

Building (Earthquake-prone Buildings) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Building Act 2004 to give effect to reforms announced in August 2013 to improve the system for managing earthquake-prone buildings.

A clear view has emerged that from society's perspective the current system for managing earthquake-prone buildings is not achieving an acceptable level of risk. Many earthquake-prone buildings are not being dealt with in a timely and cost-effective manner.

This Bill introduces a revised system for managing earthquake-prone buildings that strikes a balance between protecting people from harm in an earthquake and managing the costs of strengthening or removing buildings. The new system provides a significantly greater role for central government, particularly in relation to leadership and direction, to make better use of the capability and resources of central and local government.

This Bill is the result of a comprehensive review undertaken by Government, and is broadly in line with the recommendations in Volume 4 of the Canterbury Earthquakes Royal Commission's Final Report.

The amendments in the Bill include—

- requiring territorial authorities to undertake a seismic capacity assessment of existing non-residential buildings and

multi-storey and multi-unit residential buildings in their districts within 5 years from commencement (with certain buildings to be prioritised for assessment) using a methodology to be specified and published by the Ministry of Business, Innovation, and Employment:

- providing for a register of information on the seismic capacity of buildings to be held by the Ministry of Business, Innovation, and Employment:
- clarifying the current threshold for defining an earthquake-prone building, including that it applies to parts of buildings as well as whole buildings:
- clarifying that the level of work required for earthquake-prone buildings is only such that the building, or the affected part, is no longer earthquake-prone:
- requiring work on existing earthquake-prone buildings to be undertaken within a single national time frame—within 20 years of the legislation taking effect (ie, assessment by territorial authorities within 5 years and work completed within 15 years of assessment):
- providing for work on priority buildings (to be defined in regulations) to be prioritised:
- providing for exemptions from requirements to undertake work for certain buildings:
- providing that owners of buildings that are Category 1 historic places under the Historic Places Act 1993 may apply to the relevant territorial authority for an extension of up to 10 years to complete the work, and the owners must manage risk if an extension is granted:
- enabling territorial authorities (that are building consent authorities) to issue building consents for required work on buildings that are earthquake prone without requiring other upgrades (for access and facilities for people with disabilities and for means of escape from fire):
- providing for a much greater role for central government, including in relation to monitoring system performance, and providing direction and guidance.

The Bill has been drafted on the basis of the current law. However, because some aspects of the Government's reforms relate to legisla-

tion that has not yet been passed, the Bill will need to be amended once this occurs to fully reflect the decisions made by the Government. For example, the Bill will need to be amended to enable owners of buildings on the soon-to-be established National Historic Landmarks List under the Heritage New Zealand Pouhere Taonga Bill to apply for an extension of up to 10 years to complete strengthening work.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2013&no=182&>.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 23 July 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.dbh.govt.nz/epb-policy-review>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is a commencement provision. Unless brought into force earlier by Order in Council, the Bill will come into force 2 years after the date of Royal assent.

Part 1

Amendments to principal Act

Clause 3 provides that *Part 1* amends the Building Act 2004 (the **Act**).

Clause 4 consequentially amends section 4. Section 4 sets out the principles to be applied by certain persons in performing functions or duties, or exercising powers, under the Act. The section is extended so that the principles also apply in relation to a territorial authority setting a time frame for completing seismic work on priority buildings (*see new section 133AZ*, inserted by *clause 23*).

Clause 5 inserts *new section 5A* and a new cross-heading. The new section highlights the existence of *new Schedule 1AA*, which will contain application, savings, and transitional provisions relating to amendments to the Act made by future Bills as well as this Bill.

Clause 6 amends section 7, which is an interpretation provision, to insert definitions of terms used in this Bill and also a definition of heritage dam.

Clause 7 amends section 11, which describes the role of the chief executive of the Ministry of Business, Innovation, and Employment, to include the chief executive's new roles relating to earthquake-prone buildings.

Clause 8 amends section 85 to implement a consequential amendment that was intended to be made by the Criminal Procedure Act 2011. Section 85 is an offence provision. Section 413 and Schedule 3 of the Criminal Procedure Act 2011 purported to amend section 85(2) so that "liable to a fine not exceeding \$20,000" would read "liable on conviction to a fine not exceeding \$20,000". However, before the amendment came into force on 1 July 2013, section 85 was replaced by the Building Amendment Act 2012. The phrase that was to be amended moved from subsection (2) to subsection (4), so the amendment under the Criminal Procedure Act 2011 misfired. This clause makes the amendment to section 85(4) that was intended to have been made to its antecedent.

Clause 9 amends section 95, under which code compliance certificates are issued for building work, to require a territorial authority to add new buildings to the seismic capacity register, if required (*see clauses 33 to 35*), as soon as practicable after a code compliance certificate is issued for the construction of the building.

Clause 10 amends section 112. Section 112(1)(a) requires building consent authorities, before granting a building consent for the alteration of an existing building, to be satisfied that, after the alteration, the building will comply as nearly as is reasonably practicable with the provisions of the building code that relate to means of escape from fire and access and facilities for persons with disabilities (where required). The amendment makes section 112 subject to *new section 133AX* (inserted by *clause 23*), which creates an exemption from section 112(1) in certain circumstances.

Clauses 11 and 12 consequentially amend headings.

Clause 13 repeals section 122, which sets out the meaning of earthquake-prone building. The definition is relocated to *new section 133AB*, inserted by *clause 23*.

Clause 14 inserts *new section 123A*, which clarifies the application of subpart 6 of Part 2 to parts of buildings. That subpart deals with dangerous, affected, and insanitary buildings.

Clause 15 consequentially amends a cross-heading.

Clause 16 amends section 124. *Subclauses (1) and (2)* remove references to earthquake-prone buildings. *Subclause (3)* repeals section 124(3), which currently provides that the section does not limit the powers of a territorial authority. An equivalent statement was made in section 65(1) of the Building Act 1991, on which section 124 is based. However, there is nothing in section 124 to support an interpretation that it would limit the powers of a territorial authority. For that reason, section 124(3) is redundant. *New section 133AV*, inserted by *clause 23*, is based on section 124 but does not include an equivalent of section 124(3) because it is not necessary. To avoid any inference that *new section 133AV* is different in effect from section 124 in this respect, section 124(3) is consequentially repealed (as is section 154(2), for the same reason, by *clause 24*).

Clause 17 amends section 125, which sets out the requirements for a notice given under section 124, to clarify the reference to statutory authorities (for consistency with *new section 133AN*, inserted by *clause 23*).

Clauses 18 to 22 make consequential amendments to remove references to earthquake-prone buildings and to correct cross-references.

Clause 23 inserts *new subpart 6A of Part 2*, which sets out provisions relating to earthquake-prone buildings.

New section 133AA is an interpretation provision.

New section 133AB sets out the meaning of earthquake-prone building. The section mirrors existing section 122(1), except that the wording is adjusted to clarify that, if a building will have its ultimate capacity exceeded in a moderate earthquake (as defined in regulations), the building is earthquake prone only if there is a likelihood of injury, death, or damage being caused if the building were to collapse (rather than a likelihood that the building would collapse).

New section 133AC sets out the meaning of priority building and outlines how *new subpart 6A of Part 2* applies to priority buildings. Priority buildings will be defined in regulations made under *new section 401C(a)*, inserted by *clause 37*. Examples of what may be defined as priority buildings include:

- buildings that could, if they were to collapse in an earthquake, impede a transport route of strategic importance in an emergency; and
- buildings of particular significance in terms of public safety (for example, because of what may fall off or from them in an earthquake).

New section 133AD specifies that the new subpart does not apply to residential buildings other than multi-storey or multi-unit residential buildings. This mirrors existing section 122(2).

New section 133AE sets out how the new subpart applies to parts of buildings.

New section 133AF requires territorial authorities to complete seismic capacity assessments of existing buildings within their districts within 5 years after the section commences.

New section 133AG requires the chief executive to set a methodology for territorial authorities to use for the purpose of carrying out seismic capacity assessments under *new section 133AF*. The methodology must, among other things, specify how territorial authorities are to prioritise the assessment of priority buildings within their district.

New sections 133AH and 133AI set out the consultation, notification, and availability requirements relating to the methodology set under *new section 133AG*.

New sections 133AJ to 133AM: after completing a seismic capacity assessment of a building, a territorial authority must notify the building owner of the outcome of the assessment (*new section 133AJ*).

Then, within the time frame set out in *new section 133AM*, the territorial authority must record the outcome of the assessment on the seismic capacity register (*new section 133AK*) and issue a seismic work notice if the building is earthquake prone (*new section 133AL*). *New section 133AN* sets out the requirements for a seismic work notice. The requirements are the same as those for a notice given under section 124, except that a seismic work notice must state the work that is required (ie, work to ensure that the building is no longer earthquake prone) and the deadline for completing the work. *New section 133AN(4)* clarifies who is responsible for attaching a seismic work notice to the building. *New section 133AN(5)* provides for a notice to be replaced if it ceases to be attached to the building or becomes illegible.

New section 133AO specifies the deadline for completing seismic work on a building. The deadline will generally be 15 years after the date on which an outcome notice for a building is issued under *new section 133AJ*. However,—

- in the case of a priority building, the deadline may be earlier than 15 years after the date of the outcome notice (depending on the time frame set for that building by the territorial authority under *new section 133AZ*); and
- in the case of a building listed under Part 2 of the Historic Places Act 1993 as a Category 1 historic place (a **Category 1 heritage building**), the deadline may be up to 25 years after the date of an outcome notice (if an extension of time is granted under *new section 133AT*).

New section 133AP provides for a seismic work notice to be removed from a building when the building is no longer earthquake prone.

New section 133AQ sets out what a territorial authority must do if the meaning of moderate earthquake (as defined in regulations) changes. If the territorial authority considers that the outcome of a previous seismic capacity assessment of a building is likely to be incorrect as a result of the change, the territorial authority must reassess the seismic capacity of that building.

New section 133AR enables the owner of a building to provide alternative evidence of a building's seismic capacity. Alternative evidence must be derived from an engineering test specified in the meth-

odology set under *new section 133AG* and the territorial authority must assess that evidence in accordance with the methodology.

New section 133AS enables the owner of a building to apply for an exemption from the requirement to carry out seismic work on a building. Before granting an exemption, a territorial authority must be satisfied that the building meets criteria to be specified in regulations made under *new section 401C(b)*, inserted by *clause 37*. If an exemption is granted, an exemption notice is attached to the building instead of the seismic work notice.

New section 133AT enables the owner of a Category 1 heritage building to apply for an extension of time to complete seismic work on the building. If a territorial authority grants an extension, it must issue a new seismic work notice that states the extended date by which the seismic work must be completed.

New section 133AU requires territorial authorities to update the seismic capacity register as necessary.

New section 133AV authorises territorial authorities to impose, and requires people to comply with, safety requirements in relation to earthquake-prone buildings. These matters are currently provided for in existing sections 124 and 128.

New section 133AW authorises territorial authorities to carry out seismic work on a building if the work is not completed by the required deadline or is not proceeding with reasonable speed. This is currently provided for in existing section 126.

New section 133AX authorises a territorial authority to grant a building consent for the alteration of a building even if, after that alteration, the building will not comply, as nearly as is reasonably practicable, with the provisions of the building code that relate to means of escape from fire and access and facilities for persons with disabilities. However, the alteration must be for the purpose of ensuring that the building is no longer earthquake prone, and the territorial authority must be satisfied that—

- the alteration meets criteria prescribed under *new section 401C(c)*, inserted by *clause 37*; and
- ensuring that the building is no longer earthquake prone outweighs any detriment likely to arise as a result of any non-compliance with the building code.

New section 133AY creates 4 offences relating to earthquake-prone buildings. Two of these are existing offences under the Act, as follows:

- failing to complete seismic work on a building by the deadline (punishable by a fine of up to \$200,000)—*see* existing section 128A(1);
- failing to comply with safety requirements imposed by a territorial authority (punishable by a fine of up to \$200,000 plus \$20,000 for each day that the offence continues)—*see* existing section 128A(2).

The 2 new offences are as follows:

- failing to properly attach a seismic work notice or an exemption notice to a building if required to do so (punishable by a fine of up to \$20,000);
- failing to notify a territorial authority if a seismic work notice or an exemption notice ceases to be attached to a building or becomes illegible (punishable by a fine of up to \$20,000).

New section 133AZ requires territorial authorities to set a time frame for completing seismic work on priority buildings within its district, which may be less than 15 years from the date of an outcome notice given under *new section 133AJ*.

New sections 133AZA and 133AZB set out the consultation, notification, and availability requirements relating to the time frame set under *new section 133AZ*.

New section 133AZC sets out what a territorial authority must do if it amends or replaces a time frame set under *new section 133AZ*. If the deadline for completing seismic work on a priority building has changed as the result of the amendment or replacement, the territorial authority must issue a new seismic work notice for the building.

Clause 24 amends section 154, which sets out the powers of regional authorities in respect of dangerous dams, to remove a redundant subsection (*see* description of *clause 16*).

Clause 25 amends section 155, which sets out the requirements for a notice given under section 154 (Powers of regional authorities in respect of dangerous dams), to clarify the reference to statutory authorities. This amendment is made for consistency with *new section 133AN*, inserted by *clause 23*.

Clause 26 inserts *new section 169A*, which creates a monitoring role for the chief executive in respect of the application of *new subpart 6A of Part 2* and its effectiveness in regulating earthquake-prone buildings.

Clause 27 amends section 175, under which the chief executive may publish information for the guidance of specified persons for specified purposes. The amendment enables the chief executive to publish information for the guidance of owners of buildings and members of the public in relation to the application of *new subpart 6A of Part 2*.

Clause 28 amends section 177, which provides for a party to apply to the chief executive for a determination in relation to specified matters. The amendments enable a party to seek a determination in relation to the exercise, failure or refusal to exercise, or proposed or purported exercise by a territorial authority of its powers of decision under *new subpart 6A of Part 2*, other than a decision under *new section 133AW* (Territorial authority may carry out seismic work) or any of *new sections 133AZ to 133AZC* (which relate to the time frame for completing seismic work on priority buildings).

Clause 29 amends section 181. That section enables the chief executive to make a determination, on his or her own initiative, on a matter referred to in section 177. The amendment aligns section 181 with the changes made to section 177 by *clause 27* and extends the matters on which the chief executive may make a determination to include any power of decision of a territorial authority under *new subpart 6A of Part 2*.

Clause 30 amends section 216 to remove a duplicate provision. Existing section 216(2)(b)(iii) and (ivc) are identical, so the latter is repealed.

Clause 31 amends section 218, which requires territorial authorities to provide information to the chief executive, in accordance with regulations, for the purpose of facilitating the monitoring by the chief executive of current and emerging trends and building design under section 169. The section is amended to cover the monitoring role of the chief executive under *new section 169A*, inserted by *clause 26*.

Clause 32 consequentially amends section 222, which provides an inspection power for territorial authorities, to reflect that the regulation of earthquake-prone buildings has moved from subpart 6 of Part 2 to *new subpart 6A of Part 2*.

Clause 33 amends section 273, which requires the chief executive to keep certain registers. As amended, the section will require the chief executive to keep a seismic capacity register—ie, a register of buildings for the purposes of *new subpart 6A of Part 2*. The seismic capacity register will also contain information about new buildings (see section 95 as amended by *clause 9*). Territorial authorities, as well as the chief executive, will be able to record and update information in the register.

Clause 34 amends section 274, which sets out the purposes of the various registers kept under section 273, to add that the purpose of the seismic capacity register is to enable members of the public to know whether a building is earthquake prone, together with information about the building.

Clause 35 inserts *new sections 275A and 275B*.

New section 275A specifies the information that must be kept in the seismic capacity register, which includes any information prescribed under *new section 401C(d)*, inserted by *clause 37*.

New section 275B provides an exception to the requirement in section 273(2) that registers be fully and freely accessible. The seismic capacity register may contain information that is prescribed by regulations made under *new section 401C(d)*. The chief executive will be required to restrict public access to that information if required to do so by regulations made under *new section 401C(e)* or if the chief executive considers that it is not necessary, or it is not desirable, for that information to be publicly available. However, this does not prevent the chief executive from supplying the information to entities within the State services or, with the permission of the person to whom the information relates, to any person.

Clause 36 consequentially amends section 381, under which a District Court may grant injunctions for continuing breaches, to reflect that the regulation of earthquake-prone buildings has moved from subpart 6 of Part 2 to *new subpart 6A of Part 2*.

Clause 37 inserts *new section 401C*, which is a regulation-making power.

Clause 38 consequentially amends section 402 to update a cross-reference.

Clause 39 amends section 405, which enables material to be incorporated by reference into regulations, certain Orders in Council, ac-

ceptable solutions, and verification methods. The amendment enables material to be incorporated by reference into the methodology to be set under *new section 133AG*.

Clause 40 inserts *new section 450A*, which gives effect to application, savings, and transitional provisions in *new Schedule 1AA*.

Clause 41 inserts *new Schedule 1AA*, which contains the following clauses:

- *clause 1* is an interpretation provision:
- *clause 2* provides for a situation where a building is assessed as earthquake prone under *new subpart 6A of Part 2*, but the territorial authority has previously issued a notice under section 124 requiring work to be carried out on the building to reduce or remove the danger associated with the building being earthquake prone:
- *clause 3* provides that a policy adopted by a territorial authority under section 131 ceases to apply to earthquake-prone buildings from the commencement date of *new subpart 6A of Part 2*, and must be updated to remove references to earthquake-prone buildings:
- *clause 4* ensures that the first time frame set by a territorial authority under *new section 133AZ* (time frame for completing seismic work on priority buildings) can be applied to buildings that the territorial authority has already assessed under *new subpart 6A of Part 2*.

Part 2
Amendment to Building (Specified
Systems, Change the Use, and
Earthquake-prone Buildings) Regulations
2005

Clause 42 provides that *Part 2* amends the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

Clause 43 replaces regulation 7. Regulation 7 currently defines a moderate earthquake, in relation to a particular building, as an earthquake that would generate shaking at the site of the building that is one-third of the strength, but of the same duration, as the earthquake

shaking that would be used to design a new building at that site. Currently, as the requirements for designing a new building change (with changes to the building code), so does the meaning of moderate earthquake in relation to a particular building. *New regulation 7* mirrors existing regulation 7, except that it pins the meaning of moderate earthquake to a particular version of the building code, ie, the version in force on the day on which *new subpart 6A of Part 2* of the Building Act 2004 comes into force.

Hon Maurice Williamson

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Government Bill

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| 14 New section 123A inserted (Application of this subpart to parts of buildings) | 8 |

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| 24 | Section 154 amended (Powers of regional authorities in respect of dangerous dams) | 25 |
| 25 | Section 155 amended (Requirements for notice given under section 154) | 26 |
| 26 | New section 169A inserted (Chief executive must monitor application and effectiveness of subpart 6A of Part 2 (earthquake-prone buildings)) | 26 |
| | 169A Chief executive must monitor application and effectiveness of subpart 6A of Part 2 (earthquake-prone buildings) | 26 |
| 27 | Section 175 amended (Chief executive may publish guidance information) | 26 |
| 28 | Section 177 amended (Application for determination) | 26 |
| 29 | Section 181 amended (Chief executive may make determination on own initiative) | 27 |
| 30 | Section 216 amended (Territorial authority must keep information about buildings) | 27 |
| 31 | Section 218 amended (Territorial authority must provide information to chief executive for purpose of facilitating performance of chief executive's function under section 169) | 27 |
| 32 | Section 222 amended (Inspections by territorial authority) | 27 |
| 33 | Section 273 amended (Chief executive must keep registers) | 28 |
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| 35 | New sections 275A and 275B inserted | 28 |
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| 38 | Section 402 amended (Regulations: general) | 31 |
| 39 | Section 405 amended (Incorporation of material by reference into regulations, certain Orders in Council, acceptable solutions, and verification methods) | 31 |
| 40 | New section 450A inserted (Application, savings, and transitional provisions relating to amendments to Act) | 31 |
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Part 1 cl 4

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| Amendment to Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 | | |
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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Building (Earthquake-prone Buildings) Amendment Act **2013**.
- 2 Commencement** 5
This Act comes into force on the earlier of—
(a) a date appointed by the Governor-General by Order in Council; and
(b) the day that is 2 years after the date on which this Act receives the Royal assent. 10

Part 1
Amendments to principal Act

- 3 Principal Act**
This **Part** amends the Building Act 2004 (the **principal Act**).
- 4 Section 4 amended (Principles to be applied in performing functions or duties, or exercising powers, under this Act)** 15
In section 4(1)(c), replace “and the adoption and review of policy on dangerous, earthquake-prone, and insanitary buildings or, as the case may be, dangerous dams” with “, the adoption

and review of policy on dangerous and insanitary buildings or dangerous dams, or the setting of a time frame for completing seismic work on priority buildings”.

- 5 New section 5A and cross-heading inserted** 5
After section 5, insert:
*“Provisions affecting application of amendments
to this Act*
- “5A Provisions affecting application of amendments to this Act**
Schedule 1AA contains application, savings, and transitional
provisions relating to amendments made to this Act after 10
1 January 2014 (*see section 450A*).”
- 6 Section 7 amended (Interpretation)**
In section 7, insert in their appropriate alphabetical order:
“**Category 1 heritage building** has the meaning given in **sec-**
tion 133AA 15
“**deadline**, in relation to seismic work, has the meaning given
in **section 133AA**
“**earthquake-prone building** has the meaning given in **sec-**
tion 133AB
“**heritage building** means a building registered as a historic 20
place under Part 2 of the Historic Places Act 1993
“**heritage dam** means a dam registered as a historic place
under Part 2 of the Historic Places Act 1993
“**outcome notice** has the meaning given in **section 133AA**
“**priority building** has the meaning given in **section 133AC** 25
“**seismic capacity assessment** has the meaning given in **sec-**
tion 133AA
“**seismic capacity register** has the meaning given in **section**
133AA
“**seismic work** has the meaning given in **section 133AA** 30
“**seismic work notice** has the meaning given in **section**
133AA”.
- 7 Section 11 amended (Role of chief executive)**
(1) After section 11(d), insert:

- “(da) monitors, in accordance with **section 169A**, the application and effectiveness of **subpart 6A of Part 2** (which relates to earthquake-prone buildings); and”.
- (2) After section 11(i), insert:
“(ia) sets a methodology under **section 133AG** for seismic capacity assessments; and”.
- 8 Section 85 amended (Offences relating to carrying out or supervising restricted building work)**
In section 85(4), after “liable”, insert “on conviction”.
- 9 Section 95 amended (Issue of code compliance certificate)**
In section 95, insert as subsection (2):
“(2) As soon as practicable after a certificate is issued under this section for the construction of a building that is to be included in the seismic capacity register under **section 275A(3)**, the territorial authority in whose district the building is situated must record on the seismic capacity register any information that the register is required to contain under that section.”
- 10 Section 112 amended (Alterations to existing buildings)**
After section 112(2), insert:
“(3) This section is subject to **section 133AX**.”
- 11 Subpart 6 heading in Part 2 amended**
In Part 2, in the subpart 6 heading, replace “certain categories of buildings” with “dangerous, affected, and insanitary buildings”.
- 12 Cross-heading above section 121 replaced**
Replace the cross-heading above section 121 with:
“*Interpretation and application*”.
- 13 Section 122 repealed (Meaning of earthquake-prone building)**
Repeal section 122.

14 New section 123A inserted (Application of this subpart to parts of buildings)

After section 123, insert:

“123A Application of this subpart to parts of buildings

- “(1) If a territorial authority is satisfied that only part of a building is dangerous (within the meaning of section 121) or insanitary (within the meaning of section 123),— 5
- “**(a)** the territorial authority may exercise any of its powers or perform any of its functions under this subpart in respect of that part of the building rather than the whole building; and 10
- “**(b)** for the purpose of **paragraph (a)**, this subpart applies with any necessary modifications.
- “(2) To the extent that a power or function of a territorial authority under this subpart relates to affected buildings,— 15
- “**(a)** the territorial authority may exercise the power or perform the function in respect of all or part of an affected building; and
- “**(b)** for the purpose of **paragraph (a)**, this subpart applies with any necessary modifications. 20
- “(3) Nothing in this section limits or affects the application of a provision of this Act outside this subpart.”

15 Cross-heading above section 124 amended

In the cross-heading above section 124, delete “*earthquake-prone*,”. 25

16 Section 124 amended (Dangerous, affected, earthquake-prone, or insanitary buildings: powers of territorial authority)

- (1) In the heading to section 124, delete “**earthquake-prone**,”.
- (2) In section 124(1), delete “earthquake-prone,”. 30
- (3) Repeal section 124(3).

17 Section 125 amended (Requirements for notice requiring building work or restricting entry)

Replace section 125(2)(e) with:

- “(e) every statutory authority that has exercised a statutory power to classify or register, for any purpose, the building or the land on which the building is situated; and”.
- 18 Section 128 amended (Prohibition on using dangerous, affected, earthquake-prone, or insanitary building)** 5
In the heading to section 128, delete “**earthquake-prone,**”.
- 19 Section 128A amended (Offences in relation to dangerous, affected, earthquake-prone, or insanitary buildings)**
In the heading to section 128A, delete “**earthquake-prone,**”.
- 20 Section 129 amended (Measures to avoid immediate danger or to fix insanitary conditions)** 10
In section 129(1)(a), replace “or section 122 or section 123” with “or 123”.
- 21 Cross-heading above section 131 amended** 15
In the cross-heading above section 131, delete “, *earthquake-prone,*”.
- 22 Section 131 amended (Territorial authority must adopt policy on dangerous, earthquake-prone, and insanitary buildings)**
(1) In the heading to section 131, delete “, **earthquake-prone,**” 20
(2) In section 131(1), delete “, earthquake-prone,”.
- 23 New subpart 6A of Part 2 inserted**
After section 133, insert:
“Subpart 6A—Special provisions for
earthquake-prone buildings 25
“*Interpretation and application*
“**133AA Interpretation**
In this subpart,—
“**Category 1 heritage building** means a building registered as
a Category 1 historic place under Part 2 of the Historic Places 30
Act 1993

- “**deadline**, in relation to seismic work, means the deadline for completing that work as specified in **section 133AO**
- “**outcome notice** means a notice, given under **section 133AJ**, of the outcome of a seismic capacity assessment of a building 5
- “**priority building** has the meaning given in **section 133AC**
- “**seismic capacity assessment** means an assessment, made under **section 133AF**, of the seismic capacity of a building
- “**seismic capacity register** means the register established and maintained under **section 273(1)(aab)** 10
- “**seismic work** means the building work required to ensure that a building is no longer earthquake prone
- “**seismic work notice** means a notice given under **section 133AL** requiring the owner of a building to carry out seismic work on the building. 15
- “133AB Meaning of earthquake-prone building**
- A building is **earthquake prone** for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction,—
- “(a) the building will have its ultimate capacity exceeded in a moderate earthquake (as defined in regulations); and 20
- “(b) if the building were to collapse in a moderate earthquake, the collapse would be likely to cause—
- “(i) injury or death to persons in the building or to persons on any other property; or 25
- “(ii) damage to any other property.
- “Compare: 1991 No 150 s 66
- “133AC Meaning of priority building**
- “(1) In this subpart, **priority building** has the meaning given in regulations made under **section 401C(a)**. 30
- “(2) If a building is a priority building, a territorial authority—
- “(a) must, in accordance with the methodology set under **section 133AG**, prioritise its assessment of the building’s seismic capacity; and

“(b) may, in setting a time frame under **section 133AZ**, shorten the time frame within which seismic work on the building must be completed.

“133AD Application of this subpart to residential buildings

This subpart does not apply to a building that is used wholly 5
or mainly for residential purposes, unless the building—

“(a) comprises 2 or more storeys; and

“(b) contains 3 or more household units.

“133AE Application of this subpart to parts of buildings

“(1) If a territorial authority is satisfied that only part of a building is 10
earthquake prone (within the meaning of **section 133AB**),—

“(a) the territorial authority may exercise any of its powers
or perform any of its functions under this subpart in
respect of that part of the building rather than the whole
building; and 15

“(b) for the purpose of **paragraph (a)**, this subpart applies
with any necessary modifications.

“(2) Nothing in this section limits or affects the application of a
provision of this Act outside this subpart.

“Seismic capacity assessments” 20

**“133AF Territorial authority must assess seismic capacity of
existing buildings**

“(1) A territorial authority must complete seismic capacity assess-
ments of existing buildings within the district of the territorial
authority. 25

“(2) A seismic capacity assessment—

“(a) must be carried out using the methodology set under
section 133AG; and

“(b) must be completed not later than 5 years after the day
on which this section comes into force. 30

“(3) For the purpose of **subsection (1)**, a building is an **existing
building** if,—

“(a) before the day on which this section comes into force, a
certificate is issued under section 95 for the construction
of the building; or 35

“(b) the building was constructed before 31 March 2005.

“133AG Chief executive must set methodology for seismic capacity assessments

- “(1) The chief executive must set a methodology for territorial authorities to use for the purpose of carrying out seismic capacity assessments under **section 133AF**. 5
- “(2) The methodology must—
- “(a) specify how a territorial authority is to assess a building’s seismic capacity; and
 - “(b) specify how a territorial authority is to prioritise the assessment of buildings within its district, with particular reference to priority buildings; and 10
 - “(c) specify engineering tests from which alternative evidence of a building’s seismic capacity may be derived (*see section 133AR*); and 15
 - “(d) specify how a territorial authority is to evaluate, as evidence of a building’s seismic capacity, engineering tests completed before the day on which this section comes into force.
- “(3) The methodology may incorporate material by reference in accordance with sections 405 to 413. 20
- “(4) The chief executive may—
- “(a) set the methodology in 1 or more stages; and
 - “(b) amend or replace the methodology at any time.
- “(5) If the chief executive amends or replaces the methodology, **sections 133AH and 133AI** apply in respect of that amendment or replacement with any necessary modifications. 25

“133AH Consultation requirements for setting methodology

- “(1) Before setting a methodology under **section 133AG**, the chief executive must do everything reasonably practicable on his or her part to consult territorial authorities and any other persons or organisations that appear to the chief executive to be representative of the interests of persons likely to be substantially affected by the setting of the methodology. 30
- “(2) The process for consultation should, to the extent practicable in the circumstances, include— 35

- “(a) giving adequate and appropriate notice of the intention to set the methodology; and
- “(b) giving a reasonable opportunity for territorial authorities and other interested persons to make submissions; and 5
- “(c) giving adequate and appropriate consideration to submissions.
- “(3) A failure to comply with this section does not affect the validity of a methodology set under **section 133AG**.
- “133AI Notification and availability of methodology 10**
- “(1) As soon as practicable after the chief executive has set a methodology under **section 133AG**, the chief executive must—
- “(a) notify territorial authorities that the methodology has been set; and
- “(b) publicly notify that the methodology has been set; and 15
- “(c) make the methodology available on the Internet in an electronic form that is publicly accessible at all reasonable times; and
- “(d) make the methodology available in printed form for purchase on request by members of the public. 20
- “(2) A methodology set under **section 133AG** is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- “What territorial authority must do after seismic capacity assessment 25*
- “133AJ Territorial authority must notify building owner of outcome of assessment**
- “(1) A territorial authority must, as soon as practicable after it has assessed the seismic capacity of a building, give the owner of the building a written notice of the outcome of the assessment (an **outcome notice**). 30
- “(2) An outcome notice must be dated and must—
- “(a) state whether the building is earthquake prone; and
- “(b) if the building is earthquake prone,— 35
- “(i) state that the building requires seismic work; and

- “(ii) state that the owner of the building may apply under **section 133AS** for an exemption from the requirement to carry out seismic work; and
- “(iii) if the building is a Category 1 heritage building, state that the owner of the building may apply under **section 133AT** for an extension of time to complete seismic work; and 5
- “(c) state that the owner of the building may provide alternative evidence of the building’s seismic capacity under **section 133AR**; and 10
- “(d) explain the time frame (as set out in **section 133AM**) within which the territorial authority will—
 - “(i) record the outcome of the assessment on the seismic capacity register; and
 - “(ii) if the building is earthquake prone, issue a seismic work notice for the building. 15

“133AK Territorial authority must record outcome of assessment on seismic capacity register

A territorial authority must, within the time frame specified in **section 133AM**, record on the seismic capacity register the outcome of a seismic capacity assessment and any related information that the register is required to contain under **section 275A**. 20

“133AL Earthquake-prone buildings: territorial authority must issue seismic work notice 25

- “(1) If a territorial authority gives an outcome notice stating that a building is earthquake prone, the territorial authority must, within the time frame specified in **section 133AM**, issue a seismic work notice for the building in accordance with **section 133AN**. 30
- “(2) However, **subsection (1)** does not apply if an exemption from the requirement to carry out seismic work on the building is in force under **section 133AS**.

“133AM Time frame for territorial authority to act under sections 133AK and 133AL

- “(1) This section sets out the time frame within which a territorial authority must act under **section 133AK** and, if applicable, **section 133AL**. 5
- “(2) The territorial authority must act as soon as practicable after the expiry of the period of 20 working days after the date of the outcome notice (the **notice period**), unless **subsection (3) or (4)** applies.
- “(3) If the owner of the building notifies the territorial authority before the expiry of the notice period that the owner intends to provide alternative evidence of the building’s seismic capacity (*see* **section 133AR**), the territorial authority must act— 10
- “*(a)* as soon as practicable after the territorial authority has considered the alternative evidence; or 15
- “*(b)* if the owner does not provide alternative evidence within a reasonable time, as soon as practicable after the expiry of that reasonable time.
- “(4) If the owner of the building applies before the expiry of the notice period for an exemption under **section 133AS**, the territorial authority must act as soon as practicable after it has made a decision on the application. 20

“133AN Requirements for seismic work notice

- “(1) A seismic work notice for a building must— 25
- “*(a)* be in writing; and
- “*(b)* state that the building is earthquake prone; and
- “*(c)* state that the owner of the building is required to carry out building work to ensure that the building is no longer earthquake prone (**seismic work**); and
- “*(d)* state the deadline for completing the seismic work; and 30
- “*(e)* be attached to the building in accordance with **subsection (4)**.
- “(2) A copy of the notice must be given to—
- “*(a)* the owner of the building; and
- “*(b)* an occupier of the building; and 35
- “*(c)* every person who has an interest in the land on which the building is situated under a mortgage or other

- encumbrance registered under the Land Transfer Act 1952; and
- “(d) every person claiming an interest in the land that is protected by a caveat lodged and in force under section 137 of the Land Transfer Act 1952; and 5
 - “(e) every statutory authority that has exercised a statutory power to classify or register, for any purpose, the building or the land on which the building is situated; and
 - “(f) the New Zealand Historic Places Trust, if the building is a heritage building. 10
- “(3) A notice attached to a building is not invalid by reason only that a copy of it has not been given to any or all of the persons referred to in **subsection (2)**.
- “(4) As soon as practicable after issuing a seismic work notice for a building, a territorial authority must attach, or require the owner of the building to attach, the notice in a prominent place on or adjacent to the building. 15
- “(5) If the seismic work notice ceases to be attached in a prominent place on or adjacent to the building, or becomes illegible,—
- “(a) the owner of the building must notify the territorial authority of that fact; and 20
 - “(b) the territorial authority must issue a replacement notice; and
 - “(c) **subsections (1) and (4)** apply to that replacement notice. 25
- “(6) However, **subsection (5)** does not apply if the removal of the notice from the building is authorised by or under this subpart.
- “133AO Deadline for completing seismic work**
- “(1) The owner of an earthquake-prone building must complete seismic work on the building on or before the deadline specified in this section. 30
- “(2) For a priority building (subject to **subsection (4)**), the deadline is the earlier of—
- “(a) the expiry of 15 years after the date of the outcome notice; and 35
 - “(b) the expiry of the period stated for that building or class of building in the time frame set by the territorial author-

- ity under **section 133AZ**, as measured from the date of the outcome notice.
- “(3) For a Category 1 heritage building (subject to **subsection (4)**), the deadline is the later of—
- “(a) the expiry of 15 years after the date of the outcome notice; and
 - “(b) the expiry of the period of an extension in force under **section 133AT** (if any), as measured from the expiry of 15 years after the date of the outcome notice.
- “(4) For a building that is both a priority building and a Category 1 heritage building, the deadline is the later of—
- “(a) the deadline calculated under **subsection (2)**; and
 - “(b) the expiry of the period of an extension in force under **section 133AT** (if any), as measured from the deadline calculated under **subsection (2)**.
- “(5) For any other building, the deadline is the expiry of 15 years after the date of the outcome notice.
- “**133AP Seismic work notice to be removed when building no longer earthquake prone**
- “(1) This section applies if—
- “(a) a territorial authority has issued a seismic work notice for a building; and
 - “(b) the territorial authority is satisfied that the building is no longer earthquake prone.
- “(2) The territorial authority must remove, or authorise the owner of the building to remove, any seismic work notice attached to the building.
- “**133AQ What territorial authority must do if definition of moderate earthquake amended**
- “(1) This section applies if the definition of moderate earthquake, as defined in regulations for the purpose of **section 133AB** (Meaning of earthquake-prone building), is amended or replaced.
- “(2) As soon as is reasonably practicable after the definition is amended or replaced, a territorial authority must—

- “(a) consider whether the outcome of any seismic capacity assessment completed by the territorial authority before the amendment or replacement was made (**existing outcome**) is likely to be incorrect as a result of the amendment or replacement; and 5
 - “(b) if the territorial authority considers that an existing outcome is likely to be incorrect as a result of the amendment or replacement, reassess the seismic capacity of the building concerned.
- “What building owner may do after seismic capacity assessment” 10*
- “133AR Owner may provide alternative evidence of building’s seismic capacity**
- “(1) The owner of a building may provide to the territorial authority alternative evidence of the building’s seismic capacity. 15
 - “(2) Alternative evidence must be derived from an engineering test specified in the methodology set under **section 133AG**.
 - “(3) If a territorial authority considers, in accordance with the methodology, that the alternative evidence changes the outcome of the seismic capacity assessment, the territorial authority must— 20
 - “(a) give the owner of the building a revised outcome notice; and
 - “(b) comply with **section 133AK or 133AU** (as applicable); and 25
 - “(c) if the building is not earthquake prone, remove, or authorise the owner of the building to remove, any seismic work notice already attached to the building; and
 - “(d) if the building is earthquake prone, issue a seismic work notice in accordance with **section 133AN**. 30
- “133AS Owner may apply for exemption from requirement to carry out seismic work**
- “(1) The owner of a building may apply to a territorial authority for an exemption from the requirement to carry out seismic work on the building. 35

- “(2) An application must be in writing and must be accompanied by any fee imposed by the territorial authority under section 219.
- “(3) If the territorial authority is satisfied that the building meets the criteria specified in regulations made under **section 401C(b)**, the territorial authority may grant an exemption by issuing an exemption notice. 5
- “(4) An exemption notice must—
- “(a) state that the building is earthquake prone; and
 - “(b) state that the owner of the building is exempt from the requirement to carry out seismic work on the building; and 10
 - “(c) give the territorial authority’s reasons for granting the exemption.
- “(5) As soon as practicable after issuing an exemption notice, a territorial authority must— 15
- “(a) attach, or require the owner of the building to attach, the exemption notice in a prominent place on or adjacent to the building; and
 - “(b) remove, or authorise the owner of the building to remove, any seismic work notice already attached to the building. 20
- “(6) If the exemption notice ceases to be attached in a prominent place on or adjacent to the building, or becomes illegible,—
- “(a) the owner of the building must notify the territorial authority of that fact; and 25
 - “(b) the territorial authority must issue a replacement notice; and
 - “(c) **subsections (4) and (5)** apply to that replacement notice. 30
- “(7) However, **subsection (6)** does not apply if the removal of the notice is authorised by or under this subpart.
- “(8) A territorial authority may, but need not, review an exemption at any time, and may revoke it if satisfied that the building no longer meets the criteria. 35
- “(9) An exemption stays in force until the territorial authority revokes it.

- “(10) As soon as practicable after revoking an exemption, a territorial authority must—
- “(a) issue a seismic work notice in accordance with **section 133AN**; and
 - “(b) remove, or require the owner of the building to remove, 5
any exemption notice already attached to the building.
- “133AT Owner of Category 1 heritage building may apply for extension of time to complete seismic work**
- “(1) The owner of a Category 1 heritage building may apply to the territorial authority for an extension of time to complete 10
seismic work on the building.
- “(2) An application must be in writing and must be accompanied by any fee imposed by the territorial authority under section 219.
- “(3) The territorial authority may, by notice in writing to the owner 15
of the building, extend by up to 10 years the deadline for completing seismic work on the building.
- “(4) If the territorial authority grants an extension, the owner of the building must—
- “(a) take all reasonably practicable steps to manage or reduce 20
the risks associated with the building being earthquake prone; and
 - “(b) comply with any conditions imposed by the territorial authority for the purpose of managing or reducing the 25
risks referred to in **paragraph (a)**.
- “(5) If the owner of a building fails to comply with **subsection (4)**, the territorial authority may revoke the extension.
- “(6) As soon as practicable after granting or revoking an extension, a territorial authority must—
- “(a) issue a seismic work notice in accordance with **section 133AN**; and 30
 - “(b) remove, or require the owner of the building to remove, from the building any seismic work notice already attached to the building.

- “133AU Territorial authority must update seismic capacity register as necessary**
- “(1) This section applies if, at any time after recording information on the seismic capacity register under **section 133AK**, a territorial authority— 5
- “(a) considers that alternative evidence provided under **section 133AR** changes the outcome of a seismic capacity assessment; or
 - “(b) grants or revokes an exemption under **section 133AS** or an extension under **section 133AT**; or 10
 - “(c) is satisfied that a building is no longer earthquake prone; or
 - “(d) becomes aware that the seismic capacity register does not correctly record the information that the register is required to contain under **section 275A**. 15
- “(2) If this section applies, the territorial authority must update the seismic capacity register so that it correctly records the information that the register is required to contain under **section 275A**.
- “Powers of territorial authorities in respect of earthquake-prone buildings”* 20
- “133AV Territorial authority may impose safety requirements**
- “(1) If a territorial authority is satisfied that a building in its district is earthquake prone, the territorial authority may do either or both of the following: 25
- “(a) put up a hoarding or fence to prevent people from approaching the building nearer than is safe:
 - “(b) attach in a prominent place, on or adjacent to the building, a notice that warns people not to approach the building. 30
- “(2) If, in relation to a building, a territorial authority has put up a hoarding or fence or attached a warning notice, no person may—
- “(a) use or occupy the building; or
 - “(b) permit another person to use or occupy the building. 35

“133AW Territorial authority may carry out seismic work

- “(1) This section applies if seismic work on an earthquake-prone building is not completed by the deadline or is not proceeding with reasonable speed in the light of that deadline.
- “(2) The territorial authority may apply to a District Court for an order authorising the territorial authority to carry out seismic work on the building. 5
- “(3) Before the territorial authority applies to a District Court under **subsection (2)**, the territorial authority must give the owner of the building not less than 10 days’ written notice of its intention to do so. 10
- “(4) If a territorial authority carries out seismic work on a building under the authority of an order made under **subsection (2)**,—
- “(a) the owner of the building is liable for the costs of the work; and 15
 - “(b) the territorial authority may recover those costs from the owner; and
 - “(c) the amount recoverable by the territorial authority becomes a charge on the land on which the work was carried out. 20
- “(5) Seismic work authorised to be done under this section may include the demolition of a building.

“Compare: 1991 No 150 s 65(4), (5)

“133AX Territorial authority may grant building consent for earthquake-prone building despite section 112(1) 25

Despite section 112(1), a territorial authority may grant a building consent for the alteration of a building if the territorial authority is satisfied that—

- “(a) the alteration is for the purpose of ensuring that the building is no longer earthquake prone; and 30
 - “(b) after the alteration, the building will continue to comply with provisions of the building code to at least the same extent as before the alteration; and
 - “(c) the territorial authority is satisfied that—
- “**(i)** the alteration meets criteria prescribed under **section 401C(c)** (if any); and 35
 - “**(ii)** ensuring that the building is no longer earthquake-prone outweighs any detriment that is

likely to arise as a result of the building not complying as nearly as is reasonably practicable with the provisions of the building code that relate to—

“(A) means of escape from fire; and 5

“(B) access and facilities for persons with disabilities (if this is a requirement in terms of section 118).

“*Offences*

“**133AY Offences in relation to earthquake-prone buildings** 10

“*Failure to complete seismic work*

“(1) The owner of an earthquake-prone building who fails to complete seismic work on the building by the deadline—

“(a) commits an offence; and

“(b) is liable on conviction to a fine not exceeding \$200,000. 15

“*Failures relating to seismic work notices and exemption notices*

“(2) A person commits an offence if—

“(a) a territorial authority requires the person to attach to an earthquake-prone building— 20

“(i) a seismic work notice under **section 133AN(4)**;
or

“(ii) an exemption notice under **section 133AS(5)**;
and

“(b) the person— 25

“(i) fails to attach the notice in accordance with that section; or

“(ii) attaches the notice otherwise than in accordance with that section.

“(3) A person commits an offence if— 30

“(a) the person is required under **section 133AN(5) or 133AS(6)** to notify the territorial authority if a seismic work notice or an exemption notice ceases to be attached to a building or becomes illegible; and

“(b) the person fails to notify the territorial authority in accordance with that section. 35

- “(4) A person who commits an offence under **subsection (2) or (3)** is liable on conviction to a fine not exceeding \$20,000.
“Failure to comply with safety requirements
- “(5) A person who fails to comply with **section 133AV(2)** commits an offence and is liable on conviction— 5
“(a) to a fine not exceeding \$200,000; and
“(b) in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence continues.
- “Time frame for completing seismic work on priority buildings* 10
- “133AZ Territorial authority must set time frame for completing seismic work on priority buildings**
- “(1) A territorial authority must, not later than 12 months after the day on which this section comes into force, set a time frame for the completion of seismic work on priority buildings within its district. 15
- “(2) The time frame—
“(a) must include the period of time, in relation to the date of an outcome notice, within which seismic work on priority buildings must be completed (the **completion period**); and 20
“(b) may include different completion periods for particular buildings or classes of building.
- “(3) A completion period— 25
“(a) may be a period of less than 15 years after the date of an outcome notice; but
“(b) must not exceed a period of 15 years after the date of an outcome notice.
- “133AZA Adoption and review of time frame** 30
- “(1) A time frame under **section 133AZ** must be set using the special consultative procedure in section 83 of the Local Government Act 2002.
- “(2) A time frame may be amended or replaced only in accordance with the special consultative procedure. 35

- “133AZB Notification and availability of time frame**
- “(1) As soon as practicable after a territorial authority has set a time frame under **section 133AZ**, the territorial authority must—
- “(a) provide a copy of the time frame to the chief executive; and 5
 - “(b) make the time frame available on the Internet in an electronic form that is publicly accessible at all reasonable times; and
 - “(c) make the time frame available in printed form for purchase on request by members of the public. 10
- “(2) A time frame set under **section 133AZ** is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- “133AZC What territorial authority must do if time frame amended or replaced** 15
- “(1) This section applies if a territorial authority amends or replaces a time frame under **section 133AZA(2)**.
- “(2) **Section 133AZB** applies to the amendment or replacement with any necessary modifications. 20
- “(3) As soon as is reasonably practicable after the time frame is amended or replaced, the territorial authority must—
- “(a) assess whether the deadline for completing seismic work on any building within its district has changed as a result of the amendment or replacement; and 25
 - “(b) if the deadline has changed,—
 - “(i) issue a seismic work notice in accordance with **section 133AN**; and
 - “(ii) remove, or require the owner of the building to remove, from the building any seismic work notice already attached to the building.” 30
- 24 Section 154 amended (Powers of regional authorities in respect of dangerous dams)**
Repeal section 154(2).

- 25 Section 155 amended (Requirements for notice given under section 154)**
Replace section 155(2)(e) with:
“(e) every statutory authority that has exercised a statutory power to classify or register, for any purpose, the dam or the land on which the dam is situated; and” 5
- 26 New section 169A inserted (Chief executive must monitor application and effectiveness of subpart 6A of Part 2 (earthquake-prone buildings))**
After section 169, insert: 10
“**169A Chief executive must monitor application and effectiveness of subpart 6A of Part 2 (earthquake-prone buildings)**
The chief executive must monitor the application of **subpart 6A of Part 2** and its effectiveness in regulating earthquake-prone buildings.” 15
- 27 Section 175 amended (Chief executive may publish guidance information)**
(1) In section 175(1)(b)(iii), after “practitioners”, insert “; and”.
(2) After section 175(1)(b), insert: 20
“(c) owners of buildings and members of the public in relation to the application of **subpart 6A of Part 2.**”
- 28 Section 177 amended (Application for determination)**
(1) In section 177(3)(f), replace “(which relate to dangerous, earthquake-prone, and insanitary buildings)” with “(which relate to dangerous, affected, and insanitary buildings)” 25
(2) After section 177(3)(f), insert:
“(fa) any power of decision of a territorial authority under **subpart 6A of Part 2**, other than a power of decision under **section 133AW** (Territorial authority may carry out seismic work) or any of **sections 133AZ to 133AZC** (which relate to time frames for completing seismic work on priority buildings):” 30

- 29 Section 181 amended (Chief executive may make determination on own initiative)**
- (1) In section 181(1), replace “section 177” with “**subsection (4)**”.
- (2) Replace section 181(2)(a) with: 5
“(a) may give a direction under subsection (1) either before or after a decision or a power that relates to the matter is made or exercised (as the case may be); and”.
- (3) After section 181(3), insert:
- “(4) **Subsection (1)** applies in respect of— 10
“(a) a matter referred to in section 177; or
“(b) any power of decision of a territorial authority under **subpart 6A of Part 2.**”
- 30 Section 216 amended (Territorial authority must keep information about buildings)** 15
Repeal section 216(2)(b)(ivc).
- 31 Section 218 amended (Territorial authority must provide information to chief executive for purpose of facilitating performance of chief executive’s function under section 169)** 20
- (1) In the heading to section 218, replace “**section 169**” with “**sections 169 and 169A**”.
- (2) In section 218(1), after “etc)”, insert “and **section 169A** (which relates to monitoring the application and effectiveness of **subpart 6A of Part 2** (earthquake-prone buildings))”. 25
- 32 Section 222 amended (Inspections by territorial authority)**
- Replace section 222(1)(b)(ii) with:
- “(ii) the purpose of determining whether the building is dangerous or insanitary within the meaning of subpart 6 of Part 2; or 30
“(iii) the purpose of determining whether the building is earthquake prone within the meaning of **subpart 6A of Part 2.**”

| Building (Earthquake-prone Buildings) | |
|---|----|
| Amendment Bill | |
| Part 1 cl 33 | |
| 33 Section 273 amended (Chief executive must keep registers) | |
| (1) After section 273(1)(aaa), insert: | |
| “(aab) a register of buildings for the purposes of subpart 6A of Part 2 (the seismic capacity register):”. | |
| (2) After section 273(3), insert: | 5 |
| “(3A) The seismic capacity register must be kept in a manner that enables territorial authorities, as well as the chief executive, to record and update information in the register.” | |
| 34 Section 274 amended (Purpose of registers) | |
| After section 274(a)(iaa), insert: | 10 |
| “(iab) in the case of the seismic capacity register, whether a building is earthquake prone, together with information about the building; and”. | |
| 35 New sections 275A and 275B inserted | |
| After section 275, insert: | 15 |
| “275A Content of seismic capacity register | |
| “(1) The seismic capacity register must contain, for each building the seismic capacity of which a territorial authority assesses under section 133AF ,— | |
| “(a) the address of, and any other details necessary to identify, the building; and | 20 |
| “(b) the name of the territorial authority that made the assessment; and | |
| “(c) the date of the outcome notice; and | |
| “(d) the outcome of the assessment (that is, whether the building is earthquake prone); and | 25 |
| “(e) if the building is earthquake prone,— | |
| “(i) whether the building is a priority building; and | |
| “(ii) the deadline for completing seismic work on the building (subject to subsection (2)); and | 30 |
| “(iii) whether an exemption from the requirement to carry out seismic work on the building is in force under section 133AS ; and | |
| “(iv) whether an extension of time for completing seismic work on the building is in force under section 133AT and, if so,— | 35 |

- “(A) the deadline for completing the seismic work that applies as a result of the extension; and
- “(B) the deadline for completing the seismic work that would have applied if the extension had not been granted; and 5
- “(C) a summary of any conditions of the extension; and
- “(f) any information prescribed under **section 401C(d)**.
- “(2) However, **subsection (1)(e)(ii)** does not apply if— 10
 - “(a) an exemption notice is in force under **section 133AS**; or
 - “(b) an extension of time for completing seismic work on the building is in force under **section 133AT** (in which case **subsection (1)(e)(iv)** applies). 15
- “(3) The seismic capacity register must also contain, for each new building,—
 - “(a) the address of, and any other details necessary to identify, the building; and
 - “(b) the date on which a certificate was issued under section 95 for the construction of the building; and 20
 - “(c) a statement that the building is not earthquake prone; and
 - “(d) any information prescribed under **section 401C(d)**.
- “(4) For the purpose of **subsection (3), new building**— 25
 - “(a) means a building for which a certificate for the construction of the building is issued under section 95 on or after the day on which this section comes into force; but
 - “(b) does not include any building that is used wholly or mainly for residential purposes, unless the building— 30
 - “(i) comprises 2 or more storeys; and
 - “(ii) contains 3 or more household units.

“**275B Restriction on public access to certain information on seismic capacity register**

- “(1) Despite section 273(2), the chief executive must restrict public access to any prescribed information in the seismic capacity register— 35

| Building (Earthquake-prone Buildings) | |
|---|----|
| Amendment Bill | |
| Part 1 cl 36 | |
| “(a) if required to do so by regulations made under section 401C(e) ; or | |
| “(b) if the chief executive considers that it is not necessary, or it is not desirable, for the information to be publicly available. | 5 |
| “(2) Despite subsection (1) , the chief executive may supply any information contained in the register— | |
| “(a) to an entity in the State services (within the meaning of the State Sector Act 1988) if the chief executive is satisfied that it is necessary or desirable for the entity to have the information to assist in the exercise of its powers or the performance of its functions under any enactment; and | 10 |
| “(b) to any person, with the permission of the person to whom the information relates.” | 15 |
| 36 Section 381 amended (District Court may grant injunctions for certain continuing breaches) | |
| (1) In section 381(1)(b), delete “, earthquake prone,”. | |
| (2) After section 381(1)(b), insert: | |
| “(ba) a building is earthquake prone in terms of subpart 6A of Part 2 and the territorial authority has failed to take appropriate action; or”. | 20 |
| 37 New section 401C inserted (Regulations: earthquake-prone buildings) | |
| After section 401B, insert: | 25 |
| “401C Regulations: earthquake-prone buildings | |
| The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that— | |
| “(a) define priority buildings for the purpose of subpart 6A of Part 2 , for example,— | 30 |
| “(i) buildings that could, if they were to collapse in an earthquake, impede a transport route of strategic importance in an emergency; | |
| “(ii) buildings of particular significance in terms of public safety (for example, because of what may fall off or from them in an earthquake): | 35 |

- “(b) prescribe the criteria for granting an exemption from a requirement to carry out seismic work on a building (*see section 133AS*):
- “(c) prescribe the criteria for granting a building consent for an alteration to an earthquake-prone building, where section 112(1) would otherwise prevent a building consent authority from granting a building consent (*see section 133AX*): 5
- “(d) prescribe information that must be kept on the seismic capacity register: 10
- “(e) specify any information prescribed under **paragraph (d)** to which the chief executive must restrict public access (*see section 275B(1)(a)*).”
- 38 Section 402 amended (Regulations: general)** 15
In section 402(1)(p), replace “122” with “**133AB**”.
- 39 Section 405 amended (Incorporation of material by reference into regulations, certain Orders in Council, acceptable solutions, and verification methods)**
- (1) In the heading to section 405, replace “**regulations, certain Orders in Council, acceptable solutions, and verification methods**” with “**certain instruments, solutions, and methods**”. 20
- (2) In section 405(4)(c), after “285”, insert “; and”.
- (3) After section 405(4)(c), insert: 25
- “(d) a methodology set under **section 133AG** for seismic capacity assessments.”
- 40 New section 450A inserted (Application, savings, and transitional provisions relating to amendments to Act)**
- After section 450, insert: 30
- “**450A Application, savings, and transitional provisions relating to amendments to Act**
The application, savings, and transitional provisions set out in **Schedule 1AA**, which relate to amendments made to this Act after 1 January 2014, have effect for the purposes of this Act.”

- 41 New Schedule 1AA inserted**
Before Schedule 1, insert the **Schedule 1AA** set out in the Schedule of this Act.

Part 2
**Amendment to Building (Specified
Systems, Change the Use, and
Earthquake-prone Buildings) Regulations
2005** 5

- 42 Principal regulations**
This **Part** amends the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (the **principal regulations**). 10

- 43 Regulation 7 replaced (Earthquake-prone buildings: moderate earthquake defined)**
Replace regulation 7 with: 15

“7 Earthquake-prone buildings: moderate earthquake defined

- “(1)** For the purposes of **section 133AB** of the Act (Meaning of earthquake-prone building), **moderate earthquake** means, in relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity, and displacement) that would be used to design a new building at that site if it were designed on the commencement date. 20
25

- “(2)** In this regulation, **commencement date** means the day on which **section 23** of the Building (Earthquake-prone Buildings) Amendment Act **2013** (which inserts **subpart 6A of Part 2** of the Act) comes into force.”
-

Schedule

s 41

New Schedule 1AA inserted

Schedule 1AA

ss 5A, 450A

Application, savings, and transitional
provisions relating to amendments made
to Act after 1 January 2014

5

1 Interpretation

In this schedule,—

amendment Act means the Building (Earthquake-prone Buildings) Amendment Act **2013**

commencement date means the day on which **section 23** of the amendment Act (which inserts **subpart 6A of Part 2**) comes into force. 10

2 Notices given under section 124 before commencement date

(1) This clause applies if— 15

- (a) the outcome of a seismic capacity assessment of a building is that the building is earthquake prone; and
- (b) before the commencement date, a territorial authority gave a written notice under section 124(2)(c)(i) (the **notice**) requiring work to be carried out on the building, within a time stated in the notice (the **time frame**), to reduce or remove the danger associated with the building being earthquake prone (the **work**). 20

(2) If the time frame exceeds 15 years after the notice is given, the notice is revoked on the issue of a seismic work notice for the building. 25

(3) If the time frame is, or is less than, 15 years after the notice is given, **subpart 6A of Part 2** applies as if the work were seismic work and as if the notice were a seismic work notice issued under that subpart, except that— 30

- (a) **section 133AL** (which requires a territorial authority to issue a seismic work notice) does not apply; and
- (b) if the building is a priority building, **section 133AO(2) and (4)** (which specifies the deadline for completing seismic work on priority buildings) does not apply. 35

Schedule 1AA—*continued*

- 3 Policy adopted under section 131 before commencement date**
- (1) This clause applies to a policy under section 131 (policy on dangerous, earthquake-prone, and insanitary buildings) that is adopted by a territorial authority before the commencement date. 5
- (2) To the extent that the policy applies to earthquake-prone buildings, the policy ceases to apply on the commencement date.
- (3) As soon as is reasonably practicable after the commencement date, the territorial authority must amend or replace the policy to remove references to earthquake-prone buildings. 10
- (4) Section 132 applies to an amendment or a replacement made under **subclause (3)**, except that the special consultative procedure in section 83 of the Local Government Act 2002 (*see* section 132(2)) does not apply unless the amendment or replacement materially affects the policy as it applies to dangerous and insanitary buildings. 15
- 4 What territorial authority must do after setting time frame under section 133AZ**
- As soon as is reasonably practicable after setting a time frame under **section 133AZ**, a territorial authority must comply with **section 133AZC(3)(a) and (b)**, which applies as if the reference in **section 133AZC(3)(a)** to an amendment or a replacement of the time frame were a reference to the setting of the time frame. 20 25