

Fire and Emergency New Zealand (Levy) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Fire and Emergency New Zealand Act 2017 (the **FENZ Act**). The FENZ Act reformed the law relating to fire and emergency services. The Bill's amendments all relate to the levy-based system to fund FENZ.

Commencement of new levy regime

This Bill amends the commencement date for sections 80 to 140 of the FENZ Act. These sections provide for a new levy-based system. They are due to come into force by 1 July 2019; presently, a transitional regime applies.

The levy system is implemented by insurers and brokers. Insurers and brokers will need to make considerable changes to their systems before sections 80 to 140 come into force.

It has become apparent that these changes will not be able to be made before 1 July 2019. This Bill therefore changes the default commencement date for sections 80 to 140 to 1 July 2021, with the ability for this to be brought forward to 1 July 2020 by Order in Council. The Government's intention is to implement the new levy regime on 1 July 2020 via an Order in Council (ie, a year earlier than the default date provided in the Bill). The 1 July 2021 default date will prevent the need for further amendment to the FENZ Act if any further complications arise with the implementation of the levy regime.

Levy liability for public collections

Under current policy settings, public museums and galleries pay a levy on insurance for their collections. This Bill will exempt the collections of public museums, public art galleries, and ware taonga from the levy from 1 July 2019.

Levy rate setting

This Bill provides that levy rates can be set for a period of less than 3 years, and provides that FENZ can take excesses or shortfalls of levy revenue in one period into account when setting levy rate for the next period.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=110>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that *clause 8* will come into force on 1 July 2019, and that the rest of the Bill will come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Fire and Emergency New Zealand Act 2017.

Clause 4 amends section 2(6) to extend the default date on which sections 80 to 140 come into force. These sections contain provisions relating to the levy payable on insured property. The amendment extends the default date on which these sections come into force from 1 July 2019 to 1 July 2021.

Clause 5 amends section 141 to clarify that the Minister's recommendation that an Order in Council be made is a recommendation made in accordance with sections 142 and 143.

Clause 6 amends section 142, which sets out the procedure for the making of regulations under which FENZ recovers, by levy, a portion of its costs. Currently, the procedure is based on a 3 financial year cycle. The amendment to section 142(1) removes the reference to the 3 financial year period and instead allows the Minister to specify the period. The amendments to section 142(4) and (5) require the Minister to take into account excesses or shortfalls of levy in a preceding period. The other amendments in *clauses 6 and 7* clarify the process for making the determination and subsequent recommendation.

Clause 8 amends Schedule 1. *Clause 8(1)* inserts into clause 24(1) a definition of public museum. *Clause 8(2)* inserts *new clause 25A*, which provides that insured art and items in the collections of public museums, public art galleries, or whare taonga are exempt from levy payments.

Hon Tracey Martin

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Fire and Emergency New Zealand (Levy) Amendment Act **2018**.
- 2 Commencement** 5
(1) **Section 8** comes into force on **1 July 2019**.
(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Fire and Emergency New Zealand Act 2017 (the **principal Act**). 10

4 Section 2 amended (Commencement)

In section 2(6), replace “2019” with “2021”.

5 Section 141 amended (Levy regulations)

In section 141(1), after “Minister”, insert “in accordance with sections 142 and 143”.

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6 Section 142 amended (Procedure for levy regulations)

(1) In section 142(1), replace “the next period of 3 financial years” with “an upcoming period specified by the Minister”.

(2) Replace section 142(4) and (5) with:

(4) In making a determination, the Minister must take into account the following (in addition to the purpose of this Part): 10

(a) an estimate of the total number of motor vehicles in respect of which the levy is payable and the likelihood of any change in that number:

(b) an estimate of the total amount insured for insured properties and the likelihood of any change in that amount: 15

(c) an estimate of the total amount of exemptions and waivers from the payment of the levy that are expected to apply in relation to the period:

(d) any amount by which actual levy income received in a preceding period exceeded FENZ’s actual net costs in a preceding period:

(e) any amount by which actual levy income received in a preceding period was less than FENZ’s actual net costs in a preceding period: 20

(f) the benefit of maintaining the stability of each rate of the levy in the long term.

(5) The Minister must then recommend the making of regulations under section 141 to recover, in each year of the period, the annual portion of FENZ’s net costs for the period that the Minister has determined are to be met by levies. 25

7 Section 143 amended (Consultation about levy regulations)

(1) In section 143(1), replace “recommendation under section 142(4)” with “determination under section 142(3)”.

(2) In section 143(5)(a), replace “recommended the making of the regulations” with “made a determination under section 142(3)”. 30

8 Schedule 1 amended

(1) In Schedule 1, clause 24(1), insert in its appropriate alphabetical order:

public museum has the same meaning as in section 2(1) of the Protected Objects Act 1975 35

(2) In Schedule 1, after clause 25, insert:

25A Art and items in collections exempt from levy

Despite clause 25, a levy is not payable in respect of art and items that—

- (a) are insured against fire under any contract of fire insurance made in New Zealand; and
- (b) are in the collections of any public museum, public art gallery, or whare taonga (whether or not the art or items are present on the premises of that institution).

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