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Fast Track Approvals Act 2024

How will it work?

The legislation is part of the coalition agreement between National and New Zealand First. The government's stated purpose for the Fast Track Approvals Act is to make it quicker and easier to build the projects New Zealand needs to grow its economy. It aims to cut through the "thicket of red and green tape"[1] and approvals processes that the government believes has held New Zealand back from much needed economic growth. It is intended to create a 'one stop shop' consenting process for gaining approvals under the Resource Management Act 1991 and related legislation.

How to apply

There are two main routes for projects to be eligible for fast-tracking. Firstly, Schedule 2 of the Act lists 149 projects for which a substantive consent application can be made directly to the Environmental Protection Authority (EPA). These include projects in the following sectors: infrastructure (43), housing and land development (58), renewable energy (22) and mining (11).

Secondly, if you have a project that is not one of the listed projects, you can make a referral application to the EPA; it will refer the application to the Minister of Infrastructure if it is complete and within the scope of the Act. Any referred projects must have significant regional or national benefit. The minister must consider whether referring the project for the fast track approvals process will facilitate its development and would materially affect the operation of the approval process as a whole.

What projects are ineligible?

Offshore renewal energy projects, offshore petroleum decommissioning activities or activities relating to certain types of Māori land (without the approval of all landowners) are among the projects not currently eligible for fast track approval.

1 Stated by the Minister of RMA Reform, the Hon Chris Bishop, on 7 February 2025 when the legislation came into force.

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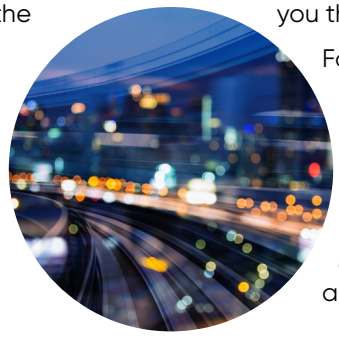
Who makes the decision?

Expert panels will ultimately decide whether applications are approved. These panels will be appointed by a panel convenor, who is in turn appointed by the minister. Currently one panel convenor and two associate panel convenors have been appointed.



Timeframe for a decision

There are a few steps involved, each of which has a timeframe:

1. The EPA must provide the application to the panel convenor within 15 working days of receiving it
2. Once the panel has been appointed, the panel must invite written comments within 10 working days of that appointment
3. Any person invited to make a comment must do so within 20 working days of receiving the invitation, and
4. The panel convenor is responsible for setting the timeframe for the date the panel must issue its decision. If no timeframe has been set, the panel must issue its decision within 30 working days after comments from invited parties are received. Therefore your application should indicate what decision-making timeframe is required, taking into account the scale and complexity of the project.

The factors that could delay this process are the time taken to receive a ministerial decision on a referral application and the appointment of a panel by the panel convenor.

Can we jump the queue?

The Act provides for the minister to determine a project to be a 'priority project.' A panel for that priority project will be established in priority to other projects already lodged to enable the application processing to be expedited.

Can affected parties object to applications?

There will not be any public notification of applications or any right to lodge a submission in relation to an application. However, affected persons, iwi, relevant ministers and government departments will be invited by the panel to comment on the application. As we've noted above, those invited parties have only 20 working days to provide comment on applications. There is also no requirement to hold a hearing, but the panel may choose to do so.

Treaty of Waitangi

The legislation requires all persons exercising functions under the Act to act consistently with the obligations arising from Treaty of Waitangi settlements and customary rights recognised under relevant legislation. It also mandates engagement with particular Māori groups or interests at various stages of the application and decision-making process.

Application declined?

Before a panel can decline your project, it must first provide you with a copy of their draft decision to give you the opportunity to amend your proposal.

For example, you will be able to withdraw parts of your application, propose changes to the project or to the proposed conditions. The panel can only decline your application if it decides that the adverse impacts of your proposal are sufficiently significant to outweigh the benefits. You can only appeal a decision to decline your application on a point of law.

Can a successful application be appealed?

Similar to your ability to appeal a negative decision, any appeals in relation to a successful application are limited to points of law and can only be made by the relevant local authority, the Attorney General, any persons with an interest greater than the public generally and anyone who provided written comments on your application.

The timeframe to apply for a judicial review of a decision is limited to 20 working days after the publication of the decision.

How much will fast tracking cost?

While the fast track process offers potential time savings it comes with substantial processing fees; these are anticipated to be close to $400,000. This is, of course, in addition to the costs of obtaining professional advice in preparing and presenting the application.

Issues about the Act?

A number of parties have raised concerns that the environmental impacts of projects will be ignored or undervalued in the interests of expediency and meeting economic objectives. Others have questioned whether the government will be able to establish a sufficient number of expert panels to meet the demand. Failure to do so could undermine the Act's aim to speed up the approvals process.

Looking ahead

The Fast Track Approvals Act certainly represents a significant shift in New Zealand's approach to infrastructure and development project approvals. Time will tell whether the government will resource the fast track process sufficiently to dramatically cut the time process. It will also test whether the legislation will meet the government's objective of accelerating economic growth in a way that does not materially harm New Zealand's natural environment. Its success will no doubt be measured not only by the speed of the project approvals, but also by the quality of the resulting developments.

If you have a project that you believe could benefit from the new fast track process, please let us know as we can help prepare your application. +

Arrested?

There is a fair legal process

Many people are guilty of spending too much time in front of screens watching crime shows. There is certainly no shortage of police dramas on television.

There is, however, plenty of dramatic licence in the way the procedure is portrayed on screen. The police can't just bundle you away in a car in the dead of night without good reason. Nor can the police force information out of people as sometimes happens in TV shows. Thankfully in real life there are rules.

When can you be arrested?

A police officer, and anyone they call to assist, can arrest and take you into custody (being locked in a cell) if you are found to be disturbing the public peace or committing an offence that can be punished by a spell in prison. Police officers can also arrest you if they suspect you have committed a breach of the peace or any other offence where you can be punished by a prison sentence.[2] The police must have good cause to suspect you have committed a crime.

You can also be arrested if the police officer has a warrant issued by the court. A warrant for arrest can be for various reasons such as if you don't turn up in court as directed. Or it could be you are charged with an offence but police couldn't locate you to get you to court and they have obtained a warrant in place of a summons.

What are your rights?

The New Zealand Bill of Rights Act 1990 sets out the rights of someone who is arrested or detained by police. Anyone who is arrested must be treated humanely and with respect.

If there is an arrest warrant, you have the right to see it. You have the right to know why you have been arrested, to speak to a lawyer (more on this below), and to be charged promptly or released.

In many situations, you may be released on bail by police after your arrest. Bail conditions can cover many things such as where you must live, who you can contact, places you cannot go, whether you can drive, whether you can drink alcohol and whether you must give your passport to the police. You will be given a date to appear before a judge in court.

If you are charged with an offence and held in custody, you must be brought before a court as soon as possible. In certain circumstances your vehicle may be impounded or your property seized.

What to tell the police if you are arrested

You are legally required to tell the police your name, address, date of birth and occupation. You must give your fingerprints to the police and allow police to take your photograph.

You do not, however, have to provide any other information. You have the right to silence and the police must advise you of this right.

The right to a lawyer

If you are arrested or held for questioning, you have the right to speak to a lawyer in private – without delay. Police are required to tell you of your rights to have a lawyer. The Police Detention Legal Assistance service is free and available at any time of the day or night. You can also ask the police to call a lawyer of your choice.

When arrested, you should always take the opportunity to speak to a lawyer and get some legal advice before making any decisions or giving any statements to police. The right to a lawyer is fundamental and for good reason as you will need to have someone 'on your side.' We strongly recommend you get advice from a lawyer when you are first arrested so you are fully informed before making any decisions.

You are innocent until proven guilty

Just because you are arrested it doesn't mean you are guilty of committing a crime. The presumption that a person is innocent until proven guilty is at the heart of New Zealand's legal system. Everyone has the right to defend themselves when charged with a criminal offence. +

2 Section 315, Crimes Act 1961.

Ashley's Law

Victims of abuse can end marriage/civil union earlier

With the passing of what is colloquially known as 'Ashley's Law' in October last year, family violence will be a ground to end a marriage or civil union without the victim having to endure the current two-year period of living separately from their spouse or partner. The law change was passed with the unanimous support of all parliamentary parties. Ashley's Law comes into force in October 2025.

The Family Proceedings (Dissolution of Marriage or Civil Union for Family Violence) Amendment Act 2024 enables a spouse or civil union partner to rely solely on a protection order to prove family violence to end their marriage or civil union. Ashley's Law[3] will enable survivors of family violence to escape and move on with their lives.

Relationships are one of the most important and significant aspects of our lives. One of the most meaningful types of relationship is marriage or a civil union. In law, the Marriage Act 1955 defines marriage as the union of two people, regardless of their sex, sexual orientation or gender identity. One of the cornerstones of New Zealand law is recognising the importance of the family unit, which family law seeks to protect and promote. This creates a gap in the law where protections for family members should exist, but do not. An example can be found in the issue of divorce.

Requirements for divorce

Divorces are governed by the Family Proceedings Act 1980 (FPA). Within the FPA, the ground for a divorce requires the marriage to have broken down irreconcilably. This can prove difficult as an 'irreconcilable difference' is only made out in the situation where the parties to the marriage/civil union are living apart and have been living apart for the period of two years immediately prior to the filing of the application for an order of dissolution. The FPA emphasises that evidence of any other matter that may have contributed to the breakdown in the marriage is irrelevant.

3 Ashley's Law is named after Ashley Jones who campaigned for the ability for a spouse to end their marriage or civil union due to family violence earlier than the legislative requirement to have a two-year separation.

Ashley's Law and how it helps to protect the family

One of the key issues with the regulation of divorce within New Zealand is that the governing legislation emphasises the importance of marriage. It is difficult to obtain a divorce outside of the qualifying criteria because of the statutory requirements to end a marriage. While our law protects marriage, it does not provide protection for victims of family violence that may occur within that marriage/civil union.

The purpose of Ashley's Law is to reduce the harm caused by family violence by amending the FPA to establish a new ground for dissolving a marriage/civil union based on family violence. It also removes the requirement for parties to the marriage/civil union to live apart for two years prior to the dissolution on the ground of family violence.

Under Ashley's Law, the basis for establishing grounds of family violence requires the applicant to be a 'protected person' under a final protection order made against their spouse or civil union partner. A final protection order is the sole evidence for establishing family violence under Ashley's Law. This is because obtaining a final protection order requires the applicant to establish that there is family violence inflicted upon them by the named person.

Ashley's Law allows survivors of family violence to divorce their spouse/civil union partner without the need to live apart for two years, or without the need of proving an irreconcilable breakdown, which allows for an easier exit and enables survivors to move on.

Conclusion

Despite marriages/civil unions being governed by legislation, until now our law has not provided adequate protection for survivors of family violence because of our outdated grounds for obtaining a divorce. By requiring parties to a marriage/civil union to be living separately for two years before filing the application to dissolve the marriage/civil union, our family law had forced survivors of family violence to endure a two year process to leave a marriage. Ashley's Law has remedied that. +

The business of gifting

Have a policy for accepting gifts

Many of us are aware of the strict policies that employees of public sector entities, large corporates and charitable services must follow when offered a gift by a client or customer. They have the responsibility of fairness and transparency to ensure continued public confidence in their organisations.

In much of the private sector, however, accepting a gift from a client can be a somewhat grey area, or may not be addressed with a company policy. We provide some insights into the pitfalls of accepting client gifts and what to consider when preparing a gifting policy for your business.

What is a gift?

A gift is something given willingly to someone else – without payment. A bit like a birthday present but in a business sense. The gift could be money, items or an act of service.

Conflicts of interest arising from business gifts are not always immediately apparent, as gifts are a one-way transaction. They can be a form of thanks, but accepting them from clients or customers can lead to potential ethical problems, legal risks or expectations of future behaviour.

Perceptions

You may have received a Christmas gift basket, bottle of wine or box of chocolates from a client as acknowledgement for your hard work over the year or for a project. Or your business may have a long-standing relationship with a client who offers more high-value items such as seats to a rugby game or a weekend away at a client's holiday home.

Although a gift may not cloud your judgement, what might your competitors, market participants, regulators or prospects think? Gifts can be perceived differently in many circumstances and gifting can sometimes be misconstrued, resulting in a market perception of bias in the way you conduct business. Whether that perception is accurate is not the point, once an idea is in mind it can be difficult to ease any concerns long-term.

Legal

Legal pitfalls in accepting a client's gift could lead to serious consequences, and action may be taken in response. Some issues to be aware of include:

+ Bribery
+ Misconduct, and/or
+ Breach of fiduciary duty.

Policy

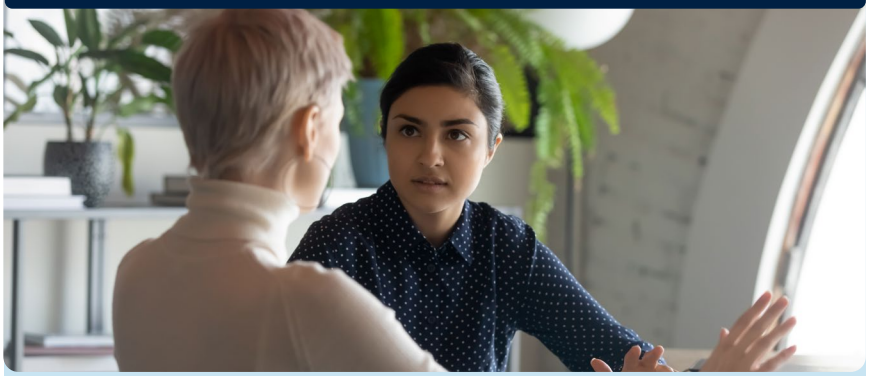
A gift acceptance policy can be tailored for the specific nature of your business. It should provide guidance for a range of situations and clearly define what is considered a gift, any value thresholds that apply and set out a framework for reporting any gifts. Reporting can encourage openness and accountability for your team.

The policy could advise on behaviour around declining gifts that meet certain criteria, such as those with a high value that could be seen as a bribe. Accepting gifts can sometimes be unavoidable because it is culturally inappropriate to do so, or it might weaken the relationship. Having a clear policy gives employees an ability to navigate tricky situations with professionalism, integrity and transparency – and not to hurt the feelings of the person making the gift.

Building and maintaining strong relationships with your clients is the strength of your business. When a client offers a gift, it's often their way to show their appreciation for your hard work and dedication. While accepting a gift can foster goodwill (and it can be difficult to refuse), it's important for businesses to prioritise clarity and fairness through clear policies.

If you need help with drafting a gift acceptance policy, please don't hesitate to contact us. +

Postscript



Proposed changes to personal grievance regime

Early this year the government announced proposals to change the personal grievance (PG) regime with amendments to the Employment Relations Act 2000.

Amongst a raft of proposals, an employee with an annual income of more than $180,000 of base pay may not be able to raise an unjustified dismissal claim.

The government wants to shift the focus to an employer's actions (rather than employee behaviour) in determining remedies – potentially reducing (or removing) payouts for serious misconduct or for contributing to the issue.

The government believes that these proposals will restore balance to the PG regime by better weighing an employee's conduct against the employer's actions. The view is that the current system too often rewards poor employee behaviour and punishes an employer who often, despite best efforts, has made a minor procedural error.

These are significant changes to the PG regime, affecting both employers and employees. We will keep you up-to-date with how these proposed changes develop. +

Hazardous substances: upcoming changes to reporting requirements

If you import or manufacture certain hazardous substances you need to be aware of new annual reporting requirements from the Environmental Protection Authority (EPA).

The substances include agrichemicals, timber treatment chemicals, antisapstain chemicals, antifouling paints and parasiticides used as veterinary medicines for large animals.

Businesses should now be keeping records of which hazardous substances they are importing or manufacturing before submitting their annual report in 2026.

The requirements will help the EPA better understand and manage hazardous substances in New Zealand.

More details, as well as guidance for recording annual information, are on the EPA's website (**www.epa.govt.nz**) and search for Hazardous substances. +

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