

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 18 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:	Malcolm Fleming
Email address:	malcolm@nziob.org.nz
Phone number:	021 439 237
Organisation:	New Zealand Institute of Building (NZIOB)

- 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.

Agree with the central premise that it is importers and manufacturers who are best placed to take responsibility for ensuring that products they sell meet information requirements, while the role of distributors and suppliers is limited to ensuring that the products they sell comply, as supported by the technical information provided by the supplier.

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.

As per Q 1, they are best placed to do so.

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.

As per Q 1 response, it is a reasonable expectation that they ensure that the product to be sold/installed is fit for purpose, as supported by the technical information provided by the supplier.

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

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

There will be some crossover, where an entity acts as both importer and retailer (e.g., a builder who imports product directly). In those instances, the entity must meet the requirements of both roles.

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

The minimum set of information requirements will need to be flexible to allow for the additional requirements that emerging legislation such as Building for Climate Change will impose.

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?

[insert response here]

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

Where the required information and/or certification does not exist, the challenge to suppliers will be the time and cost of correcting that shortcoming. The 18-month transition period should provide the required time that suppliers will need.

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.

Tying a suppliers responsibility to Section 14G of the Building Act 2004 makes sense.

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

How will a change in product being proposed post consent be dealt? Specifically, how to ensure that consent variations that are requested (due to a product change) are undertaken in a timely manner.

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

Building Product Information Requirements

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

[insert response here]

- 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?

[insert response here]

- 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.

[insert response here]

- 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?

Archiving of product information on discontinued lines will need to be considered.

- 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?

[insert response here]

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?

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

[insert response here]

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

Provides for consistency in approach. The key will be to ensure that the ability for certification bodies to develop their own 'high level' systems (tailored, fit for purpose methodologies for assessment etc) is retained as outlined in Proposal 2 i.e., do not hamstring the certifying bodies.

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.

Option 3 provides for the greater rigour, and that it aligns with the Building Consent competency assessment appeals, though the complexity for manufacturers (as MBIE has raised as a concern) could be problematic. If the complexity element can be mitigated, Option 3 is preferred.

If the complexity aspect of Option 3 cannot be mitigated and that element is viewed as being a significant barrier, Option 1 (MBIE's preferred option) would become the preference. The flexibility for manufacturers to innovate within this framework appeals.

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

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

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?

Currently, the consenting and the obtaining of a Code Compliance Certificate for MMC components is considered uncertain and often protracted to obtain. Having products certified up-front, should remove the uncertainty, which should translate to wider adoption of MMC within the construction sector.

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.

Certainty that a builder and their client can obtain a Code Compliance Certificate at the end of a building project, is critical. If a Modular Component Manufacturer (MCM) is able to remove the risk that their product may not be acceptable to a Territorial Authority, then that comfort will encourage them to keep developing their businesses to support greater MCC usage across the construction sector.

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.

Providing consistency and/or alignment with international standards will be critical.

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?

How to deal with those manufacturers who produce part of a system with others, could be a challenge.

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?

There will be costs involved in becoming a certified manufacturer, though there will be a resulting benefit in them being able to advertise that they are a certified manufacturer. In a new industry (or way of doing things), an ability for participants to remove perceptions of risk barriers, will be positive.

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

The cost of audit will likely form part of a component's cost of manufacturer, which will naturally lead to an increase in the cost to make the component, which flows through to a higher price at which the component is sold by the MCM.

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.

Three-months is a reasonable period of time.

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

Agree that the MMC manufacturer is the best placed to manage the risk involved in those stages that fall between the component leaving their premises and being installed on site.

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?

Makes it clear where the responsibilities lie. Less room for finger-pointing of MCMs at builder and vice versa, when things are not installed correctly, transit damage occurs etc. Less room for adversarial behaviours to emerge, is considered positive.

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

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

As for the response in Q No 6, added costs to the MCM as an outcome of greater levels of responsibility (read oversight) will lead to higher prices that MMC components need to be sold for.

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.

The suggestion that a financial test be included in the 'fit and proper test' is supported.

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.

Understand that the specific technical aspects of each PCB assessment will vary and that this is proposed to be tailored to each PCB application, though a standard 'fit and proper' test will be applied to all assessments. Not entirely clear on why you would not at least apply some general technical competency evaluation.

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]

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

Increases costs to the client; either via, manufacturers paying fees to PCB's to certify their products, or via the Building Consent Fee process, should that be the funding model utilised in part or full.

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?

The PCB section starts off with an overview of the CodeMark certification scheme. It needs to be made clearer that PCBs will be assessing products who are applying for CodeMark registration. If it is the strengthening of CodeMark that is the targeted outcome, then it is should also be made clear that PCB's in turn, will only accept test reports from competent testing facilities.

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.

Understand the rationale.

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.

[insert response here]

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

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

As per Q 5, costs to the client will likely increase.

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

- Yes No Not sure/No preference

Please explain your views.

Agree with the general concept of certification at no less than every three-years, though suggest that 'higher risk' components may need to occur more regularly than every three-years.

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.

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

\$1,772.20 does not seem excessive. Therefore, unlikely to be a barrier to entry.

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.

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?

The costs set out in Table 3 (Page 115) do not seem unreasonable.

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

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

As assessment on how many hours/days are required for a typical accreditation would be useful. Without that, it is difficult to understand what costs are involved. If one-day is considered the total time requirement by MBIE for accreditation of both personnel and technical costs (\$1,720 and \$1,248 respectively), then the total costs are not considered a barrier to entry.

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.

As per Q 2, fees seem reasonable and not perceived to be a barrier to entry.

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?

[insert response here]

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.

Agree with MBIE's preferred option of applying the 2008 fee levels with CPI adjustment.

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

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

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

If it is mandatory that CodeMark certified products be utilised for use in building consent application, then suppliers will have no choice but to adopt. The costs will flow through to the client, so the likely outcomes is that the sunk costs of certification will be recouped via increased sales pricing of the component that has been certified.

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

[insert response here]