fire, protection of other property, sanitary facilities, structural performance and fire rating performance
- access and facilities for people with disabilities
- compliance with the other provisions of the Building Code to at least the same extent as before the change of use.

Note: Any work that requires Building Consent or Resource Consent also requires approval from Synod and the Methodist Connexional Property Committee before any work can commence.

Building Work That Requires Consent

Under the Building Act 2004, examples of building work that will require consent include:

- alterations, additions and many structural repairs to existing buildings, specifically those that will affect the structural stability of the building (in some cases, you will need consent to replace all the wall linings at once as they may serve a structural purpose)
- any alterations to inter-tenancy walls, i.e. those separating units in a multi-unit development, will need Building Consent
- some demolitions of existing buildings and structures
- the removal or relocation of an existing building
- sheds greater than ten square metres in floor area
- site work, for example, earthworks for a new extension
- construction of decks one metre or more in height above ground level or any wall that is above 1.5 metres in height above ground level or will retain driveways or structures
- changing building use
- plumbing or drainage work other than routine maintenance – although this can only be done by a registered plumber or drain layer
- installing or replacing an inbuilt, free-standing log or solid fuel burner, heater or open fire
- putting in a swimming or spa pool
- fences over two metres high.

This is not a complete list; it is only a guide to the main types of building work that requires consent. Your local council/appropriate professional should be consulted before doing any major building, alteration or renovating projects.

Building work that is exempt from requiring Building Consent must still comply with the Building Code.

These are listed in more detail in the useful guide from The Ministry of Business, Innovation and Employment, which can be found on the following website:

<https://www.building.govt.nz/building-code-compliance/how-the-building-code-works/building-act-2004/>

If in doubt, consult your local territorial authority.

Restricted Building Work

Restricted building work is work that must be carried out, or supervised by, a licensed building practitioner. <https://www.lbp.govt.nz/do-i-need-an-lbp/find-an-lbp/>

The Building Act 2004 introduced the Licensed Building Practitioners Scheme (LBP). The scheme aims to set national standards of competence for people in the building industry and to ensure ongoing maintenance and improvement of skills.

The seven licence classes are as follows:

1. design
2. site supervisors or construction managers
3. carpenters
4. external plasterers
5. roofers
6. brick and block layers
7. foundation workers.

Restricted building work is any building work that requires consent and relates to an element that is critical to the integrity of the building and the health and safety of its occupants. This includes:

- the design and construction of the primary structure (e.g. foundations and framing)
- the design and construction of the external envelope (e.g. roofing and cladding).

Any plans and specifications used in an application for Building Consent in relation to restricted building work must be prepared and certified by or under the supervision of, one or more licensed building practitioners. These must be licensed building practitioners whose licences authorise them to certify the plans and specifications.

Other Building Work That Must Be Done by Licensed Tradespeople

Plumbing and Drainage Work

You can only do simple plumbing work if renovating or doing alterations that do not involve installing new pipes. You can install dishwashers and washing machines to existing connections, change tap washers, ball valves or seals and replace taps.

All other plumbing and drainage work must be carried out by a licensed or certified plumber. Any new plumbing and drainage work will require Building Consent.

Gas fitting Work

Work to install gas fittings and appliances in a building must be carried out by a licensed or certified gasfitter.

A licensed or certified plumber or gasfitter is registered by the New Zealand Plumbers, Gasfitters and Drain Layers Board. You can check the Board's online register to see if a plumber, gasfitter or drain layer is authorised to carry out the work on www.pgdb.co.nz/search/public-register.html

Electrical Work

Electrical work must be done by a licensed electrician. This is a person registered by the Electrical Workers Registration Board (EWRB).

For any new work done, the electrician must issue a Code Compliance Certificate. This is an assurance that the work has been done to New Zealand's electrical and safety standards.

For more information, see the website <https://www.ewrb.govt.nz>

You can check the Board's online register to see if an electrician is authorised to carry out the work at <https://ewrb.govt.nz/Publicregister/search.aspx>

Inspection Process

It is the building owner's/manager's responsibility to organise inspections. If this has been delegated to a builder, architect or project manager, check to make sure the inspections are taking place.

The BCA will set out the inspections that are necessary on the building consent. For example, for a new build, an inspection may typically be carried out (but not limited to) the following stages of construction:

- foundations
- framing & insulation
- plumbing
- drainage
- claddings & flashings
- the finished building.

When all the building work is complete, organise for a final inspection for a Code Compliance Certificate (CCC) to be issued.

Code Compliance Certificate

Once the territorial authority is satisfied on reasonable grounds that the building work has been completed in accordance with the approved building consent and Building Code, the Code Compliance Certificate will be issued.

A copy of the Code Compliance Certificate is to be lodged with the Connexional Office.

Maintenance and Occupancy Controls

Before a building can be occupied, it must have a Code of Compliance Certificate. This cannot be issued until the building is complete.

Certain other classes of buildings (mainly buildings used by the public, commercial or multi-unit residential buildings) require additional ongoing reviews of specified systems and services within those buildings. This is to ensure the buildings and the services within them are maintained in a safe and sanitary condition for members of the public to enter, occupy or work in.

Building Compliance Schedule

Buildings containing certain safety and essential specified systems require a Building Compliance Schedule. Building Compliance Schedules are issued by the territorial authority/BCA and outline:

- the features in your building that require ongoing maintenance and inspections
- the frequency of those inspections, and who is able to perform them.

Under the Building Act 2004, all buildings other than single residential buildings require a compliance schedule and annual Building Warrant of Fitness if they contain any of the following:

- sprinkler systems
- automatic or manual emergency warning systems for fire
- automatic doors or windows (e.g. that close on fire alarm activation)

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- emergency lighting systems
- audio loops or other assistive listening systems
- smoke control systems
- lifts.

This is not the complete list; enquiries as to whether a particular building requires a Building Compliance Schedule should be referred to the local territorial authority.

Compliance Schedule Statement and Building Warrant of Fitness

A Compliance Schedule Statement is issued as a temporary public notification of:

- the specified systems covered by the compliance schedule for a building
- where the compliance schedule is kept.

The Compliance Schedule Statement is required to be publicly displayed for 12 months from the date of issue.

It is then replaced by the first Building Warrant of Fitness (BWOFF). The Building Act 2004 requires the owner/ manager of the building to supply the territorial authority with a Building Warrant of Fitness (BWOFF) and Certificate of Compliance with inspection, maintenance and reporting procedures at every anniversary of the Compliance Schedule issue date.

This means that every 12 months a new set of forms will be sent out; it is up to the building owner/building manager to ensure that each of the systems and features listed in the Building Compliance Schedule is inspected and maintained by an independent qualified person with the necessary technical expertise.

An Independent Qualified Person (IQP) is a person (or firm) approved by a council as qualified to inspect, maintain and report on specified systems. Most territorial authorities have lists available on their websites of registered IQPs. Tradespeople that are registered as IQP advertise this in the Yellow Pages. IQPs can assist building owners with carrying out the monthly tests and inspections that building owners are not allowed to complete themselves and fill in the BWOFF yearly for a monthly fee.

The BWOFF is the owner's written statement that the Compliance Schedule has been complied with during the previous 12 months.

The BWOFF must be displayed in a place in the building where it can be seen by all building users.

- The Council will keep one copy of the BWOFF and related documents from the independently qualified persons on record for the life of the building.
- The building owner/building manager is required to keep all the inspection and maintenance reports for at least two years after they have been issued.
- The forms and reports must be stored with the compliance schedule at the location stated on the Building Warrant of Fitness.

Dangerous, Insanitary or Earthquake-prone Buildings

The Building Act contains provisions relating to all buildings that may be dangerous, insanitary or earthquake-prone, irrespective of when they were constructed. The Act gives Territorial Authorities wide-ranging powers to require owners to secure dangerous buildings and to take steps to remedy or remove the danger.

Dangerous Building – A building is deemed to be dangerous if, in the ordinary course of events (excluding earthquakes), it is likely to cause injury or death to anyone in it or anyone on any other property or damage any other property. A building that, because of fire hazard and occupancy, is likely to give rise to loss of life in a fire is also deemed to be dangerous.

The Building Act does not differentiate between residential and other properties when considering if a building is a fire hazard. Any property may be considered a fire hazard where installed safety features are not maintained.

Insanitary Building – A building is deemed to be insanitary if:

- it is located or constructed in such a way or is in such disrepair that it is offensive or likely to be injurious to health
- it has a roof or walls that leak or other insufficient provision against moisture penetration, causing dampness in the building or an adjoining building
- it does not have an adequate supply of clean water or has inadequate sanitary facilities.

Earthquake-prone Building – A building is deemed to be earthquake-prone if, because of its condition, the ground on which it is built, and its construction, it will have its ultimate load capacity exceeded in a moderate earthquake and that this would be likely to result in catastrophic collapse causing injury or death, or damage to other property.

A building that has an ISA or seismic capacity rating of less than 33% of the new building standard (NBS) is considered to be earthquake-prone.

If the ISA score or rating is greater than 33% NBS but less than 67% NBS, the building is considered to be potentially an earthquake risk.

Strengthening a building to 67% NBS or even to 100% NBS or more minimises the risk for those in the building and around the building and increases their chances of evacuating the building safely.

The purpose of seismically strengthening buildings is to preserve life and minimise damage. Even if a building is 100% NBS, this is still not a guarantee that there will be no serious harm to life and limb or damage to buildings, but it will minimise the risk.

Conference Decision in respect of New Building Standards (NBS) 2016

That in respect of New Building Standards (NBS) Conference agrees that:

- 1. unless an engineer confirms that, in their professional opinion, a building rated below 34% NBS is safe to be occupied for the normal use and occupant loading, that building be closed and not used until strengthened;**
- 2. when buildings are being strengthened they be brought up to 67% NBS or as near to that rating as is economically and practicably reasonable;**
- 3. buildings below 34% NBS that are confirmed safe to continue to be used be strengthened to 67% NBS (or as near to that rating as may be economically and practicably reasonable) within the time allowed under the Building (Earthquake-prone Buildings) Amendment Act or when the buildings are altered or remodelled so as to require a building consent;**

4. buildings between 34% NBS and 67% NBS be strengthened to 67% or as near to that rating as is economically and practicably reasonable, over time or when the buildings are being altered or remodelled so as to require a building consent.

The building standard itself varies from region to region. To meet its new NBS, the seismic strength of a building in Wellington would be three times greater than a similar building in Auckland.

The %NBS is a reference to the actual strength of an existing building compared with a new building of the same type that would be designed in that city/region. For example, for a building that was required to be strengthened in Auckland to 67% NBS, the NBS would be the standard that is required for the Auckland region.

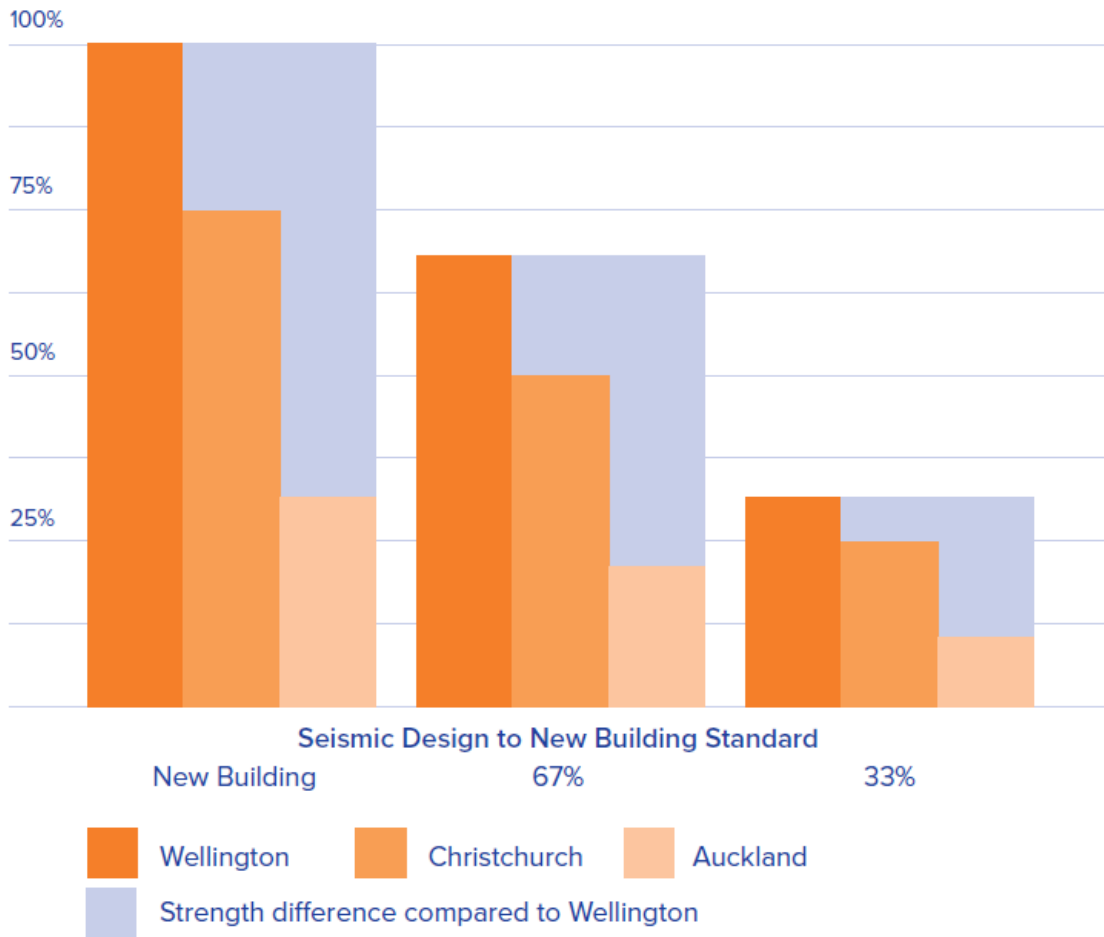
The strength of a building is a function of its location and the seismic zone it is in. (See the chart showing the Design Code Comparisons between Wellington, Christchurch and Auckland.)

A building in Christchurch will only be designed for 75% of the strength of the same building that would be designed in Wellington. Similarly, a building in Auckland will only be designed for 33% of the strength of the same building that would be designed in Wellington.

However, the buildings in both Christchurch and Auckland are to be designed to 100% of the earthquake code requirement for those regions.

In the same manner, buildings in Christchurch and Auckland are to be strengthened to 67% of the earthquake code requirement for the same new building in those regions.

Design Code Comparisons Wellington, Christchurch & Auckland



To Summarise

Requirements that apply to building work

Requirements that apply to all but exempt building work:

- Building Consent
- Inspections
- Code Compliance Certificate.

Additional requirements that apply to buildings with specified systems:

- Compliance Schedule
- Building Warrant of Fitness.

The Resource Management Act 2020

The purpose of the Resource Management Act is to promote the sustainable management of natural and physical resources. This is mainly achieved by the requirement for territorial authorities to

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prepare plans to help them manage the environment in their area. It is the District Plan that dictates what you can or cannot do with the land on which you intend to build.

This may affect your organisation or parish as Resource Consent may be needed when a building project contravenes a permitted activity, for example, wishing to locate a building closer to the boundary than permitted on the District Plan.

For more information about the District Plan or to find out if Resource Consent is required, you should contact your local Territorial Authority.

Fire and Emergency NZ (Fire Safety Evacuation Procedures and Evacuation Schemes) Regulations 2018

Almost all buildings (other than private residential dwellings) are required to have in place a fire safety and evacuation scheme to provide for the safe, expeditious and efficient evacuation of all occupants of a building in the event of an emergency requiring evacuation.

For some buildings, there is a further requirement that the evacuation scheme must be an approved evacuation scheme. This means the evacuation scheme must be submitted to Fire and Emergency NZ (FENZ) for approval and ratification.

Evacuation Schemes should:

- describe routes and procedures for the safe and timely evacuation of all occupants of a building from the scene of a fire or in the event of an emergency requiring evacuation to a predetermined assembly point (or points) to enable occupants to be accounted for
- specify how the building's occupants are alerted to a fire emergency in the building
- include a list of any firefighting equipment and the location of the equipment available for use by the building's occupants
- include an appropriate number of signs and notices to be erected in the building at the routes of travel to the place or places of safety – this must contain the following information:
 - (i) How to raise an alarm for fire
 - (ii) What to do if an alarm of fire is raised
- explain how signs and notices will be displayed in appropriate places, clearly indicating the evacuation procedure and fire exit
- include the provision of special measures for people with disabilities even if there are not any permanent occupants who are persons with a disability
- include trial evacuations at least every six months
- include evacuation training programmes to be held at agreed intervals.

The escape routes (to the evacuation and assembly points) must be maintained to ensure that, at all times, they are kept clear, and that exit doors are not locked, barred or blocked to prevent occupants from leaving the building.

Smoke control and fire stop doors must not be kept open other than by devices that comply with the Building Code.

Stairwells and passages which are designed as a means of escape from fire must not be used as places of storage or allowed to accumulate refuse.

Hazardous substances must not be stored near or within designated escape routes and should be stored in non-combustible containers with close-fitting lids.

Approved Evacuation Schemes. Does your building need an approved evacuation scheme?

For some buildings, the evacuation schemes must be approved evacuation schemes whereby the manager (person responsible for the building as appointed by the Parish Council) of the building submits their evacuation procedure to FENZ for approval and ratification.

An application for an approved evacuation scheme must be lodged with FENZ for all buildings if the buildings are used in whole or part for one or more of the following purposes:

1. buildings where 100 or more people can gather together
2. buildings where 10 or more people work
3. buildings where six or more people sleep unless there are three or fewer households
4. buildings storing certain levels of hazardous substances
5. buildings used for early childhood, medical, and disabled care services unless the building is a normal home
6. prisons and holding cells.

Owners of buildings with an automatic sprinkler system that meets one of the required standards (NZS 4541:2007, NZS 4541:2013, NZS 4515:2003 or NZS 4515:2009) and which is only used for either (2) or (3) (but not both) and none of the other uses listed above, don't need an approved scheme. However, owners of those buildings must give FENZ notice that the building does not need an evacuation scheme using the Notification that an Evacuation Scheme is not Required Form.

How to Make an Application for an Approved Evacuation Scheme

The building's manager can apply to FENZ in writing through the Online Services website.

You can find out about the requirements for an evacuation scheme or determine whether a building you own/manage requires an approved evacuation scheme by visiting FENZ Online Services website at <https://onlineservices.fire.org.nz/home/evacuationschemes>

On this website, you can:

- find out about evacuation schemes
- apply online for an evacuation scheme
- find out about maintaining evacuation schemes
- access printable forms
- look at examples of completed evacuation schemes
- access FENZ Guide to Evacuation Schemes

OR contact healthandsafety@methodist.org.nz for assistance.

For the address and contact details of your local Fire Service, please refer to your local telephone directory under Fire Service.

There is no fee involved in the application for an approved evacuation scheme.

Failure to Comply

If the owner/manager of a relevant building fails to provide and maintain an evacuation scheme (as required by section 21B of the Act), FENZ may apply for an order that the building be closed until those requirements have been met.

Once a building has an approved evacuation scheme, the building manager must ensure everything described in the approved evacuation scheme is maintained and must notify FENZ of any building events which are any of the following:

If the means of escape from a fire is:

- significantly affected as a result of building work
- required to be altered as a specified system
- no longer adequate as a change of occupancy.

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If the building has a specified intended life and this has been extended.

The building no longer requires an evacuation scheme because the building:

- has been demolished
- is no longer used for a purpose that requires one.

Notices of building events should be sent to FENZ using their online forms at <https://onlineservices.fire.org.nz>

Application to Church Property

Most existing churches and/or church halls will accommodate 100 or more people, and therefore fire evacuation regulations apply, and an approved evacuation scheme is required. There will also be instances where the Church is the owner of buildings that are not fitted with sprinklers and which provide employment facilities for more than 10 people. It should be noted that the Church may not be the employer of those people, but obligations arise because it is the owner of the property in which they are employed.

Quite specific requirements relate to aged care facilities and nursing homes, and these should be the subject of individual analysis and review.

Managers of any new buildings that need evacuation schemes must make an application for an approved scheme to FENZ no later than 30 days after the earlier of the dates, which:

- the Code of Compliance Certificate is issued, or
- the building is first lawfully occupied.

The Heritage New Zealand Pouhere Taonga Act 2014

If you are planning alterations or the demolition of buildings on any site associated with pre-1900 human activity, you may need to apply for an Archaeological Authority from Heritage New Zealand before starting any work. This includes any pre-1900 buildings and other structures and any site where there is material evidence relating to the history of New Zealand.

You can access online information about archaeological sites through the New Zealand Archaeological Association's site recording scheme on www.archsite.org.nz or contact your nearest Heritage New Zealand office or email archaeologist@heritage.org.nz

Health and Safety at Work Act 2015

The Health and Safety at Work Act 2015 (HSWA) has ramifications for The Methodist Church of New Zealand and all its building projects.

About the Act

The focus of the HSWA is to protect workers and other people against harm to their health, safety and well-being by eliminating or minimising risks at work. It's part of a reform package that aims to reduce New Zealand's work-related illness, injury and fatality figures by 25% by 2020.

Purpose of HSWA

A guiding principle of HSWA is that workers and other persons should be given the highest level of protection against harm to their health, safety and welfare from work risks as is reasonably practicable.

The main purpose of HSWA is to provide a balanced framework to secure the health and safety of workers and workplaces by:

- protecting workers and other persons against harm to their health, safety and welfare by eliminating or minimising risks arising from work

- providing for fair and effective workplace representation, consultation, cooperation and resolution of issues
- encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices and assisting organisations and workers to achieve a healthier and safer working environment
- promoting the provision of advice, information, education and training in relation to work health and safety
- securing compliance with the Act through effective and appropriate compliance and enforcement measures
- ensuring appropriate scrutiny and review of actions taken by persons performing functions or exercising powers under the Act
- providing a framework for continuous improvement and progressively higher standards of work health and safety.

Work health and safety regulator

WorkSafe New Zealand (WorkSafe) is the work health and safety regulator, and they need to be notified before risky work is undertaken.

Work requiring WorkSafe notification can be found at: <https://www.worksafe.govt.nz/notifications/> and includes:

- construction work with a risk of falling five metres or more (see exclusions below)
Exclusions:
 - work in connection with a residential building up to and including two full storeys
 - work on overhead telecommunications lines and overhead electric power lines
 - work carried out from ladder only
 - erecting or dismantling scaffolding with a risk of falling five metres or more
 - logging or tree felling undertaken for commercial purposes
- use of a lifting appliance where the appliance has to lift a mass of 500 kilogrammes or more than a vertical distance of five metres or more (see exclusions below)
Exclusions:
 - work using an excavator
 - work using a forklift
 - work using a self-propelled mobile crane.
- work in any drive, excavation or heading in which any person is required to work with a ground cover overhead
- work in any excavation in which any face has a vertical height of more than five metres and an average slope steeper than a ratio of one horizontal to two vertical
- work in any pit, shaft, trench or other excavation in which any person is required to work in a space more than 1.5 metres deep and having a depth greater than the horizontal width at the top
- work involving the use of explosives or storage of explosives for use at the worksite
- work in which a person breathes compressed air or a respiratory medium other than air (diving)
- work in which a person breathes compressed air or a respiratory medium other than air (not diving).

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Focus on work

Most duties under HSWA relate to the conduct of work. However, while the focus is on the work being carried out and how it can affect workers and others, there are certain duties that relate to the physical workplace.

A workplace is a place where a worker goes or is likely to be while at work or where work is being carried out or is customarily carried out. It includes a vehicle, vessel, aircraft, ship or other mobile structure, and any waters and any installation on land, on the bed of any waters, or floating on any waters.

Focus on both work-related illnesses and injuries

Whoever creates the risk manages the risk. HSWA requires health and safety work risks to be managed.

This means consideration of the potential work-related health conditions as well as the injuries that could occur. Health conditions include both physical and psychological, acute and long-term illnesses.

Based on 'so far as is reasonably practicable'

The primary duty of care requires an organisation to ensure health and safety 'so far as is reasonably practicable'. When used in this context, something is reasonably practicable if it is reasonably able to be done to ensure health and safety, having weighed up and considered all relevant matters, including:

- the likelihood of any hazards or risks occurring
- the severity of any harm that might result from the hazard or risk
- what a person knows or ought to reasonably know about the risk and the ways of eliminating or minimising it (e.g. by removing the source of the risk or using control measures such as isolation or physical controls to minimise it)
- the existence of measures to eliminate or minimise the risk (control measures)
- the availability and suitability of the control measure(s). Lastly, weigh up the cost.
- What is the cost of eliminating or minimising the risk?
- Is the cost grossly disproportionate to the risk?

What's changed?

1. PCBU (persons conducting a business undertaking) is a key new term. MCNZ will refer to PCBU as 'an organisation'; the PCBU has the 'primary duty of care' to ensure the safety of workers and anyone affected by its work.
2. Worker participation places a stronger emphasis on worker participation and engagement to ensure that workers are engaged with health and safety.
3. Risk management shifts the focus from hazard identification and control to proactively identifying and managing risks.
4. Safety is everyone's responsibility. No one can 'opt out'; safety becomes everyone's responsibility. All parties, from executives to workers, have health and safety responsibilities.
5. Due diligence for directors, the Act places more legal responsibility on directors and executives of an organisation to manage risks and keep people safe.
6. Stronger fines and penalties, the HSWA significantly increases the category of offences, with a three-tiered hierarchy being introduced along with a range of other offending provisions.

Where do you fit?

Are you a PCBU?

The PCBU (or 'person conducting a business or undertaking') is one of the key terms introduced in the new Act. Despite the name, the PCBU is not necessarily one person. In most cases, a PCBU will refer to a business entity, such as a company or organisation.

A PCBU may also be an individual in the case of someone running their own business. For example, a builder operating as a sole trader will be a PCBU.

Are you an Officer?

Officers are those people with senior positions who have significant influence over the management of the business. This includes chief executive officers, directors and anyone else at that level. A person who merely advises or makes recommendations to someone in a senior position is not considered an officer.

Officers are now personally liable under the new HSWA if they fail to meet their due diligence obligations. If you are a sole trader, you will have the responsibilities of both an organisation and an officer.

Are you a Worker?

Workers are individuals who carry out work for an organisation, including employees, contractors and sub-contractors. Under the HSWA, workers can also be employees of labour-hire companies, apprentices, students and some volunteer workers.

Are you an Other Person?

Other persons in the workplace will include visitors or customers. For example, a courier driver coming onto a site or customers coming into reception will be other persons.

Role	Responsibilities	Duty
Organisation (e.g. business entity)	<ul style="list-style-type: none"> • The organisation has the 'primary duty of care' to ensure the safety of workers and anyone affected by its work. <p>The organisation must (as far as reasonably practicable):</p> <ul style="list-style-type: none"> • provide and maintain a workplace that is without risks to health and safety • provide and maintain safe plant and structures and safe systems of work • ensure the safe use, handling and storage of plant, structures and substances • provide adequate facilities for the welfare of workers • provide information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work • monitor the health of workers and the conditions at the workplace for the purpose of preventing injury or illness 	Primary Duty of Care
Officer (e.g. chief executive, board)	An officer must exercise due diligence by taking reasonable steps to: <ul style="list-style-type: none"> • keep up to date about work health and safety matters 	Due Diligence

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Role	Responsibilities	Duty
member or director)	<ul style="list-style-type: none">• understand the nature of the hazards and risks associated with the organisation's operations• ensure the organisation has resources and processes to eliminate or minimise risks• ensure appropriate and timely processes for receiving and responding to incidents, hazards and risks• ensure there are processes for complying with any duty• verify that health and safety processes are in place and being used	
Worker (e.g. employees, contractors)	<ul style="list-style-type: none">• take reasonable care to ensure the health and safety of themselves and others in the workplace• follow instructions from the organisation• cooperate with health and safety policies and procedures of the organisation• have the right to refuse to undertake unsafe or dangerous work.	Reasonable Care
Other Person (e.g. visitors of customers)	<ul style="list-style-type: none">• take reasonable care of their own health and safety• ensure that their acts or omissions do not adversely affect the health and safety of other persons• follow instructions given by the organisation.	Reasonable Care

Additional Organisation responsibilities

Depending on the size and type of your organisation, you may have additional organisational responsibilities.

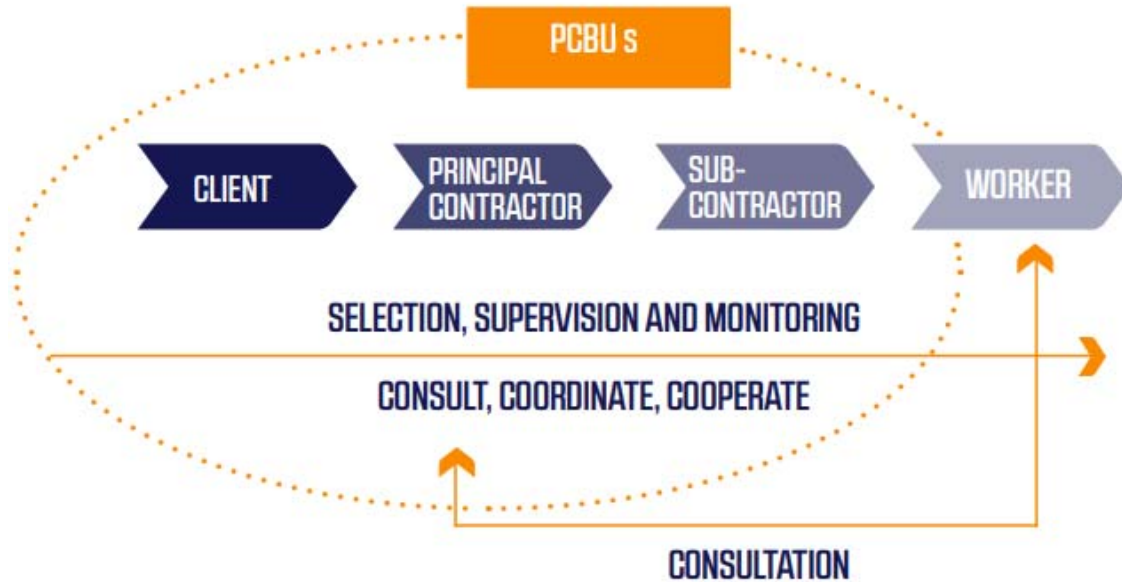
More than one organisation collaboration

There can be more than one organisation on a site or project. Clients, principal contractors and subcontractors can all be PCBUs. The example below shows how three different companies can all be PCBUs on one project.

Upstream Organisations

The HSWA also places duties on any upstream organisations. This term means upstream in the supply chain. For example, designers or architects can be upstream organisations.

These upstream organisations have a primary duty to ensure, so far as 'reasonably practicable', that plant, substances or structures are designed without risks to health and safety.



The Methodist Church of New Zealand Te Hāhi Weteriana o Aotearoa and the HSWA

The Church is made up of many PCBUs and is a PCBU itself.

However, the Church does not require legislation to recognise that we have ethical, moral, and spiritual requirements to do our utmost to manage the inherent and long-term risks that Our People ā Tātou Tāngata are exposed to in their daily work for the Church.

As such, in every church entity, there is a duty of care. The officers of every church entity have a duty to exercise due diligence, workers (volunteer or otherwise) have a duty to exercise reasonable care for themselves and others, and other people have a duty to take reasonable care of themselves.

Church Building Projects and the HSWA

Applying the HSWA to Church building projects places a duty of care upon the church entity to ensure that all consultants and contractors are selected with a proven, good health and safety record. We supervise and monitor their work through regular meetings that have health and safety as a regular item.

If there are other entities or multiple organisations running activities at the site, as the client, we must ensure there is constant, consistent consultation, coordination and cooperation.

If we are not the Principal on site, then we must actively and positively participate in the consultation, coordination and cooperation process.

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HSWA Regulations

The HSWA Regulations, supported with information and guidance from WorkSafe NZ, are intended to support businesses in understanding what they need to do to comply with the general duties of the Act.

Health and Safety at Work (General Risk and Workplace Management) Regulations 2016

Health and Safety at Work (Worker Engagement Participation and Representation) Regulations 2016

Health and Safety at Work (Major Hazard Facilities) Regulations 2016

Health and Safety at Work (Asbestos) Regulations 2016

Health and Safety at Work (Adventure Activities) Regulations 2016

Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016

Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016

Health and Safety at Work (Rates of Funding Levy) Regulations 2016

Health and Safety at Work (Infringement Offences and Fees) Regulations 2016
Health and Safety at Work (Hazardous Substances) Regulations 2017

Further information can be found at

<https://www.worksafe.govt.nz/laws-and-regulations/>

Residential Tenancies Amendment Act 2020

If you are renting out church residential property, you need to comply with the new laws. The amendments are broad and will affect both tenants and landlords.

Phase 1 – law changes already in force (from 12 August 2020)

Transitional and emergency housing is exempt from the Act

From 12 August 2020, transitional and emergency housing will be exempt from the Act where the housing is:

- funded (wholly or partly) by a government department, or
- provided under the Special Needs Grants Programme

This exemption is applicable to all people (new and existing clients) in transitional and emergency housing that meet the criteria above.

Providers of transitional and emergency housing will still be able to opt into parts of the Act if they wish by agreeing in writing with the client which parts will apply.

Rent can only be increased every 12 months

From 12 August 2020, rent increases were limited to once every 12 months. This is a change from once every 180 days (six months)

Any rent increase notices given to tenants from 12 August 2020 must comply with the new 12-month rule. Notices given before 12 August 2020 are still within the ground rule.

Phase 2 - – law changes already in force (from 11 February 2021)

From 11 February 2021, multiple changes to tenancy legislation took effect. The changes covered:

Security of rental tenure – Landlords will not be able to end a periodic tenancy without cause by providing 90 days' notice. New termination grounds are available to landlords under a periodic tenancy, and the required notice periods will change

Changes for fixed-term tenancies – Fixed-term tenancies signed on or after 11 February 2021 will convert to periodic tenancies at the end of the fixed term unless the parties agree otherwise, the tenant gives a 28-day notice, or the landlord gives notice in accordance with the termination grounds for periodic tenancies

Making minor changes – Tenants can ask to make changes to the property, and landlords must not decline if the change is minor. Landlords must respond to a tenant's request to make a change within 21 days

Prohibitions on rental bidding – Rental properties cannot be advertised without a rental price listed, and landlords cannot invite or encourage tenants to bid on the rental (pay more than the advertised rent amount)

Fibre broadband – Tenants can request to install fibre broadband, and landlords must agree if it can be installed at no cost to them unless specific exemptions apply.

Privacy and access to justice – A suppression order can remove names and identifying details from published Tenancy Tribunal decisions if a party who has applied for a suppression order is wholly or substantially successful or if this is in the interests of the parties and the public interest

Assignment of tenancies – All requests to assign a tenancy must be considered. Landlords cannot decline unreasonably. If a residential tenancy agreement prohibits assignment, it is of no effect. This does not apply to a fixed-term tenancy granted before 11 February 2021

Landlord records – Not providing a tenancy agreement in writing is an unlawful act, and landlords will need to retain and provide new types of information

Enforcement measures being strengthened – The Regulator (the Ministry of Business, Innovation and Employment) has new measures to take action against parties who are not meeting their obligations

Changes to Tenancy Tribunal jurisdiction – The Tenancy Tribunal can hear cases and make awards up to \$100,000. This is a change from \$50,000

The Methodist Church Service Tenancy Agreement (for Ministers) has been revised in accordance with the new laws. A copy of the Agreement can be found in Appendix 2 at the back of this handbook. Copies are also available on the MCNZ website: <http://www.methodist.org.nz>

Phase 3 – (dependant on regulations)

Tenancies can be terminated if family violence or landlord assault has occurred

The provisions below will come into force once new regulations have taken effect.

Family violence: tenants experiencing family violence will be able to terminate a tenancy without financial penalty

Physical assault: a landlord will be able to issue a 14-day notice to terminate the tenancy if the tenant has assaulted the landlord, the owner, a member of their family, or the landlord's agent, and the Police have laid a charge against the tenant in respect of the assault.

Healthy Homes Compliance Timeframes

From 1 July 2019

- Ceiling and underfloor insulation is compulsory in all rental homes where it is reasonably practicable to install
- Landlords must sign a statement of intent to comply with the healthy homes standards in any new, varied or renewed tenancy agreement
- This statement is in addition to the existing requirement to include a signed insulation statement with all tenancy agreements that covers what insulation the property has, where it is, and what type
- Landlords must keep records that demonstrate compliance with any healthy homes standards that apply or will apply during the tenancy

From 1 December 2020

- Landlords must include a statement of their current level of compliance with the healthy homes standards in most new or renewed tenancy agreements

From 1 July 2021

- All boarding houses (except Kainga Ora (formerly Housing New Zealand) and Community Housing Provider boarding house tenancies) must comply with the healthy homes standards
- Between 1 July 2021 and 1 July 2025, all private rentals must comply with the healthy homes standards within certain timeframes from the start of any new or renewed tenancy.

Some private rentals may have additional time to comply with the heating standard. This will depend on whether the property uses the new heating formula to calculate the required heating capacity for the main living room.

If all the following applies, the compliance date for the heating standard is 12 February 2023:

- It is a private tenancy (not a boarding house, a Kāinga Ora or a registered Community Housing tenancy)
- The new heating formula is applicable to the rental property, and the landlord chooses to use it to calculate the minimum required heating capacity
- The end of the compliance timeframe is on or after 12 May 2022 and before 12 February 2023.

From 1 July 2024

- All Kāinga Ora (formerly Housing New Zealand) houses and registered Community Housing Provider houses must comply with the healthy homes standards.

From 1 July 2025

- All private rentals must comply with the healthy homes standards

As of 1 July 2021, all **new** Service Tenancy Agreements, and **after** 1 July 2024, **all** Service Tenancy Agreements must comply with the healthy homes standards:

Standard	Description
Heating:	All rental properties must have one or more fixed heaters, which can directly heat the main living room and meet a required heating

Standard	Description
	capacity. Certain heating devices that are inefficient, unaffordable or unhealthy will not meet the requirements of this standard. A heating assessment tool is provided at tenancy.govt.nz/heating-tool , which provides a report that shows the minimum heating capacity required. It can be used to check if current heating is sufficient to meet the standard, or if it is necessary to install a new heater.
Insulation:	Ceiling and underfloor insulation has been compulsory in all rental homes since 1 July 2019, where it is reasonably practicable to install. Underfloor insulation needs a minimum R-value* of 1.3. Existing ceiling insulation may need to be topped up or replaced if it is not in a reasonable condition, and in most situations, existing ceiling insulation needs to be at least 120mm thick. If ceiling insulation needs to be topped up, it needs to meet minimum R-values as set out in the 2008 Building Code. * 'R' stands for resistance – an R-value is a measure of how well insulation resists heat flow.
Ventilation:	Rental properties must have at least one door or window (including skylights) that opens to the outside in all bedrooms, dining rooms, living rooms, lounges and kitchens. The openable windows and doors must have a total area of at least 5% of the floor area in each respective room. The windows or doors must be able to be fixed in the open position. All kitchens and bathrooms must have an extractor fan that ventilates externally.
Moisture ingress and Drainage:	Rental properties must have efficient drainage for the removal of storm water, surface water and ground and drainage: water, including an appropriate outfall. The drainage system must include gutters, downpipes and drains for the removal of water from the roof. If the rental property has an enclosed subfloor, a ground moisture barrier must be installed if it is reasonably practicable to do so.
Draught stopping:	Landlords must block any unreasonable gaps and holes in walls, ceilings, windows, floors and doors that cause noticeable draughts. Open fireplaces must be blocked unless the tenant and landlord agree otherwise.

More information about the reform of the Residential Tenancies Act 1986 (Ministry of Housing and Urban Development) <https://www.hud.govt.nz/residential-housing/tenancy-and-rentals/changes-to-the-residential-tenancies-act-1986/rta-reforms/>

Residential Tenancies Amendment Act 2020 (New Zealand Legislation website) <https://legislation.govt.nz/act/public/2020/0059/latest/LMS294929.html>