

Departmental Disclosure Statement

Fire and Emergency New Zealand (Levy) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Internal Affairs.

The Department of Internal Affairs certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

17 October 2018.

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Part One: 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 Fire and Emergency New Zealand (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 whare taonga from the levy from 1 July 2019.

Levy rate setting

This Bill provides that levy rates can be set for a period of fewer 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.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
The Regulatory Quality Team at the Treasury determined that the regulatory decisions to be included in this Bill are exempt from the requirement to provide an Impact Assessment as they are minor and technical changes.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Modelling work on possible future levy rates is in progress. In the first half of 2019 the potential costs and benefits of the delay to the transition to Part 3 of the FENZ Act will be better understood because levy rate proposals will be in the public domain. There will be benefits for public museums, art galleries and whare taonga that insure their collections from 1 July 2019 onwards.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
The legislation does not create new obligations or standards, or impact on existing obligations or standards.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

The Department of Internal Affairs has not identified any obligations that conflict with the policies contained in the Bill.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Department of Internal Affairs analysed the Bill and did not identify any implications for the rights and interests of Māori protected by the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The impetus for the policy to be given effect to by the Bill was information provided by insurance sector representatives about the unworkability of the existing implementation date for the new levy regime in Part 3 of the FENZ Act.</p> <p>FENZ was consulted on the policy development for and drafting of this bill. FENZ supports the proposals in the Bill.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>The Bill amends a power to impose a levy in the nature of a tax.</p> <p>FENZ is funded by a levy on property insurance, which is implemented by insurers and brokers. A transitional levy regime is currently in place. Part 3 of the FENZ Act, which is due to come into force on 1 July 2019, provides for a modernised levy regime.</p> <p>The change that will occur when Part 3 of the FENZ Act comes into force will require considerable change to insurers' and brokers' systems. Insurers and brokers have said they require a 15-month lead-in time to build their systems once the new levy regime is finalised.</p> <p>As technical changes need to be worked through in detail before the new regime can be finalised, the commencement date of 1 July 2019 (the date currently set in the FENZ Act) cannot be achieved.</p> <p>The Bill therefore moves the backstop date for commencement of the levy regime to 1 July 2021, with an ability to bring that date forward through an Order in Council (clause 4). It is intended to implement the new levy regime on 1 July 2020 via an Order in Council (i.e. a year earlier than the backstop date provided in the Bill). The 1 July 2021 backstop date will prevent the need for further amendment to the FENZ Act in the event that any further complications arise with the implementation of the levy regime.</p> <p>The following controls apply to levy rate setting:</p> <ul style="list-style-type: none">• the FENZ Act requires consultation on rates of levy. Consultation has already occurred on the current levy rate. The Bill would extend the provision of the current levy rate.• FENZ must comply with standard reporting requirements under the Crown Entities framework. It reports to the Minister of Internal Affairs on costs and revenues, and service levels provided.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill amends powers to make delegated legislation. Clauses 5 to 7 amend sections 141 to 143 of the FENZ Act.</p> <p>Section 141 of the FENZ Act provides that the Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing a levy in respect of property that is insured against physical loss or damage.</p> <p>Sections 142 and 143 concern procedures for levy regulations and consultation about levy regulations respectively.</p> <p>The effect of the amendments is to clearly provide that levy rates can be set for a period of less than three years, and to clarify that FENZ must take shortfall or surplus of levy revenue in one period into account when setting levy rate for the next period.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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