THE LAW

LOWDOWN

SUMMER 2025

RAE & WRIGHT LAWYERS

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Welcome to the Summer 2025 edition of the Law Lowdown.

We cover the recent government announcement of a major reset of the earthquake-prone building framework.

Chattels or fixtures? We discuss the differences in the context of property sales and purchases.

We also discuss what families should know of recent changes to probate requirements.

Lastly, we discuss the new pet rules for residential tenancies and what both landlords and tenants need to know.

Regards

The team at Rae & Wright Lawyers

TOP NEWS INSIDE

- Government Announces Major Reset of the Earthquake-Prone Building System
- Chattels in Sale and Purchase Agreements - Being Clear Matters
- Changes to Probate Requirements: What Families Need to Know
- New Pet Rules for Residential Tenancies - Landlords and Tenants Take Notice

GOVERNMENT ANNOUNCES MAJOR RESET OF THE EARTHQUAKE-PRONE BUILDING SYSTEM

The Government has confirmed a significant overhaul of New Zealand's earthquake-prone building (EPB) framework, following advice and analysis published by the Ministry of Business, Innovation and Employment (MBIE). These reforms aim to create a more proportionate, risk-focused system - one that targets higher-risk buildings and regions while reducing unnecessary cost pressures on owners and communities.

A bill to give effect to the changes, the Building (Earthquake-prone Building System Reform) Amendment Bill, is expected to be introduced soon.

TARGETING THE BUILDINGS THAT POSE THE GREATEST RISK

MBIE's summary of the proposed changes highlights a central shift: low-risk buildings, and buildings located in low seismic zones such as Auckland, Northland and the Chatham Islands, will be removed from the EPB system altogether. This represents a major recalibration of the current settings, which have long been criticised for imposing uniform requirements regardless of true seismic exposure.

The reforms are intended to ensure strengthening work is required only where it materially improves life safety. This will help relieve financial pressure on owners in lower-risk areas while still prioritising buildings with the highest potential to cause harm in an earthquake.

A MORE FLEXIBLE AND MODERNISED FRAMEWORK

To make the system more responsive to actual risk, the Government plans to introduce tiered mitigation requirements. These will use updated engineering methodologies and will better differentiate obligations based on both building type and geographic location.

Owners will also benefit from the ability to apply for extensions to remediation deadlines, provided key criteria are met. This added flexibility acknowledges the practical challenges of financing and completing strengthening work under tight timeframes.

Another notable change is the removal of the requirement to carry out fire and accessibility upgrades at the same time as seismic strengthening - an obligation that has frequently increased complexity and cost. MBIE expects this adjustment to make strengthening projects more attainable for many owners.

SIGNIFICANT SAVINGS AND COMMUNITY BENEFITS

The scope of the reform is substantial. MBIE's analysis indicates that the proposed changes will:

- Remove around 55% of existing EPBs (approximately 2,900 buildings) from the system
- Reduce costs for a further 1,440 buildings, which will shift to more affordable strengthening pathways
- Leave 840 buildings with no mandatory remediation requirement
- Require only around 80 buildings nationwide to undergo full retrofitting

In total, the reforms are expected to deliver approximately $8.2 billion in savings for building owners, including public agencies. These savings will have significant flow-on benefits for regional economies and for communities concerned about the future of heritage and character buildings.

CHATTELS IN SALE AND PURCHASE AGREEMENTS - BEING CLEAR MATTERS

When buying or selling residential property in New Zealand, one issue that frequently causes post-settlement disputes is the distinction between chattels and fixtures. Although it sounds technical, understanding this difference and recording items clearly in the agreement - can save both parties time, money, and unnecessary stress.

Chattels are movable items of personal property that do not form part of the land or buildings. Common examples include appliances, curtains, blinds, removable heaters, and freestanding light fittings. By contrast, fixtures are items physically attached to the property and considered part of the real estate itself - such as built-in cabinetry, wired-in appliances, and permanently attached heating systems.

Under the standard REINZ-ADLS Agreement for Sale and Purchase, chattels must be expressly listed and will be delivered at settlement in reasonable working order, but in all other repects in the same condition they were in on the date the agreement was signed, excluding fair wear and tear. The vendor also warrants that all listed chattels are owned outright and free from security interests. Risk in the chattels remains with the vendor until possession is given, and ownership transfers on settlement when the purchaser pays the purchase price and takes possession.

Where uncertainty arises is in items that sit "on the line" between a chattel and a fixture. If there is any doubt, the safest approach is to record the item in the chattels schedule of the agreement.

SOME COURT DECISIONS ILLUSTRATE WHY THIS MATTERS:

When items are actually fixtures

The main case in New Zealand is the 1989 decision in Feickert v Perpetual Trustees (HC Wellington CP387/86). Various items - partitions, carpet, light fittings, a directory board, and a bench unit - were listed as chattels. However, the Court held they were fixtures because they were bolted down, integral to the building's use, or intended to remain for their full economic life. The wording of the agreement could not override their true legal character.

When items remain chattels

In Māori Trustee v Prentice 1992 (HC Whangarei M42/88), a house transported onto leased land was held to be a chattel because the intention was always to keep it removable. Similar issues arise with relocatable or kitset homes placed on piles without service connections, as in ANZ v Haines House Haulage 1993 (HC Auckland CP2083/91).

Modern grey areas

Air-conditioning units, underfloor heating, heat-pumps, security systems, solar panels, EV chargers and other plant or equipment can create uncertainty. Their classification often depends on the degree of physical attachment and the purpose behind installation.

Key takeaway

To avoid disputes, both parties should carefully list all intended chattels, consider the degree of attachment and intended permanence of any item, and seek legal advice if there is the slightest uncertainty. Clear drafting at the outset remains the best protection for both vendors and purchasers.

CHANGES TO PROBATE REQUIREMENTS: WHAT FAMILIES NEED TO KNOW

New Zealand's estate administration rules have recently been updated, making it easier in some situations for families to wind up a loved one's affairs without applying for probate. These changes aim to reduce unnecessary time and cost for smaller or straightforward estates, while keeping important safeguards in place for more complex matters.

WHAT HAS CHANGED?

The most notable reform is the increase of the threshold from $15,000 to $40,000. This threshold determines when banks, KiwiSaver providers and other financial institutions may release funds held in the deceased's sole name without requiring a formal grant of probate or letters of administration.

The new threshold reflects the growth in common account balances over time and means that a meaningful number of smaller estates can now be administered informally.

However, this threshold does not apply to all asset types. Real property (such as a house or land held solely by the deceased) will still require probate. Assets held jointly or held within a trust follow their own legal rules and are not treated under the $40,000 limit.

WHO CAN NOW USE INFORMAL ADMINISTRATION?

More families may now be able to rely on informal processes, particularly where:

- The deceased's sole-name assets held with each individual institution are $40,000 or less
- The estate does not include a property held solely in the deceased's name
- The will is clear and uncontested
- There are no disagreements among beneficiaries
- The estate consists mainly of balances such as bank accounts, KiwiSaver, unclaimed bill payments or prepaid funds

In these cases, an adult child, spouse or partner may be able to finalise the estate without applying to the High Court - although documentation proving identity and entitlement will still be needed.

PRACTICAL IMPLICATIONS FOR EXECUTORS AND FAMILIES

Faster Access to Funds

Where the threshold applies, some estates may be completed more quickly, providing families with earlier access to funds for funeral costs, bill payments or ongoing obligations.

Lower Costs

Avoiding the probate process can reduce court fees and, in some cases, the extent of legal assistance required - though professional guidance remains advisable.

Duties Still Apply

Even when probate is not required, the person administering the estate must still fulfil the same core responsibilities: collecting assets, paying debts, keeping clear records and distributing funds correctly.

Institution Policies Still Differ

The law sets the threshold, but each bank or provider may have its own policy. Some institutions will release funds readily under $40,000; others may request further documentation or still prefer probate in borderline situations.

Complex Estates Still Require Probate

Estates involving real property, trusts, overseas assets or multiple beneficiaries with competing interests will generally still need probate. In many cases, probate remains the safest option to protect executors and ensure the estate is administered correctly.

UPDATING YOUR WILL AND ESTATE PLANNING

The increased threshold is a useful reminder to review your estate planning. We recommend ensuring that:

- Your will is up to date and clearly appoints your executor;
- Your KiwiSaver, insurance and investment beneficiary nominations are current;
- Your financial information is organised so your executor can locate assets easily;
- Your executor knows where you keep important documents.

Good planning helps your family manage your estate more smoothly - whether probate is required or not.

IMPORTANT: HOW THE $40,000 THRESHOLD WORKS

Per Institution, Not Per Estate

The $40,000 limit applies to each bank or provider individually, not to the total value of all assets in the estate.

Example:

- $18,000 at Bank A
- $15,000 at Bank B
- $12,000 in KiwiSaver

All may be eligible for informal release, because each balance is under $40,000.

But: If the deceased held $42,000 with a single bank, that bank will likely require probate, even if the overall estate is small.

NEED HELP OR UNSURE WHETHER PROBATE IS REQUIRED?

We can advise you on whether an estate qualifies for informal administration and help ensure the process is handled correctly and efficiently. If you are preparing your own estate plan, we can also help you structure your affairs so things are simpler for your family in the future.

Please contact us if you would like tailored advice or assistance with estate administration or will-making.

NEW PET RULES FOR RESIDENTIAL TENANCIES - LANDLORDS AND TENANTS TAKE NOTICE

Major changes to the Residential Tenancies Act take effect on 1 December 2025, introducing a clearer and more balanced framework for pets in rental properties. The reforms aim to make it easier for tenants to keep pets while giving landlords practical tools to manage risks, set conditions, and recover the cost of any pet-related damage.

KEY CHANGES AT A GLANCE

- Tenants may request consent to keep a pet, and landlords can only refuse on reasonable grounds.
- Landlords must respond within 21 days.
- A new pet bond - up to two weeks' rent - may be charged, in addition to the standard bond.
- Tenants are liable for all pet-related damage beyond fair wear and tear.
- Landlords who consent may impose reasonable conditions, such as additional cleaning obligations or restrictions on the type or size of pet.
- Certified assistance dogs have specific protections under separate legislation. Other service or therapy animals fall under the new consent framework unless exempted by law.

HOW THE CONSENT PROCESS WORKS

Tenants may request permission in writing at any time. A clear description of the pet - such as breed, size, training and vaccination history - helps speed up the process. Landlords must provide a written response within 21 days, granting consent (with or without conditions) or declining with reasons. If the landlord requires more information, they must ask for it within the same timeframe.

If consent is granted, a landlord may charge a pet bond of up to two weeks' rent. This bond must be lodged through Tenancy Services once that system goes live. It can only be used for repairing pet-related damage.

REASONABLE GROUNDS FOR REFUSAL

Landlords cannot refuse simply because they dislike pets. Refusals must be based on evidence or objective concerns. Common examples include:

- The property is unsuitable for the type or size of pet (e.g., a large dog in a small apartment).
- Body corporate rules or statutory obligations prohibit animals.
- Documented safety risks, such as a history of aggression.
- Credible evidence the pet is likely to cause damage or nuisance.

If a tenant disputes a refusal, the matter can be taken to the

Tenancy Tribunal, which will assess whether the refusal was reasonable and proportionate.

DAMAGE AND BONDS

Tenants are fully liable for pet-related damage beyond fair wear and tear - including accidental or careless damage. Landlords may claim against the general bond, the pet bond, or both, following the usual evidence and Tribunal processes.

RECOMMENDED ACTIONS

Landlords should update templates, adopt clear policies, and understand the 21-day response rule. Tenants should familiarise themselves with the new rules. Good communication and clear documentation will help ensure the new system works smoothly for everyone from 1 December 2025.

Please reach out to us if you need assistance with the new requirements.

Merry Christmas from Rae & Wright Lawyers

Please note our office will close for the Christmas break from 12pm Tuesday the 23rd of December 2025 and will re-open at 8.30am on Monday the 12th of January 2026.

To all our clients we wish you a Merry Christmas and a Happy New Year!

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