

Owner builder regulations...

New Zealand

New Zealand's 'building controls' currently consist of the *Building Act 2004*, the *Building Regulations 1992*, and the *Building Code*. All building work must comply with the Building Code (under review).

Currently there is no requirement for owner builders to be supervised. However, certain tasks still need to be carried out by a registered person, for example: plumbing, drainage, gas fitting and some electrical work.

The Building Act 2004 introduces the concept of **Licensed Building Practitioners (LBP)**. The provisions will be phased in from November 2007 and fully implemented by November 2011, and will affect owner builders at both the design and building phase.

There will be three classes of projects, ranging from simple to complex, and they must all be designed, carried out or supervised by a LBP:

- **From 1 November 2007:** Voluntary licensing for Design and Site Licences, and Carpentry.
- **From 2008:** Voluntary licensing for remaining licences will start to be introduced.
- **From 30 November 2009:** Design and Site licences will be mandatory.
- **From 30 November 2011:** Trade and Specialist licences become mandatory.

Until 30 November 2009, there is no requirement for any designers, builders, or trades people to be LBPs or to be supervised by one. Registered architects and chartered engineers will automatically be deemed to hold a Design Licence at all levels.

How does this effect OB's?

From 30 November 2009, owner builders will need to be supervised by a LBP, where the tasks involved are critical to a building's integrity and the health and safety of its occupants. For example: foundations, framing, cladding and

roofing. There is no specific mention in any of the licensing classes for alternative types of construction such as earth and straw bale. It is possible that earth buildings will be covered because the NZ Standards for Earth Buildings (NZS 4297, NZS 4298 and NZS 4299) have been accepted as compliance documents since 2000. Other types of alternative construction are not mentioned at all, and it is feared that it will be difficult if not impossible for owners to carry out any alternative construction of reasonable size simply because the scheme does not cater for them.

LBPs will not be required for buildings like sheds, farm buildings and garages, or for easily checked tasks like fitting windows or doors, or alterations to internal non-structural walls.

From 30 November 2009, an unlicensed person who does unsupervised work for which a licence is required may be fined up to \$20,000.

What is supervision?

The Building Act 2004 defines supervision as follows: **supervise**, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work is performed competently, and complies with the building consent under which it is carried out.

The extent of supervision will depend on individual circumstances and will require judgment by the licensed building practitioner. The Department of Building and Housing may issue guidelines on supervision in due course.

Who is liable?

The LBP must provide the owner and the council with a certificate stating that the restricted building work complies with the building consent, and that any specified systems are capable of performing to the standards set out in the compliance schedule attached to the building consent. However, the certificate itself does not create any liability in relation to any matter to which the certificate relates.

So it is not really clear who has liability, but in the case of owner builders it would probably mean that overall liability still lies with them. If liability transfers to the LBP (which appears to be the scheme's intention) then it may prove difficult to find people willing to adopt this risk for owner builders.

Code compliance certificates

From 31 March 2005, building owners have had to apply for a code compliance certificate (CCC) as soon as the building work is complete, and this should be within two years of obtaining building consent (unless an extension has been granted). Projects under the old Act (consented prior to 31 March 2005) are not subject to this two-year timeframe, but still need to obtain a CCC on completion.

CCCs are now issued against the building consent, making it essential for the plans and specifications to meet the requirements of the Building Code. Not only do you require comprehensive plans and specifications, but the CCC will match the completed building with the consented plans, i.e. you cannot waver from the plans, while you are building, without first obtaining a variation from the consenting authority. No more 'let's move that wall to there and then swap those rooms around' - you have to build exactly what you say you are going to build. ■

The total impact of all of these changes on owner builders is hard to predict at this stage.



• **Department of Building and Housing**

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