

FIRE SERVICES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Fire Services Act 1972 to provide for a change in the method of financing the expenditure of Urban Fire Authorities with effect from 1 July 1975.

At present the expenditure of each Urban Fire Authority is financed as follows:

- (a) By the insurance companies, a contribution equal to 50 percent of the expenditure:
- (b) By the contributory local authorities, a contribution equal to 35 percent of the expenditure:
- (c) Out of money appropriated by Parliament, a contribution equal to 15 percent of the expenditure.

Under the Bill it is proposed that such expenditure is to be financed as follows:

- (a) By the insurance companies—
 - (i) A contribution equal to 22 percent of the premium income for the year ended on the previous 31 December:
 - (ii) The proceeds of a levy on all policies of fire insurance computed on the amount insured.

The total amount so financed by the insurance companies is to average an amount equal to 72.5 percent of the expenditure:

- (b) By the contributory local authorities, a contribution equal to 12.5 percent of the expenditure:
- (c) Out of money appropriated by Parliament, a contribution equal to the balance of the expenditure, averaging 15 percent.

Clause 1 relates to the Short Title and the application. The provisions of the Bill are to apply to the financial year commencing on 1 April 1975 and succeeding financial years.

Clause 2 substitutes a new section 58 in the principal Act relating to the contributions payable to meet the expenditure of Urban Fire Authorities.

Subsection (1) of the substituted section provides that the contribution of insurance companies for any financial year is to be an amount equal to 22 percent of the gross premiums received by or due to them for the year ended on the previous 31 December.

The proviso in effect provides that the present provisions regarding contributions apply up to 30 June 1975.

Subsection (2) provides that the contribution of the contributory local authorities is to be an amount equal to 12.5 percent of the expenditure of its Urban Fire Authority.

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Subsection (3) provides that the balance of the expenditure, after taking into account the amount received by the Commission from the levy, shall be met out of money appropriated by Parliament.

Subsection (4) re-enacts subsection (4) of the present section 58 relating to the apportionment of the contribution of contributory local authorities in the case of a united urban fire district.

Subsection (5) provides that the amount payable under subsection (3) out of money appropriated by Parliament shall in the first instance be calculated at 15 percent of the expenditure and adjusted in the following year.

Clause 3 inserts new sections 60A and 60B in the principal Act providing for the imposition of a levy towards payment of fire service costs.

Subsection (1) of section 60A is the interpretation subsection.

Subsection (2) imposes the levy.

Subsection (3) provides that the Minister shall, after consultation with the Commission, declare from time to time the rate of the levy which shall be based on the amount for which any property is insured against fire and the period of the contract of insurance.

Subsection (4) provides that, in fixing the rate of levy, the Minister shall have regard to—

- (a) The total amount for which all properties are insured against fire at the latest available date, and the likelihood of any increase or decrease in that amount;
- (b) The necessity of ensuring that, over a reasonable period, the amount received by the Commission from the levy, when added to the contribution payable by insurance companies under section 58 (1) of the principal Act, is sufficient to meet 72.5 percent of the fire service costs;
- (c) The desirability of stabilising the rate of the levy for a reasonable period.

Subsections (5) and (6) provide that for the purpose of the levy the insured value of property shall be deemed to be the indemnity value.

Subsections (7) and (8) provide that the amount of the levy shall be a debt due to the Commission from the insurance company and a debt due to the insurance company from the insured person.

Subsection (9) empowers the Commission to release any insurance company from its liability for payment of the levy when any amount is irrecoverable from the insured person.

Subsection (10) provides that all money received by the Commission from the levy shall be used for fire service costs in the same manner as the contributions made by insurance companies under section 58 (1).

Subsection (11) provides for the making of regulations and, in certain cases, for the giving of written directions by the Minister.

The new section 60B provides in effect that overseas insurance companies insuring property in New Zealand are liable in respect of the levy in the same manner as New Zealand insurance companies.

Hon. Mr May

FIRE SERVICES AMENDMENT

ANALYSIS

Title	3. New sections (relating to levy)
1. Short Title and application	inserted
2. Liability to make contributions to meet estimated expenditure of Urban Fire Authorities	60A. Levy
	60B. Persons negotiating contracts of fire insurance deemed to be agents if the insurance company is not carrying on business in New Zealand

A BILL INTITULED

An Act to amend the Fire Services Act 1972

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title and application**—(1) This Act may be cited as the Fire Services Amendment Act 1975, and shall be read together with and deemed part of the Fire Services Act 1972* (hereinafter referred to as the principal Act).
- 10 (2) This Act shall apply in respect of the financial year commencing on the 1st day of April 1975 and every succeeding financial year.

*1972, No. 119

Amendments: 1974, No. 25; 1974, No. 85

2. Liability to make contributions to meet estimated expenditure of Urban Fire Authorities—(1) The principal Act is hereby amended by repealing section 58, and substituting the following section:

“58. (1) There shall be paid in respect of the total estimated expenditure of all Urban Fire Authorities in each financial year by the insurance companies a contribution equal to 22 percent of the total gross amount of the premiums received by or due to them as shown in the returns sent by them to the Commission, pursuant to section 60 (1) (a) of this Act, during the year ended on the 31st day of December immediately preceding the commencement of that financial year: 5
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“Provided that, in respect of the financial year that commenced on the 1st day of April 1975, the contribution shall be the sum of— 15

“(a) Sixteen and one half percent of the total gross amount of the premiums received by or due to them, as shown in the return sent by them to the Commission, during the year ended on the 31st day of December 1974: 20

“(b) Twelve and one half percent of the estimated expenditure of those Authorities in that financial year.

“(2) There shall be paid in respect of each Urban Fire Authority in each financial year by the contributory local authorities a contribution which, when added to any amount paid to that Authority in that financial year pursuant to any agreement made under section 49 of this Act, equals 12.5 percent of the amount of the estimated expenditure of that Authority in that financial year: 25

“Provided that, in respect of the financial year that commenced on the 1st day of April 1975, the contribution of the contributory local authorities shall be increased by an amount equal to 5.625 percent of the estimated expenditure of that Authority in that financial year. 30

“(3) There shall be paid in respect of the total estimated expenditure of all Urban Fire Authorities in each financial year by the Minister of Finance, out of money appropriated by Parliament for the purpose, a contribution which, when added to the amount of other contributions paid under this section and to the amount of the levy paid to the Commission in that financial year under section 60A of this Act, equals the amount of that total estimated expenditure. 35
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“(4) For the purposes of subsection (2) of this section, in the case of the Urban Fire Authority for a united urban fire district, and subject to any Order in Council made under section 21 (2) of this Act, the amount to be paid by each of
5 the contributory local authorities in each financial year shall be paid according to the proportion which the capital value of rateable property in the area in the district which is under the jurisdiction of each of them bears to the total capital value of all rateable property in the district at the commence-
10 ment of that financial year.

“(5) For the purposes of subsection (3) of this section, the contribution payable in each financial year shall in the first instance be calculated at 15 percent of the amount of the total estimated expenditure of all Urban Fire Authorities, and
15 the first instalment payable in the next succeeding financial year shall be adjusted accordingly to amend the contribution payable to that prescribed by subsection (3) of this section.”

3. New sections (relating to levy) inserted—The principal Act is hereby further amended by inserting, after section 60,
20 the following sections:

“60A. **Levy**—(1) For the purposes of this section and of section 60B of this Act:

25 “‘Contract of fire insurance’ means a contract whereby any property is insured against loss or damage by fire, whether the contract includes other risks or not; but does not include any contract of marine insurance or any contract of reinsurance:

30 “‘Insurance company’ means any person, or any body of persons, whether incorporated or not, who undertakes liability under any contract of fire insurance:

“‘Property’ means any real or personal property situated in New Zealand.

35 “(2) Subject to this Act, every insurance company with which any property is insured against fire under any contract of fire insurance made in New Zealand in respect of any period commencing on or after the 1st day of July 1975 shall pay a levy to the Commission.

40 “(3) The Minister shall from time to time, after consultations with the Commission, by notice in the *Gazette*, declare the rate of the levy which shall be computed on the amount for which the property is insured against fire and the period of the contract of insurance.

“(4) In fixing the rate of the levy the Minister shall have regard to—

“(a) The total amount for which all properties in respect of which the levy is payable are insured against fire at the latest available date, and the likelihood of any increase or decrease in that total amount: 5

“(b) The necessity of ensuring that, over a reasonable period, the amounts received by the Commission in respect of the levy, when added to the contributions payable under section 58 (1) of this Act over that period, are sufficient to meet 72.5 percent of the expenditure of the Urban Fire Authorities over that period: 10

“(c) The desirability of ensuring that the rate of the levy is stabilised for a reasonable period. 15

“(5) Where any contract of fire insurance provides for settlement of any claim for damage to or destruction of the property upon a basis more favourable to the insured person than its indemnity value, the levy shall be computed on the amount for which the property is deemed to be insured against earthquake damage and war damage under the Earthquake and War Damage Act 1944. 20

“(6) This section shall not apply to any contract of insurance that is limited to an excess over the indemnity value of the property. 25

“(7) Upon the making of any contract of fire insurance to which this section applies the levy at the rate then declared, computed in respect of the period of the contract of fire insurance, shall thereupon become a debt due by the insurance company to the Commission. 30

“(8) The amount of the levy for which any insurance company at any time becomes liable under this section in respect of any contract of fire insurance shall thereupon become a debt due by the insured person to the insurance company, and may be recovered by the company accordingly. 35
If at any time before the debt is fully discharged any other person becomes an insured person under the contract of fire insurance the amount remaining unpaid shall thereupon become a debt due by him to the insurance company, without prejudice to the liability of any other person. Where 2 or 40
more persons are liable for any amount under this subsection, their liability shall be joint and several.

“(9) Subject to any regulations made under this Act, the Commission may from time to time, upon and subject to such conditions as it thinks fit, release any insurance company wholly or partly from its liability in respect of any levy or part of a levy under this section which, in the opinion of the Commission, is irrecoverable by the insurance company from the insured person.

“(10) All money received by the Commission in respect of the levy under this section shall be deemed to be contributions by the insurance companies towards the estimated expenditure of Urban Fire Authorities in the financial year in which they are received, and the provisions of this Act, with any necessary modifications, shall apply accordingly.

“(11) Without limiting the general power to make regulations conferred by section 98 of this Act, regulations may be made under that section for all or any of the following purposes:

“(a) Providing for the apportionment of the levy among persons interested in any property or class of property, and for the partial indemnity of insured persons against their liability for the levy by persons so interested:

“(b) Classifying property for the purposes of this section and exempting or excluding any class or classes of property from the provisions of this section:

“(c) Providing for and regulating the collection, receipt, and payment of money under this section:

“(d) Requiring insurance companies to make returns and keep books and accounts for the purposes of this section:

“Provided that in default of any such regulations and so far as such regulations do not extend, the Minister may give written directions in respect of any matter referred to in paragraph (c) or paragraph (d) of this subsection.

“60B. Persons negotiating contracts of fire insurance deemed to be agents if the insurance company is not carrying on business in New Zealand—(1) For the purposes of section 60A of this Act, where any person (hereinafter referred to as the agent) in the course of his business negotiates, directly or indirectly (whether through a broker or otherwise), any

contract of fire insurance between any insurance company that is not carrying on business in New Zealand and any other person (hereinafter referred to as the insured person),—

“(a) The agent shall be deemed to be the agent of the insurance company (whether or not he is also the agent of the insured person) : 5

“(b) The contract shall be deemed to be made in New Zealand :

“(c) The agent shall be subject jointly and severally with the insurance company to all obligations and liabilities imposed on the insurance company in relation to the contract by or under that section or by or under any regulations made under that section : 10

“(d) The agent may exercise all the rights, remedies, and powers conferred on the insurance company in relation to the contract by or under that section or by or under any regulations made under that section. 15

“(2) The fact that any person issues any cover note in respect of a contract of fire insurance or gives any information that fire insurance has been effected, or issues any receipt or other document acknowledging the receipt of a premium in respect of a contract of fire insurance, or receives any premiums, proposals, or requests for fire insurance business shall, for the purposes of this section, be conclusive evidence that that person is engaged in the business of negotiating contracts of fire insurance.” 20 25