

Short-Form Supplementary Departmental Disclosure Statement

Fire and Emergency New Zealand Bill

A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Fire and Emergency New Zealand Bill, dated 29 June 2016, which can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2016/148>.

This supplementary 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.

2 March 2017.

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO
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Compulsory acquisition of private property

3. Do the proposed amendments 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. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

8. Do the proposed amendments 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

9. Do the proposed amendments 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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10. Do the proposed amendments create or amend any other powers to make delegated legislation?	YES
<p>The Supplementary Order Paper creates or amends powers to make delegated legislation:</p> <p>Clause 2 – Part 3 of the Fire and Emergency New Zealand Bill (Bill), which relates to levies, will come into force on a date set by Order in Council. This new power is a precautionary measure to allow sufficient time for all policy decisions, public consultation and implementation before a new levy system and levy rate applies. The safeguards include that the commencement date of Part 3 is time bound to between 1 July 2018 and 1 July 2019.</p> <p>Clause 104 – levy regulations include making regulations for an exemption from or waiver of the levy. The Supplementary Order Paper provides a further safeguard of the matters the Minister must have regard to in making any regulations for waivers, which align with the requirements for exemptions. Clause 105 provides additional requirements for regulations for both exemptions and waivers that the Minister must take into account an estimate of the total amount of the exemptions and waivers that would apply.</p> <p>Clause 151 – sets out the regulation power relating to permits. The Supplementary Order Paper provides that Fire and Emergency New Zealand (Fire and Emergency) may grant a permit during a restricted fire season if it considers the permit is necessary to prevent, reduce or overcome any hazard to life or because of any other serious emergency. The additional power aligns the Bill with the powers currently held under the Forest and Rural Fires Act. The safeguards include that a permit granted under these regulations expires after five years.</p> <p>Clauses 36 to 38 of Schedule 1 – set out a regulation making power to provide full or partial exemptions from levy for policyholders who face an unreasonable burden as a result of the new levy regime. The Supplementary Order Paper amends this power to provide that the amount of an exemption can be determined either according to a formula, or by agreement through negotiation with Fire and Emergency. The Bill as introduced did not specify how the amount of the exemption would be calculated. This amended power is necessary to bring greater clarity to the process of providing transitional levy relief. The safeguards include the Minister must have regard to the purposes of the levy and likely effect of the exemption, must consult, and publish the Minister's reasons if regulations are made. If the regulations provide for negotiation, then they must set out the matters Fire and Emergency must have regard to and the maximum amount of levy that may be exempt.</p> <p>In addition to the specific safeguards noted above, the usual procedural safeguards that apply to the making of delegated legislation apply to these powers.</p>	

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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