

Minor Amendments to Building, Dog Control, Public Records and Rates Rebate Act

The recently enacted Statutes Amendment Bill (**Bill**) is an omnibus Act which has now been divided to include a number of minor changes for Acts which have particular relevance to local authorities:

- Building Act 2004
- Dog Control Act 1996
- Public Records Act 2005
- Rates Rebates Act 1973

Building Act 2004

Section 177, which deals with applications for a determination, has been repealed and substituted. The new section 177 is clearer and more comprehensive than the section it replaces. It allows determinations in respect of any exercise, failure or refusal to exercise, or proposed or purported exercise by any specified authority of any specified power of decision. Whereas previously section 177 prevented certain determinations (for example, in respect of a building consent authority's refusal to issue a notice to fix) the new section closes such gaps.

A number of amendments have been made to the District Court sections of the Building Act 2004. These amendments include the insertion of a provision which ensures that not only a determination, but also a related costs direction, can be confirmed, reversed, modified, referred back, or remade by a District Court on appeal.

Section 271(2)(b) of the Building Act 2004 has been amended to omit "product certification body" and insert "proprietor of the building method or product". This amendment corrects a drafting error which required the product certification body to rectify the matter that led to the suspension when this should have been the proprietor of the building method or product.

Section 412(2) of the Building Act 2004 has been amended to ensure that compliance documents that incorporate material by reference do not have to comply with the Regulations (Disallowance) Act 1989 as these compliance documents are not legislative but administrative in nature.

Schedule 1 of the Building Act 2004, which specifies when a building consent is not required for building work, has been amended to make certain exemptions clearer. These exemptions include:



- repairs to or certain replacements of open-vented water storage heaters connected to solid-fuel heaters or other supplementary heat exchangers (which has been clarified in the amendment as only applying to repairs or replacements of that kind using the same pipework); and
- alterations to existing sanitary plumbing in a dwelling (which the amendment has clarified does not apply when a building consent is required for repairs to or replacements of water storage heaters connected to solid-fuel heaters or other supplementary heat exchanges).

Dog Control Act 1996

Section 31 of the Dog Control Act 1996 has been amended so that it is now clear that the categories of dangerous dogs in paragraphs (a) to (c) are separate and need not be applied cumulatively. This confirms and clarifies the requirement that territorial authorities must classify a dog as dangerous based on one of the three separate categorisations of dangerous dogs provided in section 31.

Public Records Act 2005

Along with cross-reference corrections between subsections, section 46(2) of the Public Records Act 2005 has been corrected so as to refer to a "controlling local authority" rather than a "controlling public office".

Rates Rebate Act 1973

The definition of income under the Rates Rebate Act 1973 has been amended by inserting "or partner" after "spouse" in the definition of income. This means that income under the Rates Rebate Act 1973 has been extended to include partners of ratepayers rather than just the spouses of ratepayers.

Although these amendments make few substantive changes to the relevant legislation they will hopefully make it clearer and more workable for local authorities.

Our LG Law senior personnel are:

Melinda Dickey

Partner

t: (09) 979 2210

e: dickey@brookfields.co.nz

Andrew Green

Partner

t: (09) 979 2172

e: green@brookfields.co.nz

Linda O'Reilly

Partner

t: (09) 979 2167

e: oreilly@brookfields.co.nz

John Young

Partner

t: (09) 979 2155

e: youngj@brookfields.co.nz

Andrew Cameron

Consultant

t: (04) 499 9824

e: cameron@brookfields.co.nz

Matthew Allan

Senior Associate

t: (09) 979 2128

e: allan@brookfields.co.nz

John Watson

Senior Associate

t: (09) 979 2262

e: watson@brookfields.co.nz

Stephanie Curran

Senior Solicitor

t: (09) 979 2137

e: curran@brookfields.co.nz

The contents of this publication are general in nature and are not intended to serve as a substitute for legal advice on a specific matter. In the absence of such advice no responsibility is accepted by Brookfields for reliance on any of the information provided in this publication. © Brookfields

Auckland t 09 379 9350
f 09 379 3224
Manukau 09 262 2145
09 379 3224
Wellington 04 499 9824
04 499 9822
www.brookfields.co.nz



Brookfields
LAWYERS