NEWSLETTER

Issue 2
May – July 2025

INSIDE THIS EDITION

The path to reforming the RMA

Over the years, successive governments have acknowledged the need to reform the Resource Management Act 1991 (RMA), to cut the red tape and time taken to approve new homes and infrastructure projects and to better protect the environment. On this path, the Government has embarked on its three phased approach to reforming the RMA.

Phase One saw the repeal in late 2023 of the previous government's RMA reforms. Phase Two began in 2024 with the Fast-Track Approvals Bill enacted to speed up the delivery of infrastructure projects with regional or nationally significant benefits. This was followed by two RMA amendment Bills. The first, the Resource Management (Freshwater and Other Matters) Amendment Bill, was passed into law in October 2024 to help reduce the regulatory burden on key sectors including farming, mining, and other primary industries.

The second RMA amendment Bill, the Resource Management (Consenting and Other System Changes) Amendment Bill (Bill), is at the Select Committee stage with its report due 17 June this year. This Bill proposes changes in the short-term, prior to the full replacement of the RMA, covering five categories - some of the key changes are summarised below.

Infrastructure and energy - to make it easier to consent renewable energy activities:

- A one-year decision making process would be required to reduce delays in consents.
- A default 35-year consent duration period would be established (including for long-lived infrastructure) to increase certainty and reduce costs for operators.

Housing growth – reforms to enable the Government's housing growth targets include:

- New intervention powers for the Minister for the Environment, to ensure councils comply with national direction, including housing and business development capacity assessments.
- Simplifying the planning processes for listing or delisting heritage buildings and structures.

Farming and primary sector – unlocking primary sector productivity through:

- Clarifying the relationship between the RMA and Fisheries Act 1996 by introducing definitions and restrictions on rules that control fishing, reducing the regulatory overlap between them.
- Enabling industry bodies to deliver freshwater farm plan certification and audit services, making this more practical and cost-effective.

- Reducing delays in consenting for wood processing facilities by requiring resource consents to be processed within one year of application.

Natural hazards and emergencies – to improve decision making and efficiency:

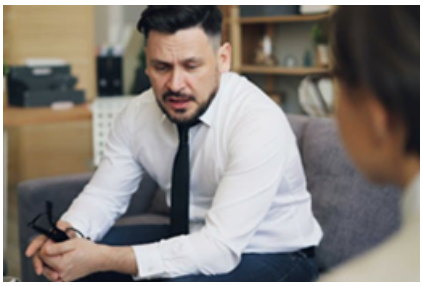
- The Governor General would be empowered to make emergency response regulations to respond to natural hazard events and emergency situations, and to enable recovery efforts.
- Clarifying and strengthening councils' powers to decline land use consents, or impose relevant conditions, where the natural hazard risk is significant.
- New rules relating to natural hazards would have immediate legal effect, from notification.

System improvements – proposed amendments include:

- Simplifying the consenting regime by clarifying the scope of further information requests, to ensure these are not overly onerous on applicants.
- Specifying that applicants can request to review consent conditions prior to a decision being issued.
- Increased penalties for non-compliance, and removing the ability to insure against penalties.

Phase Three will see the RMA replaced with two new acts to be introduced by the end of 2025, one to manage environmental effects from activities that use natural resources, the other to enable urban development and infrastructure.

Termination of employment by agreement



A recent Member's Bill, the Employment Relations (Termination Of Employment By Agreement) Amendment Bill (Bill), passed its first reading in April this year. From its introduction in November last year, ACT MP Laura McClure's Bill has drawn a lot of flak from the Opposition and trade unions regarding workers' rights.

One of the main purposes of the Bill is to provide employers with the means to negotiate with an employee, with view to ending their employment, without risking triggering a personal grievance. Situations given where this might apply include where an employee is not meeting the demands of their job, or changes in the business occur such that their position is no longer sustainable, or due to a relationship breakdown. Laura McClure in her ACT press release stated, "I know from experience that a common fear for employers is a long and costly personal grievance or unfair dismissal claim, even when the employer has adhered to due process."

The provisions in the Bill, which draw upon similar legislation in the United Kingdom, are presented as enabling an employer and employee to have an amicable conversation and come to a mutual agreement. The Bill would enable this by amending the Employment Relations Act 2000, to allow an employer who wishes to discuss or negotiate with an employee the termination of their employment, to do so without the risk of the discussion or negotiations being used as a part of any future unfair dismissal or personal grievance case (unless certain exemptions apply). This provision would apply regardless of whether there is an existing employment relationship problem.

As part of the negotiations, an employer may make an offer to an employee, including payment of a specified sum, for the purpose of terminating the employment relationship by mutual consent. The offer in itself would not constitute grounds for a personal grievance. For an agreement to be enforceable, the employer must have advised an employee to seek independent advice, and given them reasonable time to do so, before signing a settlement agreement.

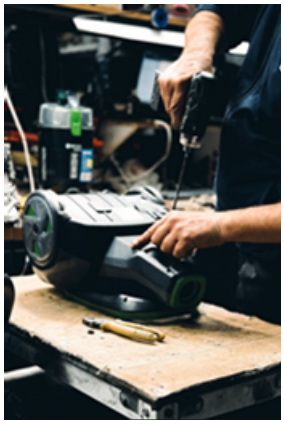
Some of the issues raised from the first reading included concerns around ensuring the employee is adequately protected from being coerced, what are the boundaries for an off the record conversation, and timeframes given for an offer to be considered. National and NZ First indicated these concerns would need to be addressed at select committee for their continued support.

Those supporting the Bill in its first reading underlined the importance of hearing from the public, both businesses and employees, on their experiences and views. How this pans out remains to be seen, with the Education and Workforce Committee's report due 9 October 2025.

Right to repair legislation passes first reading

The efforts of 'right to repair' advocates, including Consumer NZ, WasteMINZ, repair cafes and other interest groups have finally resulted in legislation reaching the floor of Parliament this year, with Hon Marama Davidson's Members Bill, the Consumer Guarantees (Right to Repair) Amendment Bill (Bill), passing its first reading in March. The intent of the Bill is to not only extend the life of products, "keeping resources in circulation and waste out of landfills", but to also reduce household expenses, where repair

rather than replacement would be the most cost effective.



The Consumer Guarantees Act (Act) already provides under Section 12 that a manufacturer is to take reasonable action to ensure that facilities for repair and parts are available for a reasonable period after the goods are supplied. However, one of the contentions raised is that there is an opt out provision in Section 42, where a manufacturer can be exempted from these repair requirements if the manufacturer has notified consumers that repair facilities and parts will not be made available. To address this, the Bill would remove this exemption.

In addition, Section 12 of the Act, which provides for guarantees in respect of repairs and spare parts where goods are not of acceptable quality, would be extended to include not only the requirement to facilitate repair, but that a manufacturer, upon a consumer's request, must provide "the most recent version of any information, spare parts, software, and other tools that the manufacturer uses for diagnosing, maintaining, or repairing the goods". Information requested must be given free of charge, unless paper copies are requested. The fee charged to consumers for any spare parts, software, and other tools must also be reasonable and not exceed what is charged to any other person.

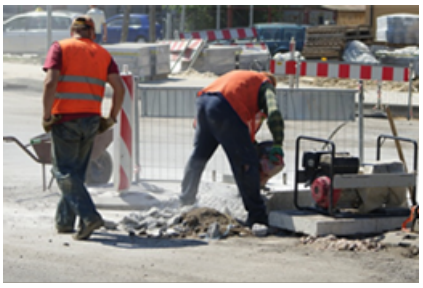
Section 19 of the Act, which lays out the requirement for suppliers to remedy a situation by either fixing, replacing or providing a refund, would also be amended to give greater weight to the repair option. Here, the Bill would insert a new section that empowers a consumer to request that a supplier repairs goods rather than replace them. If the supplier is not able to repair the goods within a reasonable time, the consumer has the recourse to have the goods repaired elsewhere, and obtain from the supplier all reasonable costs of repair.

In relation to manufacturers' express guarantees, Section 14 would be amended to provide that a consumer is not required to only use a manufacturer's authorised repairer or parts; or risk voiding their warranty. This is expected to speed up access to repairs and reduce costs.

At its first reading, the Bill had cross party support as to its intent. However, concerns were raised, including around the broad range and low value consumer goods that would be encompassed. The majority of those supporting the Bill agreed that the scope needed to be narrowed, but that this would be addressed at Select Committee, where submissions would play an important role.

The only support from the Coalition came from NZ First, which indicated its ongoing support was contingent on addressing the Bill's broad scope and the feedback received through the select committee process. The Development, Science and Innovation Committee report is due 19 August 2025.

Labour Inspectorate's nationwide clampdown



The Ministry of Business, Innovation and Employment (MBIE) Labour Inspectorate has revealed that it has multiple compliance monitoring operations currently underway and planned for both the North and South Island in 2025.

The operations are the result of intelligence gathering work carried out by the Inspectorate's Compliance and Investigations team. Businesses identified are being checked for their employment practices, including payment of the minimum wage, record keeping, holiday and leave pay, leave entitlements, and payment of premiums.

Business sectors the operations are focused on include construction and security, both of which have seen significant increases in employee complaints, horticulture, viticulture, dairy and as might be expected retail and hospitality will be of particular interest to the Inspectorate. Businesses where previous breaches had been identified will also be among those visited, to check improvements have been made.

Immigration New Zealand and Tenancy Services personnel will support some of the operations as part of an integrated approach targeting migrant exploitation and non-compliance with accreditation obligations.

Updates on the Employment NZ website confirm that Labour Inspectorate teams have been visiting businesses in the central North Island since late January. The Hamilton and Napier areas were the first up in what will be an ongoing initiative across the central North Island this year, focusing on the retail and hospitality sector.

In carrying out its investigation and enforcement role, the Labour Inspectorate has wide reaching powers. Labour Inspectors have the power to enter a workplace, interview anyone at the workplace, view

and take copies of any documents considered to be relevant, and question employers regarding compliance with employment related laws.

Where breaches are detected, the Labour Inspectorate can take enforcement action, including:

- issuing an improvement notice requiring an employer to take steps to correct a breach;
- taking cases to the Employment Relations Authority to seek an order for arears of wages, and for penalties of up to $10,000 for an individual and $20,000 for companies;
- taking action to the Employment Court for serious breaches of minimum entitlement provisions, seeking an order of: penalties of up to $50,000 for an individual, or for companies the greater of $100,000 or 3 times the financial gain, and banning orders preventing a person or entity from acting as an employer for up to 10 years.

Although the focus will be on checking for compliance, the operations are also to be about educating employers and employees as to their rights and responsibilities regarding minimum employment standards, and to raise the visibility of the Labour Inspectorate to help deter poor practices.

Snippets

Enabling a 4-year Parliamentary term

The question of whether New Zealand's term of Parliament should be extended to 4-years has been debated over the years, resulting in two non-binding referendums in1967 and 1990; both of which were voted down by large majorities.

Post these referendums, there are indications that public opinion may be shifting, with the 2023 Independent Electoral Review (IER) findings resulting in a referendum on the topic being recommended. This has gained further traction through the coalition agreements between National and the ACT and NZ First Parties, which contain commitments to support, to select committee, legislation to extend the term of Parliament. Accordingly, the Term of Parliament (Enabling 4-year Term) Legislation Amendment Bill (Bill) was introduced and is now at select committee.

Under the Bill, the maximum term of Parliament would remain 3 years, with the option provided to extend this to 4 years. This would be decided at the start of a parliamentary year, and would be contingent on the requirement that the membership of the subject select committees is proportionate to the non-executive party members (not a Minister or Parliamentary Under-Secretary). This requirement, which could result in the Opposition parties having more members on select committees, is intended to strengthen the checks and balances on the Government through the select committees.

If the Bill is passed, its key provision of enabling a 4-year term of Parliament would be put to a referendum, requiring a majority to support this change for it to be enacted.

IRD reassessments without notice

On the 29th of March 2025, the Taxation (Annual Rates for 2024−25, Emergency Response, and Remedial Measures) Act received Royal assent.

Of note is that the Act includes an amendment to section 89C of the Tax Administration Act 1994 relating to Inland Revenue's (IRD) ability to amend an assessment without completing the formal disputes process.

The amendment adds a new provision stating that if a "qualifying individual" provides information to IRD relating to their taxable income and then fails to respond within two months to a request from IRD for additional information, IRD is able to amend their tax position without the need for notice.

The provision is aimed at individuals that need to disclose income that is not otherwise reported to IRD, such as a salary or wage earner who also incurs a rental loss. If that person subsequently discloses the rental income to IRD, but then fails to respond to a request for more information, IRD will have the right to amend the tax position.

The change appears to be as a result of frustration from IRD that certain individuals don't engage and ignore follow up requests. At this stage, it is unclear how this power will be exercised and how frequently, but it does mean requests for more information from IRD should not be ignored.

If you have any questions about the newsletter items, please contact us, we are here to help.