



Targeted Consultation: Fire and Emergency New Zealand Levy Exemptions

8 August 2022

The Department of Internal Affairs (the Department) wants your views on what should be exempt from paying the Fire and Emergency levy

We are seeking input from targeted stakeholders on what property should be exempt from paying the Fire and Emergency New Zealand levy (the levy). Your feedback will be used to inform our advice to the Minister of Internal Affairs about exemptions to the levy.

The levy is paid on New Zealand property insured against fire damage. It provides the primary source of funding for Fire and Emergency response. Currently, a transitional levy system outlines who must pay the levy and at what rate. However, these settings are set to expire on 1 July 2024 and are based on the old approach to fund the New Zealand Fire Service (i.e., urban fire services) before Fire and Emergency was established. New levy settings following this date need to reflect Fire and Emergency's mandate and ensure that everyone who has the potential to benefit from Fire and Emergency response contributes to funding those services.

Public consultation was undertaken in 2016 on proposed exemption regulations and we recognise you may have already provided feedback on this issue. However, regulations were not progressed at the time as a review into Fire and Emergency's funding model was announced. We are once again seeking feedback to ensure we have up to date information from those who might be affected.

Providing feedback

Please email FireFundingReview@dia.govt.nz with your feedback by **Wednesday 7 September 2022**. You are welcome to comment on any individual exemption recommendation or question.

Meeting with the policy team

The Department's policy team can meet to discuss these proposals and/or your feedback further. To assist us with organising a discussion with you, please notify us whether you would like to meet by **Friday 2 September 2022** or sooner. Meetings can take place in-person in Wellington, or via Zoom or Microsoft Teams.

Official information and proactive release

Please note that your submission will become public information that can be requested under the Official Information Act 1982. The Government may also choose to proactively release submissions.

Indicate clearly if any information you provide is confidential or should not be disclosed.

Background

The Fire and Emergency New Zealand Act 2017 (FENZ Act) prescribes how Fire and Emergency is funded

1. The FENZ Act merged the New Zealand Fire Service (urban fire services) and Rural Fire Authorities under one organisation. The Act simplified pre-existing funding arrangements, with a levy on insurance contracts becoming the main source of funding for fire and emergency services.
2. The Act sets out the framework for charging the levy. Some targeted changes are being made to this framework to simplify its operation. In November 2021, Cabinet agreed to amend the Act so that¹:
 - levy is charged on contracts of insurance for ‘fire damage’ instead of ‘material damage’; and
 - levy is calculated based on the ‘sum insured’ for property, not the ‘amount insured’.
3. This means that any property insured against fire damage will be charged the levy, unless exempt.² The amount of levy to pay will be calculated using the ‘sum insured’ in insurance policies.
4. These changes have not yet been made. An amendment bill is in the final stages of drafting and will progress through Parliament soon. Our proposals assume that this bill proceeds as planned and there are no substantial changes made.
5. The Act also provides regulation-making powers that will specify rates applying to the levy and exemptions to the levy.³ We are seeking input on the exemptions aspect of this regulation-making power.

Determining exemptions is part of a wider regulation-making process for the Fire and Emergency Funding Review

6. Finalising the levy rates for property under the new levy regime is a separate process to this consultation. Fire and Emergency will develop proposals for the levy rates, supported by financial modelling. Fire and Emergency will lead public consultation on these proposals, currently planned for the second quarter in 2023. Following this, the Department will provide advice to the Minister of Internal Affairs to take the proposals to Cabinet for agreement.
7. It is important that decisions on exemptions are made before Fire and Emergency finalise their proposals for the levy rate for consultation. More accurate modelling and consultation will be possible when it is clear which sectors will pay the levy.

¹ Proactively released Cabinet material can be on [accessed on the Department’s website here](#).

² Property is defined in section 6 of the FENZ Act as “any real or personal property in New Zealand”

³ Fire and Emergency Act 2017, s141

8. The financial burden for property will be assessed during the levy rate-setting stage. The FENZ Act provides several tools to manage unreasonable financial burden on different stakeholder groups (such as levy caps, discounted rates, or a period of levy relief). The use of these tools will be considered later as part of the process to set levy rates. There may also be opportunities to add further exemptions once more information is known, should that be appropriate.

The new Fire and Emergency levy under the FENZ Act is not yet operational

9. The majority of the FENZ Act came into force in 2017. However, the parts of the Act that deal with the new Fire and Emergency levy will not come into force until 1 July 2024. The delay has been necessary to enable the Government to complete a review of the funding model, as well as make targeted improvements to the levy regime and set regulations for the levy.
10. A transitional levy has been in place since 2017 to fund Fire and Emergency. It will remain in place until the new levy begins.

A temporary set of exemptions is in place under the transitional levy

11. When the Act was passed in 2017, a set of temporary exemptions was implemented as part of the transitional levy regime. These exemptions are largely a continuation of the approach to fund the New Zealand Fire Service (the former urban fire services) prior to the creation of Fire and Emergency. This means that, in some cases, the temporary exemptions do not reflect the broader mandate of Fire and Emergency and changes to the funding model under the FENZ Act.
12. All exemptions under the transitional levy will stop once the new levy settings under the FENZ Act come into force. These exemptions will be replaced with the proposed exemptions which we are requesting feedback on now.

Proposed exemptions from the levy

There is a high threshold to qualify for an exemption

13. The FENZ Act requires regulations for exemptions to consider the purpose of the levy in the Act; as well as the likely effect on the cost-effectiveness and efficiency of the administration of the levy.⁴ The purpose of the levy in the Act is for a levy that is:
 - a **stable** source of funding to support Fire and Emergency in the performance of functions and duties and exercise of powers under the Act;
 - **universal**, so that Fire and Emergency's costs are generally shared among all who benefit from the potential to use Fire and Emergency's services;
 - **equitable**, so that policyholders should generally pay a levy at a level commensurate with their use of, or benefit from the potential to use, Fire and Emergency's services and with the risks associated with the activities that policyholders carry out (but without strict apportionment according to use, benefit, or risk having to be observed);

⁴ Fire and Emergency New Zealand Act 2017, s80 and Fire and Emergency New Zealand Act 2017, s141(4)

- **predictable**, so that policyholders and levy payers can predict the amounts that they will need to pay and Fire and Emergency is able to predict how much levy income it will receive; and
 - **flexible**, so that the levy can adapt to:
 - changes in the use, benefit, or risk associated with those who benefit from the potential to use Fire and Emergency's services; and
 - variations in Fire and Emergency's costs; and
 - changes to the expectations of the Crown and the strategic needs of Fire and Emergency.
14. Our interpretation of the requirements of the FENZ Act is that we are seeking an exemptions regime that:
- requires those who benefit from the potential to use Fire and Emergency's services to contribute through the levy (the universal principle);
 - addresses inequities (the equity principle);
 - simple and cost-effective to administer; and
 - clear about who is required to pay the levy and who is exempt (the stability and predictability principles).
15. We do not think that the flexibility principle is relevant to this part of the exemptions process. Regular review of the Fire and Emergency levy rates and exemptions over time will provide for flexibility.
16. Not all inequities will justify an exemption. Some property may have a disproportionately high levy relative to the potential to benefit from Fire and Emergency services but could still have the potential to benefit from these services. Making that property exempt would remove any obligation to contribute to funding Fire and Emergency services. This would contradict the universal principle (*the need for Fire and Emergency's costs to be shared among those who benefit from the potential to use Fire and Emergency services*). This means that only extreme inequities should be considered for an exemption.
17. This does not necessarily mean that inequities will not be addressed at all in relation to the levy. The extent to which remaining inequities can be managed will be considered through the levy-setting stage when the amount of levy that is paid by property is considered.

We think there are several good reasons to exempt property from paying the Fire and Emergency levy

18. From the analysis above, we have derived a list of reasons for which exemptions to the levy will be considered. Situations where an exemption has been considered are:
- if an insurance contract covers property that is inaccessible to Fire and Emergency;
 - if the insured property has an **extremely** low risk of damage requiring a Fire and Emergency response;
 - if a type of property is likely to be charged more than once, due to particularities about the way these are insured; and/or

- if there are significant costs or difficulties collecting the levy on a particular type of insurance contract which outweighs the benefits of increasing the levy base.

Questions

- 1) Do you agree with the reasons we have provided for granting an exemption from payment of the Fire and Emergency levy? Why or why not?
- 2) Are there any additional reasons you think we should consider for levy exemptions, keeping in mind the purpose of the levy system described in the Act?

Policy Options

We used the list of potential exemptions consulted on in 2016 as a starting point for our analysis

19. A list of potential exemptions, along with our initial recommendation for whether each exemption should be removed or retained, is contained in **Appendix A**. We have outlined general questions applying to all the exemptions, as well as more specific questions for exemptions where we are seeking more information.
20. We have based our initial recommendation on our interpretation of the stated purpose of the Act. We have also considered information from Fire and Emergency about how often they respond to certain types of incidents.
21. The overall result of our proposal is that fewer property types are exempt from paying the levy. Notable exemptions we propose to discontinue are for:
 - rural commercial property (such as forests, orchards, and livestock);
 - ships and aircraft (limited to those that operate primarily or are based in New Zealand);
 - electricity infrastructure; and
 - land transport infrastructure (such as roads and railways).
22. The recommendations are intended as a starting point for discussion from which we can gain more information. Please note that the wording of definitions can be amended as required and we welcome comments on wording or phrases if you consider it is relevant. For example, “ship or anything in a ship, except while the ship is on land” could be amended to better describe what is meant by a ship.

Questions

- 3) Do you agree with our proposed list of exemptions? Why or why not?
- 4) What changes (if any) would you recommend making to the wording of any exemptions? Why?
- 5) Are there any other types of property you believe should be exempt? If so, what are they and what is the rationale for their exemption (please link to the list of reasons we have provided in paragraph 18, where possible)?
- 6) What impacts are our proposed exemptions likely to create (financial or otherwise) for you? Please provide a qualitative description of the impacts if detailed disclosure of impacts is not possible or inappropriate for any reason. *If you are unable to provide this information for exemptions relevant to you, it is still useful for us to understand why.*
- 7) Please provide us with the information you can about the insurance arrangements that apply to specific types of property where we have requested it below.

Appendix A: Preliminary exemption recommendations

Key

Recommendation	Explanation
Remove	The exemption will be discontinued. If the property is insured for fire damage, it will pay levy.
May be discontinued	Further information is needed before deciding to remove or retain.
Retain	Exemption is retained. Property will be exempt from paying levy.

Exemptions

	Exemption	Legislation that establishes exemption	Proposed recommendation	Rationale	Specific feedback sought on exemption
1.	Ship or anything in a ship, except while the ship is on land	Fire Service Act 1975	Remove for domestic-based ships Retain for ships that travel internationally	<ul style="list-style-type: none"> We use the term “ship” here to include any kind of marine vessel, from small private recreational boats through to large commercial ships. Ships have potential to benefit from Fire and Emergency services while docked or in marinas. Ships that predominantly travel internationally have little potential to benefit from Fire and Emergency services. The levy rate applied could account for the fact that ships spend time away from land where they do not have the potential to benefit from Fire and Emergency services. 	<ul style="list-style-type: none"> What insurance arrangements apply to ships? Do insurance arrangements specify whether ships only travel domestically, or predominantly domestically?
2.	Standing bush or forest	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> This property benefits from Fire and Emergency services. Fire and Emergency responds regularly to forest fires. This property funded rural fire services prior to Fire and Emergency’s creation in 2017. The exemption was for the urban fire services, which did not extend to these types of property. 	<ul style="list-style-type: none"> What levels of fire insurance are taken out for forestry blocks?
3.	Road, street or path	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> This property benefits from Fire and Emergency services. However, the property may not be insured against fire damage and therefore outside the scope of the levy regime anyway. 	<ul style="list-style-type: none"> How is this infrastructure insured? Does it have cover for fire damage? What levels of insurance are taken out for this infrastructure?
4.	Railway track or pole, or any tramway track or pole	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
5.	Bridge or viaduct either completed or in course of construction, or any boxing or falsework used in construction of any bridge or viaduct	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">

	Exemption	Legislation that establishes exemption	Proposed recommendation	Rationale	Specific feedback sought on exemption
6.	Tunnel or cutting	Fire Service Act 1975	Retain for tunnels over 150m being constructed Remove for other tunnels, cuttings tunnels over 150m after construction	<ul style="list-style-type: none"> Tunnels over 150m are treated as a mining operation under the Health and Safety at Work Act 2015 (refer number 12 below) while being constructed. Other tunnels, cuttings, and tunnels over 150m after construction benefit from Fire and Emergency services. 	<ul style="list-style-type: none"> How is this infrastructure insured? Does it have cover for fire damage? What levels of insurance are taken out for this infrastructure?
7.	Retaining wall, dam, breakwater, mole (large stone structure), groyne, fence or wall	Fire Service Act 1975	Retain for breakwater, mole, groyne Remove for retaining wall, dam, fence or wall	<ul style="list-style-type: none"> This property has an extremely low risk of damage requiring a fire and emergency response. This property benefits from Fire and Emergency services. 	<ul style="list-style-type: none"> How is this infrastructure insured? Does it have cover for fire damage? What levels of insurance are taken out for this infrastructure?
8.	Drain or channel	Fire Service Act 1975	Retain	<ul style="list-style-type: none"> This property has an extremely low risk of damage requiring a fire and emergency response. 	
9.	Reservoir, swimming bath, water tank (other than a water tank installed as part of the water supply system of any dwelling or farm building), water tower, or septic tank	Fire Service Act 1975			
10.	Water reticulation pipe (other than a water reticulation pipe which in the opinion of the Earthquake and War Damage Commission, constitutes a structural part of any building)	Fire Service Act 1975			
11.	Electric supply, telegraph or telephone pole, line or cable	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> This property benefits from Fire and Emergency services. 	
12.	Mine or quarry	Fire Service Act 1975	Retain	<ul style="list-style-type: none"> Fire and Emergency do not respond to incidents inside mines. Mining operations pay the Mines Response Levy for this purpose 	
13.	Aircraft or anything in an aircraft	Fire Service Act 1975	Remove for aircraft that fly domestically Retain for aircraft that fly internationally	<ul style="list-style-type: none"> Fire and Emergency respond to domestic incidents involving aircraft but cannot respond to incidents outside of New Zealand. The levy rate could account for the fact that the value of aircraft may be largely disproportionate to the potential to benefit from Fire and Emergency services. 	<ul style="list-style-type: none"> What insurance arrangements apply to aircraft? Do insurance arrangements specify whether aircraft only fly domestically?
14.	Goods in transit	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> This type of property benefits from Fire and Emergency services. 	
15.	Hazardous substance (as defined in section 2 of the Hazardous Substances and New Organisms Act 1996)	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> Fire and Emergency are required to incidents involving hazardous substances. 	
16.	Livestock	Fire Service Act 1975	Remove	<ul style="list-style-type: none"> This type of property benefits from Fire and Emergency services This property funded rural fire services prior to Fire and Emergency's creation in 2017. The exemption was for the urban fire services, which did not extent to these types of property. 	<ul style="list-style-type: none"> Are these types of property insured against fire damage?
17.	Growing crops, including fruit trees and vines	Fire Service Act 1975	Remove		
18.	Ensilage insured in the open field	Fire Service Act 1975	Remove		

Exemption	Legislation that establishes exemption	Proposed recommendation	Rationale	Specific feedback sought on exemption
19. Hay or other cut crops insured in the open field	Fire Service Act 1975	Remove		
20. Offshore installation for petroleum mining operations	Fire Service Act 1975	Retain	<ul style="list-style-type: none"> This type of property does not have the potential to benefit from Fire and Emergency services due to its location. 	
21. Pipeline, electricity cable, or telecommunications cable which is located on the sea floor	Fire Service Act 1975	Retain	<ul style="list-style-type: none"> This type of property does not have the potential to benefit from Fire and Emergency services due to its location. 	<ul style="list-style-type: none"> Are these types of property insured against fire damage?
22. Art and items in cultural heritage body collections	FENZ (Levy) Amendment Act 2019	May be discontinued	<ul style="list-style-type: none"> This type of property has the potential to benefit from Fire and Emergency services. However, the level of insurance taken out for this property may be highly disproportionate to the potential to benefit from Fire and Emergency services. 	<ul style="list-style-type: none"> Are these items insured against fire damage? What levels of insurance are taken out on this property?
23. NZ Defence Force property	FENZ (Levy) Amendment Act 2019	Retain	<ul style="list-style-type: none"> The Defence Force maintain their own response capacity and legal responsibility for emergency response on Defence land. There is also an extensive service agreement for the reciprocal provision of emergency services 	
24. Runways	Cabinet approved this exemption in 2017, but it was not enacted in law	Change approach and do not exempt	<ul style="list-style-type: none"> This property has the potential to benefit from Fire and Emergency services. Fire and Emergency respond to incidents on runways alongside airport firefighting services. 	<ul style="list-style-type: none"> Are runways insured against fire damage? What legal responsibilities apply to airport firefighting services?
25. Pipelines and cables buried underground	Cabinet approved this exemption in 2017, but it was not enacted in law	Change approach and do not exempt	<ul style="list-style-type: none"> Pipelines carrying gas or other flammable material benefit from Fire and Emergency services. 	<ul style="list-style-type: none"> Are these types of property insured against fire damage? What other infrastructure may be considered a "pipeline" or "cable" buried underground, but would not benefit from Fire and Emergency services?
26. Aircraft hull insurance for war and terrorism risks, where the aircraft is also insured under an all-risks policy	Cabinet approved this exemption in 2017, but it was not enacted in law	May change approach and not exempt	<ul style="list-style-type: none"> Domestic aircraft benefit from Fire and Emergency services (refer number 13 above). However, this exemption may be required to avoid an aircraft paying the levy twice. 	<ul style="list-style-type: none"> Does aircraft hull insurance for war and terrorism risks include a fire damage component?