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FIRE AND EMERGENCY NEW ZEALAND (LEVY) AMENDMENT BILL: SECOND READING

LEGISLATIVE STATEMENT

Presented to the House in accordance with Standing Order 272

Overview

This legislative statement supports the second reading of the Fire and Emergency New Zealand (Levy) Amendment Bill. This Bill makes targeted changes to Part 3 of the Fire and Emergency New Zealand Act 2017 (the FENZ Act) to ensure that the new levy framework for Fire and Emergency New Zealand (Fire and Emergency):

- is simple to implement to minimise disruption and compliance costs; and
- adheres to the funding principles in the FENZ Act (section 80).

The levy framework in the FENZ Act is mostly fit for purpose. However, since the FENZ Act was enacted, further information has become available about how the levy framework in Part 3 will be implemented. The existing levy framework is less clear and more complex to apply in practice than originally anticipated. This will lead to higher costs to implement and administer the system and result in higher costs for insurance companies and brokers (who collect the levy on behalf of Fire and Emergency) and their customers. It will also lead to a less predictable and stable levy for Fire and Emergency.

Background to the levy framework

Part 3 of the FENZ Act sets out the levy framework for Fire and Emergency. It is an insurance-based levy, which means that insurance policyholders are charged a levy based on the type and amount of insurance they have. In most cases, insurance companies and insurance brokers calculate and collect the amount of levy to be paid and pay it to Fire and Emergency. Occasionally, insurance policyholders will need to calculate and pay the levy directly to Fire and Emergency, although this is rare. Fire and Emergency audit payments to ensure the correct amount of levy is calculated and paid.

Part 3 of the Act sets out several matters relevant to this Bill. These are the types of insurance contracts that must pay levy, the value of property to be used as the basis for calculating the levy, and funding principles for the levy system.

The funding principles for the levy system are outlined in section 80 of the FENZ Act as:

- **Stable:** A stable source of funding to support Fire and Emergency in the performance of functions and duties and exercise of powers under the FENZ Act.
- **Universal:** Fire and Emergency's costs are generally shared among all who benefit from the potential to use Fire and Emergency's services.
- **Equitable:** Policyholders should generally pay a levy at a level similar to their use of, or benefit from the potential to use, Fire and Emergency's services and the risks associated with the activities that policyholders carry out (but without strict apportionment according to use, benefit, or risk having to be observed).
- **Predictable:** Fire and Emergency can predict how much income it will receive and levy payers can predict how much they will need to pay.
- **Flexible:** The levy can adapt to (i) changes in the use, benefit, or risk associated with those who benefit from the potential to use Fire and Emergency's services; and (ii) variations in Fire and Emergency's costs; and (iii) changes to the expectation of the Crown and the strategic needs of Fire and Emergency.

While most of the FENZ Act has come into force already, Part 3 has a delayed commencement date of 1 July 2024. The levy will be the main form of funding for Fire and Emergency once Part 3 begins. A transitional levy is in place to fund Fire and Emergency until this occurs.

Key changes made by the Bill

Charging the levy on contracts of insurance for fire damage

This change will ensure that only contracts of insurance covering physical loss or damage from fire will need to pay the levy, instead of the current approach for any insurance contract covering physical loss or damage from any source (referred to as material damage). Charging the levy on contracts of insurance for fire damage is a simpler approach because it:

- is well understood, as it retains the same approach that was used under previous fire services legislation (the Fire Services Act 1975);
- applies the levy to simpler insurance contracts, reducing the need for additional time and effort to carry out complex levy calculations;
- ensures some property will not be levied multiple times; and
- requires less system change for the insurance sector.

Calculating the levy on the sum insured in an insurance contract for fire damage

This change will require the levy to be calculated from the sum insured in an insurance contract, rather than the existing approach to calculate the levy based on the amount insured. Amount insured has an unclear meaning when applied to insurance contracts in practice. Calculating the levy on the sum insured:

- better aligns with terminology used in insurance contracts;
- reduces legal and technical costs to understand and apply new terminology;
- increases the likelihood the term will be applied consistently; and
- clarifies which values in insurance contracts should be included in levy calculations.

Clarifying how the levy applies to motor vehicles

This is a small technical clarification to uphold the original intent of the FENZ Act. This change would ensure that motor vehicles with third party insurance will also pay a flat levy amount alongside motor vehicles with full comprehensive car insurance.

Amending the commencement date of Part 3

The Bill will change the start date of the new levy system to 1 July 2026, or an earlier date set by Order in Council. The existing commencement date in the FENZ Act was set before COVID-19 disrupted work programmes and is no longer feasible. Changing the commencement date will ensure that:

- This Bill can complete all necessary stages through the House;
- Regulations under sections 141-143 of the FENZ Act can be set. These regulations will set levy rates and specify which property is exempt from paying levy. These regulations require consultation and must be in place before the new levy system can begin; and
- The insurance sector has enough time to implement the systems required to calculate and collect the new levy. The insurance sector has advised officials that 18 months is required to do this.