

# Departmental Disclosure Statement

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

It identifies:

- the general policy intent of the SOP and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the SOP;
- the presence of certain significant powers or features in the SOP 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 April 2019.

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## **Part One: General Policy Statement**

The Supplementary Order Paper amends the Fire and Emergency New Zealand (Levy) Amendment Bill (the Bill). The Bill amends the Fire and Emergency New Zealand Act 2017 (the Act).

The amendment to clause 4 extends the date on which sections 80 to 140 of the Act come into force. The date is extended from 1 July 2021 to 1 July 2024. The amendment has the effect of postponing the new levy system set out in sections 80 to 140. The transitional levy system (set out in Schedule 1 of the Act) that currently applies will remain in force until 1 July 2024 or until an earlier date appointed by the Governor-General by Order in Council.

The amendment to clause 8 exempts from levy property owned by the New Zealand Defence Force. The exemption starts on 1 July 2019 and applies under the transitional levy system.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>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 SOP?</b>	<b>NO</b>
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### Relevant international treaties

<b>2.2. Does this SOP seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this SOP?</b>	<b>YES</b>
<p>Impact Summary: Delay to commencement of sections 80 to 140 of the Fire and Emergency New Zealand Act 2017 - Authored by the Department of Internal Affairs, 27 February 2019.</p> <p>A copy of the regulatory impact statement can be accessed at <a href="https://www.dia.govt.nz/diawebsite.nsf/Files/FENZ/\$file/FENZ-Impact-Summary-Delay-to-commencement.pdf">https://www.dia.govt.nz/diawebsite.nsf/Files/FENZ/\$file/FENZ-Impact-Summary-Delay-to-commencement.pdf</a></p> <p>The Department of Internal Affairs' internal quality assessment panel found the regulatory impact statement to meet the Quality Assurance criteria set out on the Treasury website.</p>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
The Regulatory Impact Summary did not meet the threshold for Treasury RIA Team assessment.	

<b>2.3.2. Are there aspects of the policy to be given effect by this SOP that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this SOP?</b>	<b>NO</b>
<b>2.5. For the policy to be given effect by this SOP, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>

<b>2.6. For the policy to be given effect by this SOP, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## 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 SOP is consistent with New Zealand's international obligations?**

Consultation with the Department of Internal Affairs' officials with subject matter expertise has determined that the policy will not impact any of New Zealand's international obligations.

### 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 SOP is consistent with the principles of the Treaty of Waitangi?**

The Department of Internal Affairs analysed the SOP 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 SOP appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?**

NO

### Offences, penalties and court jurisdictions

**3.4. Does this SOP 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 SOP 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 SOP, or on a draft of this SOP?**

NO

The Department of Internal Affairs consulted with representatives from the insurance sector on relevant parts of a draft of the SOP. The Parliamentary Counsel Office, Fire and Emergency New Zealand, and the New Zealand Defence Force were also consulted.

### Other testing of proposals

3.7. Have the policy details to be given effect by this SOP been otherwise tested or assessed in any way to ensure the SOP'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 SOP 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 SOP create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>The SOP amends a power to impose a levy in the nature of a tax.</p> <p>Fire and Emergency New Zealand (FENZ) is funded by a levy on contracts for property insurance, which is implemented by insurers and brokers. A transitional levy regime is currently in place. Sections 80 to 140 of the FENZ Act, which are due to come into force on 1 July 2019, provide for a modernised levy regime.</p> <p>The SOP delays the commencement of a new levy regime to 1 July 2024, with an ability to bring that date forward through an Order in Council (clause 4). The 1 July 2024 backstop date will provide time for a review of FENZ's funding model, and then implementation of the new model.</p> <p>The following controls apply to levy rate setting:</p> <ul style="list-style-type: none"><li>• the FENZ Act requires consultation on rates of levy. Consultation has already occurred on the current levy rate and this has been set by the Fire and Emergency New Zealand (Levy Rates and Information Requirements in Transitional Period) Regulations 2017. The SOP would extend the provision of the current levy rate.</li><li>• 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.</li></ul>	

### Retrospective effect

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

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

### Civil or criminal immunity

<b>4.5. Does this SOP create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
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### Significant decision-making powers

<b>4.6. Does this SOP 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?</b>	<b>NO</b>
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### Powers to make delegated legislation

<b>4.7. Does this SOP 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?</b>	<b>NO</b>
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<b>4.8. Does this SOP create or amend any other powers to make delegated legislation?</b>	<b>NO</b>
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### Any other unusual provisions or features

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