

# **Fire and Emergency New Zealand (Levy) Amendment Bill**

Government Bill

As reported from the Governance and Administration Committee

## **Commentary**

### **Recommendation**

The Governance and Administration Committee has examined the Fire and Emergency New Zealand (Levy) Amendment Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The bill as introduced seeks to amend the Fire and Emergency New Zealand Act 2017, which established Fire and Emergency New Zealand (FENZ) and provided for a new levy-based system to fund it.

The bill would delay the commencement of the new levy regime by two years, to 1 July 2021. Currently a transitional levy regime is in place, which continues most aspects of the levy regime from the Fire Service Act 1975.

Sections 80 to 140 of the Act, which are due to come into force on 1 July 2019, provide for the new levy regime. Insurers and brokers will implement the regime, but they will first need to make considerable changes to their systems. It has become clear that the commencement date of 1 July 2019 as specified in the Act cannot be achieved.

The bill therefore proposes to delay the commencement of the new levy regime to 1 July 2021.

## **Proposed amendments**

### **Exemption for public collections**

Clause 8 of the bill (amending Schedule 1 of the principal Act) would introduce an exemption for public museums, public art galleries, and whare taonga. The policy intention is that such bodies should not have to pay the levy on insurance for their collections.

We think it is important to make clear what bodies the exemption from the levy would apply to. We therefore recommend amending clause 8 to insert a definition of “cultural heritage bodies”. The definition of “cultural heritage bodies” would require museums/whare taonga, archives, and art galleries to meet a list of relevant criteria. We recommend that “archives” be defined. We also recommend that the type of property to be exempt (“cultural heritage items”) be defined.

### **Lead time for insurers**

We gave thought to how long a lead-in period would be needed from the point at which levy rates are set, to the date on which they come into force. We consider that legislating for a minimum four-month lead time for all rate settings would be appropriate.

We recommend amending clause 5 to insert a new subsection (4A) into section 141 of the Act, which empowers the making of levy regulations.

## **Appendix**

### **Committee process**

The Fire and Emergency New Zealand (Levy) Amendment Bill was referred to the committee on 7 November 2018. The closing date for submissions was 21 December 2018. We received and considered 10 submissions from interested groups and individuals. We heard oral evidence from five submitters.

We received advice from the Department of Internal Affairs.

### **Committee membership**

Brett Hudson (Chairperson)

Ginny Andersen

Kanwaljit Singh Bakshi

Hon Jacqui Dean

Paul Eagle

Hon Peeni Henare

Jamie Strange

Dr Jian Yang



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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Tracey Martin*

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Government Bill

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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** 10  
This Act amends the Fire and Emergency New Zealand Act 2017 (the **principal Act**).

**4 Section 2 amended (Commencement)**

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

**5 Section 141 amended (Levy regulations)**

(1) In section 141(1), after “Minister”, insert “in accordance with sections 142 and 143”. 5

(2) After section 141(4), insert:

(4A) Regulations prescribing a rate of levy under subsection (2) or (3)(a) or prescribing a maximum amount of levy under subsection (3)(b) must not come into force earlier than 4 months after the date on which they are published.

**6 Section 142 amended (Procedure for levy regulations)** 10

(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): 15

(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:

(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: 20

(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: 25

(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. 30

**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)”. 35

**8 Schedule 1 amended**

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



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

**archive** has the meaning given in **clause 25A(2)**

**cultural heritage body** has the meaning given in **clause 25A(2)**

**cultural heritage items** has the meaning given in **clause 25A(2)**

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

**25A Art and items in collections exempt from levy**

(1) Despite clause 25, a levy is not payable in respect of art ~~and~~ or items that—

(a) are insured against fire under any contract of fire insurance made in New Zealand; and

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(b) are ~~in the a~~ collections of ~~any public museum, public art gallery, or where taonga~~ a cultural heritage body (whether or not the art or items are currently present in or on the that body's premises of that institution).

(2) In this clause,—

**archive—**

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(a) includes Archives New Zealand (Te Rua Mahara o te Kāwanatanga) and the National Library of New Zealand Te Puna Mātauranga o Aotearoa; and

(b) includes specialist archival units (for example, an archival unit within a general university library such as the Hocken Collections—Uare Taoka o Hākena); but

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(c) does not include a library

**cultural heritage body** means a museum/whare taonga, archive, or art gallery that—

(a) is a permanent non-profit-making body whose primary purpose is to exhibit or conserve cultural heritage items in perpetuity to enable public education, public enjoyment, or the preservation of those cultural heritage items; and

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(b) exhibits or conserves its collection or collections in or on premises that are not a private residence and that are usually open to the public or a class of the public

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**cultural heritage items** means property (tangible or intangible) that is significant from a scientific, historical, artistic, or cultural perspective.

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**Legislative history**

31 October 2018  
7 November 2018

Introduction (Bill 110–1)  
First reading and referral to Governance and Administration  
Committee