

How to submit this form

Submission form: Building Amendment Bill proposals for regulations for Building Product Information Requirements, the modular component manufacturer certification scheme, and the product certification scheme

The Ministry of Business, Innovation and Employment (MBIE) would like your feedback on proposals for regulations for Building Product Information Requirements, the modular component manufacturer certification scheme, and the product certification scheme (CodeMark). Please provide your feedback by **5pm, on 11 June 2021**.

When completing this submission form, please provide comments and reasons explaining your choices. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
 - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
 - ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
 - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

How to submit this form

4. Submit your feedback:

i. As a Microsoft Word document by email to building@mbie.govt.nz with subject line:
Consultation: Building Amendment Bill proposals for regulations

ii. By mailing your submission to:

Consultation: Building Amendment Bill proposals for regulations
Building System Performance
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473

Wellington 6140
New Zealand

Submitter information

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name: Teena Hale Pennington

Email address: thalepennington@nzia.co.nz

Phone number: 027 527 5273

Organisation: Te Kāhui Whaihanga New Zealand Institute of Architects

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.
- MBIE may upload submissions or a summary of submissions received to MBIE's website at www.mbie.govt.nz. If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because... [insert reasoning here]

Please check if your submission contains confidential information

- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

Building Product Information Requirements

Building Product Information Requirements

Supply chain responsibilities to meet Building Product Information Requirements

1. Do you think the split of responsibilities across the supply chain for information requirements is clear?

Yes Yes, with changes No Not sure/No preference

Please explain your views.

There is clarity around what information is required and who should be supplying that information (along with supply chain data and information standards) to ensure compliance with Building Code. There is however ambiguity of responsibility regarding:

- offshore manufacture, NZ distribution and conversion/interpretation of information to NZ requirements/standards. Who has responsibility? Is it equally shared – joint responsibility?
- relationship to Commerce Act requirements and ‘reach’ offshore around ensuring information accuracy and validity.
- who has responsibility for ensuring the information is current and updated?

2. Do you agree with the proposal that manufacturers and importers should be responsible for producing information for the building products they supply in order to comply with information requirements?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

Accurate and evidenced information must be available for a product or system at its source, that means with the NZ manufacturer or the importer/distributor.

3. Do you agree with the proposal that distributors and retailers should be responsible for ensuring building products they supply comply with information requirements?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

There must be consistent product information requirements, regardless of role in supply chain (e.g., distributors and retailers). All parties within the system must act ethically, responsibility and must be able to substantiate and evidence claims of performance, testing and/or quality assurance systems related to their products/systems.

4. Do you agree with MBIE's assessment of the likely impacts of the proposed information requirements on (1) manufacturers and importers, and (2) distributors and retailers? If not, what impacts do you think the proposals will have on these two groups?

Manufacturers and importers:

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Distributors and retailers:

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Building Product Information Requirements

Is there anything you would like to tell us about the reason(s) for your choice?

Any participant (e.g., business) in the supply chain has clear responsibilities and obligations to ensure building products/systems they manufacture/supply have met minimum information requirements and it is accurate. The discussion document is unfortunately silent on the issue of 'risk and liability' attributable to manufacturers and suppliers, outside of the modular components and MCM. Te Kāhui Whaihanga considers it important to acknowledge and protect 'downstream users of information' (e.g., architects and engineers) from code non-compliance to the extent that the non-compliance is attributable to a reasonable reliance on what turns out to be incorrect or incomplete product information or certification (whether wilful or careless) provided by a product manufacturer or supplier.

The supplied information from manufacturers/distributors would benefit from being accessible from an independent public e-portal. This ensures an ongoing archive of information and assist with sector/user trust and confidence of the repository of information.

Product information needs to be current (a HSWA requirement) and there needs to be version control so that product information available at the date the design services were provided forms the base for accountabilities. Such a system could ultimately be integrated with online consenting, which would provide efficient lodgement, review, and system assurances. Any system needs to be respected and developed with industry users if it is to meet professional's needs.

Building Product Information Requirements

Content of information to be provided about building products

5. Does the minimum set of information required for all building products look reasonable? If not, what information requirements should be added or removed?

Yes Yes, with changes No Not sure/No preference

a) **Health and Safety in Design** - There will be some overlap between the proposed building product information under the Building Act and the information requirements of PCBUs under the Health and Safety at Work Act 2015 (HSWA) in relation to structures at workplaces and 'designers' as upstream PCBUs and the associated duties associated with health and safety by design.

b) A structure as defined under that Act includes components and parts of structures. From a design perspective, the building product information supplied by manufacturers and suppliers should enable designers to comply with the information requirements of the HSWA and the additional duties for designers as upstream PCBUs.

c) **Scope and limitations on use** – there should be a minimum expectation of providing clear information and references to the relevant building code clauses and standards and limitations of use, which are evidenced by testing.

d) **Durability periods** - The information should specify durability periods and be backed by a consistent guarantee or warranty with a clear claims process.

e) **Product contact** – there should be a contact number and email provided to ensure enquires can be addressed and/or clarifications.

f) **Building for climate change and procurement** – given the commitments included within the Building for climate change programme and the MBIE procurement guide (climate change, recently added), additional information should be targeted around operational and embodied carbon, waste, carbon budgets, etc.

6. Do you agree with the proposal that manufacturers and importers must make claims about how their building product meets relevant Building Code clauses?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

This is essential information that should be made available and has been contributor to time/cost delays in the current system. Manufacturers and importers must demonstrate compliance and not just make a claim. Too often information is provided to 'market' a project/system rather than demonstrate compliance.

Compliance can be demonstrated by verification methods or providing suitable testing data to be verified by independent bodies. The certification and quality management system need to be reviewed/certified at appropriate intervals determined by a risk assessment. Unfortunately, there are too many examples of a "certified system" like Harditex, Monotex, VentClad to name a few that pass tests in a lab to receive a BRANZ appraisal and, they are not constructed onsite the same way.

It will also be important to attribute the information to a point in time reference that can be sourced accurately into the future. Again, important technical product information, including testing data have been removed from online sources and paper-based catalogues, even though they need to be relied upon for consenting, warranty, and liability periods.

Building Product Information Requirements

7. What challenges would manufacturers and importers face in making claims about how the building product meets relevant Building Code clauses?

One of the key challenges will be accessing available knowledge and expertise regarding codifying the product/system to the NZ building code clauses. Building consenting functions around the country often struggle to retain and attract staff and alternative career pathways for this knowledge may be more attractive in a product role.

Clear guidance will be required for manufacturers and importers on the content of claims particularly regarding referencing – testing, supporting evidence, verifications, etc.

Manufacturers / importers have a duty to understand how their products meet relevant Building Code clauses and provide the relevant information to ensure the necessary performance standard is achieved. It is critical that information includes relevant Code Clauses for stated scope / limitations of use. (Proposal 3).

Manufacturers/importers who do not have the systems to provide this information must be prevented from supplying into the NZ market. The risk and liability otherwise transfer to downstream users of the information – architects, designers, and consent authorities.

8. Do you agree with the proposal to require manufacturers and importers to use the compliance pathways listed in section 19 of the Building Act 2004 to illustrate compliance with the Building Code?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

This is a critical aspect of the system and provision of this information must be mandatory with no exceptions.

9. What other requirements or guidance would you recommend to ensure the information provided is relevant and accurate?

Some parameters or attributes that must be provided with the information:

- date of statement/performance claims
- a transparent version control process of information updates/changes.
- use of third-party verification and/or regular re-verification for critical products/systems.

Further work is needed on the information and evidence required in support of product substitutions.

Supply chain data and information standards

10. Do you agree with MBIE's assessment of the likely impacts on manufacturers and importers of the requirement to make evidenced claims about the Building Code compliance of their products? If not, what impacts do you think the proposals will have on manufacturers and importers?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

There will also be a positive impact for those manufacturers and importers who invest in quality information to the market.

Building Product Information Requirements

- 11.** Do you agree that all information requirements should be met prior to supply of a building product and that information be kept up to date with the latest version of that product? If not, what other requirements do you think would be reasonable?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

It is vital that product information is time referenced, accessible historically, kept current and updated when there are any changes made to the content or manufacturing process of a building product and/or in response to regulatory/code changes.

Products which are altered in any way must not be released to market until the performance claims can be evidenced to meet its stated performance and product information is updated. This must include whether the updated product can be mixed/substituted for earlier versions of the product.

- 12.** Do you agree that all information should be provided in structured data and accessible across the supply chain and by MBIE?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

Agree that a consistent framework of data structure is essential – and there needs to be flexibility to adapt and require new requirements to be added (e.g., safety in design 2015, operational carbon 2023?). Access by MBIE seems reasonable.

- 13.** Do you think it is reasonable to require all information to be disclosed about building products to be made available online?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Absolutely.

- 14.** Do you agree with the proposal for all building products to have a unique identifiable code that links it to the information provided online?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Clearly an easier concept to administer for products – more challenging for systems.

Transition period

- 15.** Do you agree with proposal for an 18 month transition period after building product information requirement regulations are made before they come into force? If not, what would be a reasonable timeframe?

Building Product Information Requirements

Yes, I agree I agree in part No, I don't agree Not sure/no preference

There is an opportunity to significantly improve the construction industry performance with a shorter transition (say 12 months). The intent for improved product information has been well signalled to the industry and the requirements being suggested – should be available now.

Modular component manufacturer certification scheme

Modular component manufacturer certification scheme

Prescribing the kinds of building products that would be 'modular components' and scopes of certification

1. Do you agree with the proposed approach to prescribe offsite manufactured building elements such as open frames and trusses, enclosed panels/units, volumetric structures, and whole buildings as 'modular components'?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

2. To what extent do you think there is benefit in developing a system to guide how modular component manufacturer certification bodies describe the scope of a modular component manufacturer's certification?

[insert response here]

3. Which, if any, of the proposed options on which to base the proposed scope of certification system do you prefer?

Option 1 Option 2 Option 3 Not sure/no preference

Please explain your views.

[insert response here]

Modular component manufacturer certification body accreditation and registration

4. Do you think the proposed regulatory settings provide confidence in the certification bodies that would be accredited and registered within the modular component manufacturer certification scheme?

Proposed regulatory settings to be accredited:

Yes Yes, with changes No Not sure/No preference

Proposed regulatory settings to be registered:

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

5. How do you think the proposed regulatory settings for certification bodies might affect their uptake of the modular component manufacturer certification scheme?

[insert response here]

Modular component manufacturer certification scheme

Modular component manufacturer certification and registration

6. Do you think the proposed regulatory settings provide confidence in the modular component manufacturers that would be certified and registered within the scheme?

Proposed regulatory settings to be certified:

Yes Yes, with changes No Not sure/No preference

Proposed regulatory settings to be registered:

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

7. Do you think the proposed regulatory settings for modular component manufacturers provide for adequate consumer protection?

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

8. How might the proposed regulatory settings for modular component manufacturers have different impacts for different kinds of manufacturers that may wish to participate in the scheme?

[insert response here]

9. To what extent do you think modular component manufacturers will benefit from the proposed regulatory settings, and what costs do you think they might face when trying to meet the proposed settings?

[insert response here]

Modular component manufacturer certification scheme

Audits within the modular component manufacturer scheme

10. Do you agree with the proposal that auditing parties will use a prescribed risk assessment to decide the frequency and type of audits they will use for those being audited?

- Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

11. What costs do you think the proposed audit requirements might have for modular component manufacturers, given that the fees for audits would be set through contract between the manufacturer and its modular component manufacturer certification body?

[insert response here]

12. Do you agree with modular component manufacturer certification bodies and modular component manufacturers having three months to make changes outlined in an audit report following an audit? Please explain your views.

- Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

Modular component manufacturer's certificates

13. Do you support manufacturers being responsible for transportation, storage and assembly of modular components that they manufacture within the modular component manufacturer certification scheme? What impacts might this have on manufacturers?

- Yes Yes, with changes No Not sure/No preference

[insert response here]

14. To what extent do you think the information that is proposed to be required on manufacturer's certificates will provide clarity for different parties within the modular component manufacturer certification scheme?

[insert response here]

15. What costs do you anticipate that providing the proposed information on manufacturer's certificates might have?

[insert response here]

Product certification scheme

Product certification scheme

Implement registration requirements for product certification bodies

1. Do you consider that the proposed fit and proper test and notification requirements would be effective criteria to establish if a product certification body should operate in the scheme?

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

2. Do you agree with the proposal to not prescribe an adequate means test or other product certification body registration criteria at this stage? Please explain your views.

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

A standard 'baseline' technical competency evaluation should be included in the PCB application process.

3. Do you consider that MBIE has proposed the right requirements for what must go on an application for product certification body registration?

Yes Yes, with changes No Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

[insert response here]

Implement registration requirements for certificates

4. Do you agree with the MBIE's assessment that the proposals for certificate information will improve the usability of product certificates?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

[insert response here]

5. Are there any gaps or issues with current certificates that MBIE have missed that should be addressed by changes to Regulation 14 or Schedule 2?

[insert response here]

Product certification scheme

Improve scheme requirements for product certification body accreditation

6. Do you consider that the product certification body accreditation proposals will improve the alignment of scheme documents?

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

7. Do you consider there will be any compliance issues with the product certification body accreditation proposals? If so, what are they?

Yes No Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

Potential for increased costs to manufacturer who has to pay for PCB fees. Likelihood is that these will be passed through the supply chain and ultimately the Client.

8. What further clarification related to the proposal to require product certification bodies to only accept test reports from competent testing facilities may be required?

Strengthening of CodeMark will require certainty that PCB's will only accept test reports from competent testing facilities certified as meeting International Standards.

9. Do you agree with proposal 8 to revoke existing Regulation 7A?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

Product certification scheme

Strengthen requirements for product certification body audits and reviews of certificates

10. Does the proposal related to product certification body audits and reviews of certificates look reasonable? If not, what requirements should be amended, added or removed?

Yes Yes, with changes No Not sure/No preference

Please explain your views.

11. What cost impacts do you consider the product certification body audit proposals will have? Will costs change compared to the current requirements?

There may be some increase to cover certification requirements.

12. Is three years the correct minimum frequency for certification review?

Yes No Not sure/No preference

Please explain your views.

Certification reviews should be conducted following a risk-based approach, with three years being the maximum duration.

Regulated fees for the modular component manufacturer certification scheme and the product certification scheme

Regulated fees for the modular component manufacturer certification scheme and the product certification scheme

Registration fees for modular component manufacturer certification scheme

1. Do you agree with MBIE's estimated cost drivers for modular component manufacturer certification body and modular component manufacturer registration?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

2. To what extent might the prescribed registration fees create a barrier to entry and ongoing participation in the scheme?

[insert response here]

Accreditation and audit fees for modular component manufacturer certification scheme

3. Do you agree with MBIE's assumption that the fee structure and level for assessing modular component manufacturer certification body accreditation is comparable to that for assessing building consent authority accreditation?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

4. Do you agree with MBIE's proposed fee structure for modular component manufacturer certification body accreditation and audits?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

[insert response here]

5. To what extent might the prescribed audit fees create a barrier to entry and ongoing participation in the scheme?

[insert response here]

Regulated fees for the modular component manufacturer certification scheme and the product certification scheme

Registration fees for product certification scheme

6. Do you agree with MBIE's assessment of the options for structuring registration fees for product certification bodies and certificates? Please explain your views.

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

[insert response here]

7. Do you consider that the proposed fees for registration of product certification bodies and certificates are set at the right level? Please explain your views.

Yes Yes, with changes No Not sure/No preference

Please explain your views.

[insert response here]

Accreditation and audit fees for product certification scheme

8. Would the proposed fees for product certification body accreditation and audits of product certification bodies create any practical issues? If so, what would the issues be?

Yes No Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

9. Do you consider that the proposed fees for product certification body accreditation and audits of product certification bodies are set at the right level?

Yes No Not sure/No preference

Please explain your views.

Expected impacts

10. Will the prescribed fees have a significant impact on the costs of participating in the schemes?

Yes No Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

11. Do you have any other comments on the proposals?