

## **Questions and Answers on new legislation for managing earthquake-prone buildings**

### **Why is the law for managing earthquake-prone buildings being changed?**

Following the Canterbury Earthquakes Royal Commission and a comprehensive review undertaken by the Government, problems were identified with the system for managing earthquake-prone buildings under the Building Act 2004, including:

- too much variability in local practice
- poor quality information about the number and specific location of earthquake-prone buildings across the country
- a lack of central government guidance.

The new legislation addresses these issues and aims to strike the right balance between protecting people from harm in an earthquake, the costs of strengthening or removing buildings and impacts on heritage.

### **What is an earthquake-prone building?**

The new legislation defines an earthquake-prone building as one that would have its ultimate capacity exceeded in a moderate earthquake, and if the building were to collapse, the collapse would be likely to cause injury or death or damage to other property. The definition applies to parts of buildings as well as whole buildings.

The new legislation defines the term 'moderate earthquake' in regulations as one 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 that would be used to design a new building at that site if it were designed on the date of the commencement of the new legislation. The term 'ultimate capacity' is also to be defined in regulations.

In practice, an earthquake-prone building is often referred to as one that meets less than 34 per cent of the new building standard (NBS).

The definition of an earthquake-prone building takes into account a range of factors, including different levels of seismic risk around New Zealand. This means a building at 33% in Wellington, where there is relatively high seismic risk, is stronger (in absolute terms) than a building at 33% in Auckland where the seismic risk is lower.

### **What does the new legislation do?**

The new legislation standardises the rules and processes that apply to identifying and remediating earthquake-prone buildings. It avoids a 'one-size-fits-all' approach, prioritising geographic areas, buildings and parts of buildings that pose the greatest risk. This ensures that our response is proportionate to the risk, costs are minimised, and we retain as much of our built heritage as possible.

### **Are any buildings excluded from the scope of the new legislation?**

The new legislation excludes the following from the earthquake-prone building provisions: farm buildings, stand-alone retaining walls, fences, monuments that cannot be entered (such as statues), wharves, bridges, tunnels and storage tanks. Applying the earthquake-prone building provisions to these structures would be impractical in some cases, and in others is unnecessary because of other legislative requirements that already apply.

Most residential buildings will also continue to be excluded.

### **What are the timeframes for identifying and remediating earthquake-prone buildings under the new legislation?**

The new legislation varies the timeframes for identifying and remediating earthquake-prone buildings according to seismic risk, with New Zealand categorised into areas of high, medium and low seismic risk.

Territorial authorities will be required to undertake initial investigations to identify potentially earthquake-prone buildings within five, 10 or 15 years (depending on the seismic risk of the area) using a risk based methodology to be set by the chief executive of the Ministry of Business, Innovation and Employment. The Ministry will consult on the methodology before it is set.

Building owners will be required to provide an engineering assessment within 12 months of their building being identified as potentially earthquake-prone. Territorial authorities will have limited discretion to extend this timeframe for up to a further 12 months – for example, where there is insufficient engineering resource available to undertake assessments.

If a building is determined to be earthquake-prone, timeframes for strengthening will be 15, 25 or 35 years dependent on seismic risk. For example:

- the timeframe in Christchurch, Gisborne, Napier and Wellington will be 15 years
- the timeframe in Hamilton, Invercargill, Tauranga and Whanganui will be 25 years
- the timeframe in Auckland and Dunedin will be 35 years.

### **Will there be any other requirements for earthquake-prone buildings to be remediated sooner than the timeframes allow for?**

To help ensure that earthquake-prone buildings are remediated in a timely way nationally, including in areas of low seismic risk, the new legislation requires earthquake-prone buildings to be remediated when substantial alterations are undertaken.

Regulations will define what is to be considered a 'substantial alteration'. The Ministry of Business, Innovation and Employment will consult on the development of these regulations.

### **Does the new legislation require any particular buildings to be prioritised for identification and remediation?**

The new legislation defines priority buildings in areas of medium and high seismic risk in relation to education buildings, emergency service facilities, certain hospital buildings, and corridor buildings (defined as buildings that could, if they were to collapse in an earthquake, impede routes of strategic importance in an emergency). Where sufficient vehicle and pedestrian traffic could be affected, certain parts of unreinforced masonry buildings (such as parapets or verandas) are also included as priority buildings. Before corridor buildings or certain parts of unreinforced masonry buildings on busy thoroughfares can be included as priority buildings, territorial authorities will need to consult with their local communities.

Priority buildings will be identified and remediated within half the timeframe of other earthquake-prone buildings.

### **How does the new legislation deal with earthquake-prone heritage buildings?**

The new legislation recognises the complexities associated with the remediation of earthquake-prone heritage buildings.

Owners of earthquake-prone category 1 listed buildings, and those on the National Historic Landmarks List, will be able to apply for extensions of up to 10 years to the national timeframes for strengthening. The National Historic Landmarks List, which will include our most important heritage buildings, is being established under the Heritage New Zealand Pouhere Taonga Act 2014.

It is important to ensure that as many iconic heritage buildings as possible are retained and the new legislation reflects a balanced approach by providing owners of key buildings with more time if they need it.

### **Under the new legislation, will there be any exemptions from the requirement to remediate earthquake-prone buildings?**

For some buildings, the new legislation will allow exemptions from the requirement to undertake remediation. Regulations will set out the characteristics that a building must have for an exemption to be granted. For example, the characteristics may include matters such as use, level of occupancy and location in relation to other buildings.

The Ministry of Business, Innovation and Employment will consult on the development of these regulations.

### **How will the public know whether a building is earthquake-prone building? Will this information be publicly available?**

A publicly available national register of buildings that have been determined to be earthquake prone will be established as part of the implementation of the new legislation. The new legislation also improves the way notices are issued for earthquake-prone buildings. Owners will be required to

attach notices to their building, alerting the public to the degree to which their building falls below the minimum standard. This will help the public better differentiate between earthquake-prone buildings and encourage and motivate building owners to take action to remediate their buildings.

**How will assessments that have already been undertaken and notices already issued for earthquake-prone buildings be taken into account under the new legislation?**

The new legislation includes transitional provisions in respect of engineering assessments already undertaken and notices issued under the current system for managing earthquake-prone buildings. The general intention is to leverage off work that has already been undertaken (where appropriate) rather than repeat work unnecessarily.