Regulatory Impact Statement: Administrative regulations for the new Fire and Emergency levy

Coversheet

Purpose of Document	
Decision sought:	Cabinet policy approval
Advising agencies:	Department of Internal Affairs
Proposing Ministers:	Minister of Internal Affairs
Date finalised:	27 August 2024

Problem Definition

The Fire and Emergency New Zealand Act 2017 introduces a new levy to fund Fire and Emergency New Zealand. This levy will commence on 1 July 2026 under Part 3 of the Act. Part 3 provides a framework for administering the payment and collection of the levy.

If no action is taken, there will be no regulations for administering the levy. Regulations are necessary to provide the additional administrative measures needed to support the framework in the Act. If regulations are not set, the framework in the Act alone would not provide sufficient detail for clear and predictable administration of the levy. There is no feasible alternative mechanism to provide for these measures.

Executive Summary

The Fire and Emergency New Zealand Act 2017 established Fire and Emergency New Zealand

Fire and Emergency New Zealand (Fire and Emergency) was established by the Fire and Emergency New Zealand Act 2017 (the Act), merging urban and rural fire services. Most of the Act is already operational and sets out the functions, duties and powers of Fire and Emergency.

The new levy under Part 3 of the Act is not yet in effect and will commence on 1 July 2026

Part 3 of the Act provides for an insurance-based levy to fund Fire and Emergency. In the meantime, a transitional levy funds Fire and Emergency. The transitional levy is also insurance-based and derived from the levy under the Fire Service Act 1975 that previously funded urban fire services.

Once in effect, Part 3 will provide the main framework for administering payment and collection of the new levy. Regulations may also be set to supplement the main framework by providing for additional detail or steps that would otherwise be missing.

Some existing processes under the transitional levy must be given effect through regulations for the new levy

There are already significant costs and time associated with the transition from the current to new levy. In the interest of providing for a smooth transition, we identified the necessary detail and steps associated with administering the transitional levy that would no longer be available for the new levy unless they are now provided for in regulations. We considered the options for all proposals against the option of doing nothing.

Information to be provided with a monthly levy return is set in regulations under the transitional levy, and needs to be set again in regulations for the new levy (section 2.A)

Regulations under the transitional levy will no longer be operational once the new levy commences. The new Act specifies that any information to be provided with return must be provided for through regulations still.

We prefer the option of providing similar information requirements in regulations as under the transitional levy over the option of not providing for these information requirements at all. It would ensure there is clarity for levy payers on what information they need to consistently provide, and Fire and Emergency would be able to continue relying on receiving the information it needs. This would enable a smooth transition to the new levy.

Fire and Emergency operational guidance for the transitional levy provides a pro-rata calculation (section 2.B), a refunds process (section 2.C), and a waivers process (section 2.D) that must now be given effect to through regulations for the new levy

The new Act requires these matters are provided for through regulations, rather than operational policy or process. Operational policy was therefore not assessed as an option due to the potential for legal issues arising. The option of providing regulations was assessed against doing nothing.

Pro-rata calculation (section 2.B)

The levy is required to be pro-rated in accordance with the period of the contract of insurance under the Act. It is also required to be pro-rated in accordance with regulations. The Department proposes providing the calculation in regulations so there is a clear and consistent way to pro-rata levy under the Act.

Refunds for overpaid levy (section 2.C)

We propose allowing for levy payers to recover overpaid levy through a refunds process in regulations, based on the process under the transitional levy. There would otherwise not be a process for Fire and Emergency to refund overpaid levy.

Waivers and extensions of time (section 2.D)

Regulations may provide for the circumstances and conditions to grant waivers. We propose providing two types of waivers through regulations. These are waivers for interest accrued on late levy payments, and waivers for irrecoverable levy and interest.

Interest waivers

Interest is payable on late levy payments starting the day after the payment is due. For the transitional levy, Fire and Emergency grants waivers of interest in two main circumstances. The first is if the interest accrued is under $1,000, as it has determined amounts below $1,000 are administratively inefficient to collect. The second is if it considers a late payment occurred due to unexpected events or emergencies outside of the levy payer's control.

The Department prefers the option of providing a process for interest waivers in regulations for the new levy. The circumstances would be if Fire and Emergency consider the amount of interest administratively inefficient to collect, or alternatively, if an unexpected event or emergency has affected a levy payer's ability to pay on time.

We considered this option against the option of doing nothing, and the option for providing both waivers and extensions of time for paying levy. Providing for extensions as well would require Fire and Emergency to set up a new process, negating the purpose of a smooth transition to the new levy with minimal cost and administrative burden. Additionally, doing nothing would not account for the circumstances identified as fair to allow levy payers and Fire and Emergency relief from general compliance with the levy regime.

Irrecoverable levy waivers

We also assessed the option of providing waivers for Fire and Emergency to release an insurer from liability for levy that is irrecoverable from a policyholder against doing nothing.

The Department considers these waivers should be provided through regulations. Section 91 of the Act allows for Fire and Emergency to release an insurer from liability in this circumstance, but waivers granted through regulations are needed to operationalise this release. The option would give effect to the intended purpose of section 91.

We conducted targeted consultation with insurance stakeholders and Fire and Emergency for these proposals

Both the transitional levy and the new levy are payable on contracts of insurance, as they are insurance-based. Therefore, insurance stakeholders were consulted as they most commonly calculate and pay the levy as levy payers on behalf of insurance policyholders. Fire and Emergency is responsible for collecting the levy and monitoring levy payers' compliance with the levy regime.

Both insurance stakeholders and Fire and Emergency are supportive of the preferred options for all proposals. We consulted on a proposal for calculating levy on mixed-use buildings. This proposal is not included in this Impact Statement (beyond the consultation section of this document), as further work and exploration of other options is required.

Limitations and Constraints on Analysis

The analysis has some constraints:

- The data available for this analysis was not comprehensive. For example, Fire and Emergency provided us with the number of waivers made over the past three years and basic circumstances for granting the waivers, but it was not feasible to consider each waiver decision individually.
- Consultation was targeted to insurance stakeholders and Fire and Emergency. These stakeholders were selected due to them having the main roles in payment and collection of the levy. This focus means that have had to rely on what we heard indirectly, through these stakeholders, about any impacts on policyholders.
- Timeframes were limited for the analysis, but the limited time available still allowed for the development, consultation, and refinement of the proposals. The driver for the timeframes is the need to ensure regulations are in place by December 2024 to allow an 18-month implementation period for insurers and brokers to prepare for the

commencement date of 1 July 2026.

- Most of the proposals are limited to 2 options. This is the option of taking no action, compared to the option of creating regulations. We were constrained by the Fire and Emergency (New Zealand) Act 2017 only allowing for the details or steps in the proposals to be provided for in regulations. This meant we were unable to consider non-regulatory options.

Responsible Manager(s) (completed by relevant manager)

Gina Smith

General Manager, Policy Group, Department of Internal Affairs

27 August 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	The Department of Internal Affairs
Panel Assessment & Comment:	The panel considers that the information and analysis summarised in the RIA meets the quality assurance criteria. The Regulatory Impact Analysis (RIA) contains the necessary information to enable decision-makers to make an informed decision. The constraints on the analysis are clearly articulated (the lack of non-regulatory options, for example), as are any assumptions made in the analysis. The objectives and criteria used in the analysis are reasonable and clearly stated. Targeted stakeholders have been consulted with thoroughly and their views incorporated into the analysis, and the reasons for only consulting targeted stakeholders is explained. The RIA does a good job of packaging the analysis of four distinct regulatory changes into one document. The efforts that went into developing options for calculating the levy on mixed-use buildings, and the reasons why more work is needed, are also clearly articulated. The document is relatively clear and concise given the technical nature of the regulatory options being explored. Each proposed regulatory change shares the same counterfactual – no regulations introduced. Three of the four changes only compare the counterfactual to one preferred option – generally to introduce a regulation that is similar to the requirements of the current transitional levy regime. We consider the narrowness of options considered is justified and clearly sign-posted to decision-makers in the RIA through its scope and the objectives set, i.e. to provide for a clear and predictable administrative process, while also enabling a smooth transition between the transitional levy and the new levy regime. The multi-criteria analysis is clear and illustrates why regulatory changes are recommended. 9(2)(g)(ii) [redacted] Chair of the Department of Internal Affairs' RIA panel 26 / 08 / 2024

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Fire and Emergency was established in 2017, merging urban and rural fire services

1. Fire and Emergency New Zealand (Fire and Emergency) was established in 2017, merging urban and rural fire services into a single unified national organisation. This was intended to reconcile fragmented funding, governance, and service delivery, and to ensure fire and emergency services could be delivered effectively and efficiently.

2. Fire and Emergency was established under the Fire and Emergency New Zealand Act 2017 (the Act). The Act outlines the functions Fire and Emergency carries out, its duties, and its powers during emergencies. Additionally, Part of 3 of the Act provides for a levy on insurance as the primary source of funding for Fire and Emergency. The levy replaces previously fragmented funding arrangements across urban and rural fire services with a single, stable source of funding.

Fire and Emergency is currently funded by a transitional levy

3. While most provisions of the Act have come into effect, the levy under Part 3 has a delayed commencement date of 1 July 2026. This delay is due to a range of factors, including COVID-19 delays and to allow for a review of the levy funding model to be completed.

4. A transitional levy funds Fire and Emergency until the new levy becomes operational under Part 3. The transitional levy is largely based on the levy model which previously funded the urban fire service only (the former New Zealand Fire Service), under the Fire Service Act 1975.

5. The transitional levy is also on insurance. This means that levy payable is attached to insurance contracts. The insurance sector therefore plays a key role in calculating and paying the levy owed to Fire and Emergency on behalf of most policyholders. This role will continue under the new levy charged on contracts of insurance.

6. The process of payment and collection of levy under the transitional levy is provided through a combination of the Fire Service Act 1975, the Fire and Emergency New Zealand (Levy Rates and Information Requirements in Transitional Period) Regulations 2017, and Fire and Emergency operational policy. These will no longer be in effect once the new Part 3 levy commences.

A new insurance-based levy will commence under Part 3 of the Act on 1 July 2026

7. Part 3 provides for a new levy regime, commencing on 1 July 2026. The purpose is to provide 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);
- **predictable**, so that policyholders and levy payers are able to 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;
    - variations in Fire and Emergency's costs; and
    - changes to the expectations of the Crown and the strategic needs of Fire and Emergency.

8. The new levy will operate through a combination of the Act and regulations, as well as additional guidance provided by Fire and Emergency. The broad framework of the levy is largely provided for by the Act itself. It directs that the levy is charged on any property insured under a contract of insurance against loss or damage from fire, and any motor vehicle with comprehensive or third-party insurance.
9. Additional work has been undertaken to set regulations to provide further detail on who is contributing to the levy, and how much it is fair for them to pay. Setting regulations for levy rates and exemptions ensure the levy is equitably shared among those who have the potential to benefit from Fire and Emergency services, which in turn ensures Fire and Emergency's source of funding is stable.
10. The other key part of the levy framework is the administration, which involves the practical payment and collection of the levy. The Act sets out the process in some detail. For example, levy payers can look to the Act for direction on who is liable to make a levy payment, how to calculate the amount of levy to pay, and when to pay. For collection, Fire and Emergency know when it will receive the payment, and the tools available for oversight and enforcement of the regime where necessary.
11. Regulations can be made under section 141 to outline further detail and steps for administering the levy. These regulations, in combination with the framework under the main Act, may assist in creating an administrative process that better meets the purpose of the levy under section 80.

Targeted consultation on administrative regulations took place earlier this year

12. The Department conducted targeted consultation with insurance stakeholders and Fire and Emergency. These two groups are identified as having the main roles in payment and collection of the levy. Insurers and insurance brokers most commonly assume the role of a levy payer and are liable to calculate and pay the levy on behalf of insurance policyholders. Fire and Emergency are responsible for collecting the levy and ensuring the correct process for payment is followed.
13. Insurance policyholders were not consulted. This decision was made on the basis that, most commonly, insurers and brokers will be calculating and paying the levy on behalf of this group. There is an assumption made that the insurance sector has been and will continue to work in the best interests of the policyholders.
14. Formal consultation on proposals for administrative regulations ran for two weeks, closing 14 June 2024. We consulted on six proposals and received three sets of written feedback. These were from the Insurance Council of New Zealand (ICNZ), the Insurance Brokers Association of New Zealand (IBANZ), and Marsh Ltd (an international insurance broker). The members that ICNZ and IBANZ represent cover most of the New Zealand insurance market.
15. Following this feedback, we consulted further with a subset of the ICNZ levy focus group and representatives from Fire and Emergency to develop the proposals and make them workable.
16. Feedback on each of the proposals is included later in this document. Broad themes from consultation are listed below:

- Stakeholders supported regulations providing sufficient detail and clarity to assist in complying with the levy regime and avoiding penalties;

- Insurers and brokers wanted to ensure what was proposed would be workable with the systems they use and with the information currently available to them; and
- Insurers and brokers were interested in maintaining similar administrative processes to those under the transitional levy where possible, to ensure a smooth transition. Minimal change would help insurers and brokers update their systems within the 18-month implementation time between regulations being set in December 2024 and the new levy commencing.

We consulted on a proposal for providing a calculation to determine levy payable on mixed-use buildings, including apartment buildings, but we are yet to identify a preferred option

17. Mixed-use buildings have both residential and non-residential parts. Mixed-use buildings include apartment buildings, due to the combination of residential units and common spaces. Under the transitional levy, mixed-use buildings that are more than 50% residential have only the residential rate applied. This has been in accordance with the definition of a residential building under the Earthquake Commission Act 1993 (now the Natural Hazards Insurance Act 2023). This definition will not apply under the new levy.
18. Levy rates will be charged on the sum-insured under the new levy. Since mixed-use buildings are generally covered under a single sum-insured, consideration should be given to apportioning the sum-insured between the residential and non-residential parts of the building, with the corresponding rates then applied. This is complicated, and the Act itself does not provide guidance. A calculation may be provided in regulations.
19. We consulted on options for calculations. Initial consultation with insurance stakeholders indicated that apportionment of the sum-insured between two property types based on the floor area or valuation of each property type was not feasible. A subset of the levy focus group indicated that this information is not made consistently available to insurers.
20. We worked further with the subset of the levy focus group to identify feasible options for calculations. This included a calculation using the number of floors, number of commercial floors, and individual units to apportion the sum-insured between property types. The ICNZ levy focus group subsequently questioned the availability of this information, and were concerned that following this calculation using unavailable or inaccurate information may leave them subject to penalties.
21. We are currently still exploring options for calculating levy on mixed-use buildings, including apartment buildings, and a proposal has not been included in this Impact Statement.

What is the policy problem or opportunity?

Regulations for administering the levy will set out necessary administrative measures to support the framework in the Act

22. If regulations are not set, the framework in the Act alone would not provide sufficient detail for clear and predictable administration of the levy. Levy payers would be missing the detail needed to ensure they know how to pay levy correctly and on time. Additionally, it would not be clear to levy payers how these payments are being assessed for correctness.
23. Fire and Emergency would not be able to predictably rely on receiving the information it needs to assess levy is paid correctly and on time. This would impact its role in monitoring compliance with the levy regime, including determining if a levy payer should pay interest on a late payment, or be penalised for a levy shortfall. Without

regulations, there would also be no clear refunds process available for Fire and Emergency to refund overpaid levy to levy payers.

24. Additionally, introducing regulations is an opportunity to facilitate pathways for levy payers to seek relief from compliance with the levy regime in exceptional situations. Having relief available where it would be fair ensures the levy regime is reasonable to comply with. Some flexibility within the regime should be considered pursuant to the purpose of an adaptable levy.

25. Regulations in three main areas would be beneficial to support the administrative process in the main Act:

- Calculating and paying the correct amount of levy;
- Monitoring and enforcing the correct amount of levy being paid on time; and
- Facilitating pathways for Fire and Emergency to provide relief to levy payers.

All proposals have been considered against the same counterfactual

26. The first option all proposals have been assessed against is the counterfactual of doing nothing. Under the counterfactual, there would only be the framework provided for in the Act itself for administering the levy.

27. This means that information required to be provided with a return, a pro-rata calculation, a refunds process, and a process for waivers of levy or interest on late payments would not be part of the framework for administering the levy, as they are not provided for in the Act itself.

28. While Fire and Emergency would also have operational guidance developed and available to support the administrative framework, the Act requires the matters outlined above to be provided for in regulations. There would be potential legal issues if they were provided for in operational guidance instead.

What objectives are sought in relation to the policy problem?

29. The core objective is to provide for a clear and predictable administrative process by setting regulations needed to supplement the Act. To achieve this objective, regulations would provide for additional detail where the Act does not give sufficient certainty and provide for any administrative steps that are necessary.

30. Pursuant to this core objective, two further objectives are sought:

- To enable a smooth transition between the transitional levy and the new levy regime, while acknowledging the new requirements under the Act; and
- To encourage compliance with the levy regime but provide flexibility in exceptional situations.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

31. We have used three main criteria when comparing the options for regulations against the counterfactual of doing nothing. These criteria have been used to test whether an option meets the objectives set out for the policy problem. They have been given equal weight, as the two further objectives are intended to help the core objective be achieved effectively. The criteria are set out below.

Clear and predictable

32. The option contributes to creating a clear administrative process with predictable outcomes for levy payers and Fire and Emergency.

33. This criterion was developed pursuant to the core objective of providing for a clear and predictable administrative process by setting regulations needed to supplement the Act. Both the objective and criterion were directly informed by the purpose of the levy set out in section 80 of the Act, which is outlined at **paragraph 7**.

34. We identified the most relevant part of the purpose for administering the levy is to create a levy that is **predictable**. This is so that levy payers know the amount of levy they need to pay, and Fire and Emergency can predict the levy it will receive. A clear administrative process with predictable outcomes would enable the levy to meet this purpose.

Smooth transition

35. The option is consistent with the administrative process under the transitional levy, where possible.

36. This criterion was chosen in accordance with the assumption that administrative processes under the transitional levy are working well. Some assurance of this was provided during consultation with both insurance stakeholders and Fire and Emergency. They communicated a preference for administration of the new levy to remain the same as for the transitional levy where possible.

37. Keeping processes the same where possible will reduce additional costs of moving to the new levy regime. Additionally, minimal change would help insurers and brokers update their systems in time for when the new levy commences. However, this is with the caveat that the new Act does require some change – for example, some processes that are in operational guidance for the transitional levy must now be in regulations.

Encourage compliance

38. The option encourages compliance with the levy regime by providing better guidance on how to comply.

39. The rationale for this criterion is to ensure enough guidance is provided to levy payers and Fire and Emergency for it to be possible to comply with the levy regime. The option would need to provide additional details or steps that would enable people to do the right thing and therefore increase compliance rates. It would minimise the frequency of interest and penalties needing to be applied due to non-compliance.

What scope will options be considered within?

Only providing for the necessary regulations

40. Part 3 of the Act includes several regulation making powers that can provide further detail or steps for administering the levy. We have narrowed our scope to only assess options for the administrative details or steps that are necessary for the clear and predictable administration of the levy. We therefore only consider options for providing

detail or steps concerning the following:

- Information to be provided with a levy return;
- A calculation for pro-rated levy;
- A refunds process for overpaid levy; and
- Waivers or extensions for interest or irrecoverable levy.

41. Given our scope of only creating regulations that are necessary, there are some options for waivers that were considered but discounted due to lack of sufficient justification. These were waivers for part payment of levy, and waivers for shortfall penalties. On balance, it was determined that waivers for these options would be contrary to the purpose of the levy.

Non-regulatory options could not be considered

42. Non-regulatory options are not considered in this context, as the Act only allows these details or steps to be provided for through regulations. There is a risk that if they are provided for through operational policy, legal issues may arise. Therefore, our scope is limited to options for regulating these details or not providing for these details at all (doing nothing).

Section 2.A: Information to be provided with monthly return

Levy payers must make a monthly return to Fire and Emergency

43. The Act requires that a monthly return is provided by the levy payer to Fire and Emergency for every month in which the levy payer enters into a contract of insurance.

44. The purpose of this return is for Fire and Emergency to assess whether the levy payer has paid the correct amount of levy on time. If not, findings from the assessment of a return can be used by Fire and Emergency to enforce compliance with the levy regime. For example, Fire and Emergency can provide notice of levy shortfall (a levy payer not paying enough levy) if it considers a levy payer has taken a position resulting in a shortfall in a return. This may result in a penalty.

45. Interest is also charged on late levy payments. Returns can be used to determine whether a payment has been made late. Additionally, information provided on a return may be used to assist in assessing whether a refund should be provided to a levy payer for overpaid levy.

What options are being considered?

Option One – Counterfactual

46. This option would mean that Fire and Emergency would still receive a monthly return no later than the 15th day of the third month, and this would be in a form provided by Fire and Emergency. Fire and Emergency would not be able to require levy payers to provide any information with that return.

Option Two – Specifying required information with monthly return (Preferred option)

Overview of option

47. This option would specify required information to be included with the return in regulations. Regulations would require the following to be provided with return:

- Information that must be provided by insurers to accompany levy payment;[1]
- Additional information to be provided if a single contract of insurance is assessed for levy over $1,000;[2] and
- Information that must be provided if a policyholder or insurance intermediary pays the levy directly.

48. Under this option, information that must be provided was determined with reference to the information currently required under the transitional levy, and by stakeholder feedback. We tested retaining the information requirements under the transitional levy, subject to minor changes now required under the new Act.

49. Insurance stakeholders' main feedback was to only require the necessary information needed for the purpose of a return. Additionally, the insurers and brokers we consulted with were strongly against being required to provide any information that they did not consistently receive from policyholders currently. This was in the interest of minimising

[1] This information includes the name and address of the insurance company, total levy payable for the month, the amount of levy paid for each type of insurance policy, and GST payable.

[2] Additional information required is the name of the policyholder for that specific contract, the dates on which the contract commences and ends, and the number of motor vehicles covered if applicable. This aids Fire and Emergency to determine if the levy has been paid correctly for that specific contract.

the burden of requesting more information from the policyholder, and any associated costs.

50. Consultation with Fire and Emergency confirmed that the information it currently receives with a return under the transitional levy is sufficient for the purposes of a return. The option proposes requiring the information Fire and Emergency advises is necessary to assess payments of levy.

Additional information for contracts of insurance assessed for amounts over $1,000

51. Fire and Emergency advised that the reason additional information should be required for contracts of insurance assessed for levy over $1,000 is because amounts over this threshold may have a greater impact on revenue for the organisation. The additional information enables Fire and Emergency to assess that the levy has been paid correctly on the individual contract.

52. Fire and Emergency also advised against requiring the same additional information to be provided for individual contracts of insurance assessed for levy amounts below $1,000. It does not consider that amounts under $1,000 will impact revenue significantly enough to justify needing extra scrutiny over levy paid on each individual contract.

53. The largest insurer contributing to the transitional levy has advised Fire and Emergency that if they had to provide this information, for contracts assessed for levy over $1,000, it would create over one million lines of additional information needing to be processed and sent. Additionally, it is not feasible for Fire and Emergency to input this information into its system with the administrative resourcing it has.

Option analysis

Clear and predictable

54. Option two would make it clear to levy payers what information they need to provide with their monthly return. This would enable levy payers to know what information their payment is being assessed against, and ensure the outcome of that assessment is more predictable for levy payers.

55. Option two would also make it clear what information Fire and Emergency can require and rely on receiving for the purpose of assessing levy payments. This would assist Fire and Emergency in providing predictable outcomes from assessing that levy is paid correctly and on time, ranging from penalties for shortfalls (not paying enough levy), interest charged on late payments, and refunds granted for overpaid levy.

56. The information to be provided with a monthly levy return would be unclear to levy payers under the counterfactual. It would also be unclear to Fire and Emergency what information it can rely on receiving to assess levy payments, and hinder its ability to deliver predictable outcomes of these assessments.

Smooth transition

57. Option two would enable a smooth transition from the transitional levy to the new levy. There are regulations requiring the information to be provided with the monthly return under the transitional levy. The option proposes the same information requirements, subject to minor technical changes. It would not require any system changes.

58. Under the counterfactual, there would be a disruption to the information being provided by levy payers to Fire and Emergency for assessing levy payments. Fire and Emergency could not depend on the necessary information being provided with a return and would have no way to require that it is consistently provided. Follow-up requests for the information may raise costs and require system changes.

Encourage compliance

59. Under option two, levy payers would know the information they need to provide to Fire and Emergency to accompany their return. This encourages compliance with the levy

regime, as levy payers know the information their payment would be assessed against. If nothing was done under the counterfactual, it would not encourage levy payers to comply with the levy regime, as it would be unclear how compliance is assessed.

60. Option two would allow Fire and Emergency to consistently monitor compliance. It would have the information needed to assess that levy is being paid correctly and on time. It could use the range of tools available under the Act to encourage compliance based on the findings of that assessment, such as notifying a levy payer of a shortfall.

61. If nothing was done under the counterfactual, it would hinder Fire and Emergency's ability to monitor and enforce compliance with the levy regime.

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	**Option Two (Preferred option) – Required information with return**
Clear and predictable	**0** Unclear to levy payers what information to provide with return Fire and Emergency unable to predict the information it will receive each time Unclear what information will be used to assess if levy payments are being made correctly	++ In alignment with the core objective It would be clear what information levy payers must provide and what information Fire and Emergency can depend on receiving Outcomes of the return assessment would be more predictable as it would be clear what information is assessed
Smooth transition	**0** Would not provide a smooth transition Would go from having information requirements under the transitional levy to no required information under the new levy	++ In alignment with the core objective Levy payers would be providing similar information under the new levy to what they currently provide under the transitional levy
Encourage compliance	**0** Fire and Emergency would not be able to require the information needed to assess levy payer's compliance with paying the correct amount of levy on time	++ Provides Fire and Emergency the required information with return to assess whether a levy payer has paid correctly and on time, and enforce compliance based on the assessment
Overall assessment	**0**	++

Key: ++ best alignment with criterium; + good alignment with criterium; **0** neither aligned nor misaligned; - limited alignment with criterium; - - worse alignment with criterium

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

62. The Department prefers option two – providing information to be required with the monthly return in regulations. Option two aligns best with the main objective of contributing to a clear administrative process with predictable outcomes.

63. Option two also ensures that information currently required to be provided with return will continue to be required under the new levy. This will best enable a smooth transition into the new levy. Both insurance stakeholders and Fire and Emergency are interested in experiencing the least possible disruption transitioning to the new levy.

64. Option two encourages compliance with the levy system. Levy payers would know what information to provide with return, and that their payment of levy would be assessed against this information. This would encourage levy payers to calculate levy correctly and pay on time, or risk Fire and Emergency enforcing compliance due to the findings of the return.

65. The counterfactual would mean there is no required information provided. This would not meet any of the policy objectives. We do not recommend this option.

What are the marginal costs and benefits of the option?

66. Levy payers are liable to calculate and pay the levy to Fire and Emergency. Levy payers can be insurers or brokers if a policyholder enters into a contract of insurance, or a levy payer can be a policyholder paying the levy directly to Fire and Emergency. Fire and Emergency collects the levy and monitors levy payer's compliance with calculation and payment of the levy.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Levy payers – insurers and brokers	Insurers and brokers would continue to be required to provide the same information as they do under the transitional levy	No/low impact	High
Levy payers – policyholders	Policyholders paying directly to Fire and Emergency would continue to be required to provide the same information as they do under the transitional levy	No/low impact	High
Fire and Emergency	Fire and Emergency would continue to receive the same information as it does under the transitional levy	No/low impact	High
Total monetised costs	*N/A*	*N/A*	
Non-monetised costs	*There should be no additional costs as the costs should be the same as they are under the transitional levy with this proposal*	*No/low impact*	
Additional benefits of the preferred option compared to taking no action			
Levy payers – insurers and brokers	Insurers and brokers would benefit from knowing what information to provide with a return and from knowing that that is the information used to assess if the levy is paid correctly and on time	Medium impact	High

Levy payers - policyholders	Policyholders would have the same benefits as insurers or brokers	Medium impact	High
Fire and Emergency	Fire and Emergency would benefit from being able to depend on consistently receiving the information needed for the purpose of a return. It would benefit from being able use the information to assess levy is paid correctly and on time, and to use this information to enforce compliance with the levy where necessary	High impact	High
Total monetised benefits	*N/A*	*N/A*	
Non-monetised benefits	*There are significant benefits from providing information with return in comparison to not providing this information*	*High*	

Section 2.B: Pro-rata calculation of levy

The amount of levy payable is required to be pro-rated in respect of the period of insurance

67. The rate of levy is generally payable based on a contract period of one year. However, if a contract has a duration different from this period, levy is calculated as a pro-rata proportion of the levy for a complete year.

What options are being considered

Option One – Counterfactual

68. The Act would require that the amount of levy payable is pro-rated in respect of the period of insurance in accordance with regulations. A calculation in regulations would not be provided.

Option Two – Preferred option

69. This option would provide a pro-rata calculation in regulations that is the same calculation currently provided in Fire and Emergency operational guidance under the transitional levy. When levy is pro-rated in respect of the period of insurance, it would have to be done in accordance with the calculation provided in regulations.

70. Both insurance stakeholders and Fire and Emergency advised that the current calculation is working well and will continue to work under the new levy.

Option analysis

Clear and predictable

71. Option two would make it clear to levy payers how to correctly calculate the levy pro-rata. Conversely, under the counterfactual, it would be more difficult for levy payers to know if they have pro-rated levy correctly, which could lead to unpredictable outcomes.

72. Providing the calculation under option two would also make the direction in section 85 of the Act – to have the levy to be pro-rated in accordance with regulations – clear. It would ensure the Act directs Fire and Emergency to the calculation it can use for determining whether levy has pro-rated correctly. Under the counterfactual the Act would require the levy to be pro-rated, but it would not be accompanied by a clear calculation on how to do so.

Smooth transition

73. Option two retains the same pro-rata calculation as is provided under the transitional levy, so those who have been paying the transitional levy could continue using the same calculation. Option two would involve the change of having the calculation as guidance, to requiring levy payers use the calculation under regulations. Moving the calculation from operational guidance to regulations under the new levy is a necessary change required by the new Act.

74. The counterfactual would not enable as smooth a transition to the new levy. Both levy payers and Fire and Emergency would go from having a calculation provided, to having no regulations or guidance on how to pro-rata levy.

Encourage compliance

75. How to comply with pro-rating the levy correctly would be clear under option two. Levy payers would be encouraged to comply as they would know what calculation Fire and Emergency would be using to determine if their levy paid was pro-rated correctly.

76. Under the counterfactual, levy payers would not have a tool to confidently and consistently calculate the levy pro-rata, which does not encourage compliance. Levy payers would not be able to check their own compliance.

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	Option Two (Preferred option) – Pro-rata calculation
Clear and predictable	0 Would be no clear method for calculating levy pro-rata The Act requires pro-rating to be done in accordance with regulations and there would be no regulation to refer to	++ In alignment with the main objective Providing a pro-rata calculation would make it clear to levy payers how to correctly pro-rata the levy It would be known that assessment of whether levy was pro-rated correctly would use the calculation as a reference, leading to more predictable outcomes
Smooth transition	0 Would not provide for a smooth transition Levy payers would go from being provided a pro-rata calculation under Fire and Emergency operational guidance for the transitional levy, to being provided no calculation for the new levy	+ Enables levy payers to continue using the same pro-rata calculation under the new levy that they have used under the transitional levy, but now it will be in regulations
Encourage compliance	0 Levy payers would not have a calculation to use, which would not encourage compliance with paying the correct amount of levy	++ Encourages levy payer's compliance by providing a consistent method to use for calculating the correct amount of levy Provides Fire and Emergency with a pro-rata calculation to refer to when assessing compliance of paying the correct amount of levy
Overall assessment	0	++

Key: ++ best alignment with criterium; + good alignment with criterium; **0** neither aligned nor misaligned; - limited alignment with criterium; - - worse alignment with criterium

What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

77. The Department prefers option two – providing a pro-rata calculation in regulations. This option would best meet the main objective of ensuring a clear administrative process with predictable outcomes. When directed by the Act to pro-rata the levy in accordance with regulations, this option would provide that there is a calculation in regulations to refer to. The calculation will make it clear how to pro-rata the levy correctly, and would ensure the predictable outcome of the levy being pro-rated accurately and consistently across levy payers.

78. Option two would also enable levy payers to continue using the same pro-rata calculation used under the transitional levy. This would not disrupt the way levy payers pro-rata the levy. There would be a change in that using the pro-rata calculation would become a requirement under the new levy, as opposed to guidance under the transitional levy. However, we consider this does encourage compliance with ensuring

the levy is pro-rated correctly. It is also a necessary change under the new Act. If a pro-rata calculation is provided, it must be in regulations now.

79. The counterfactual would not meet any of the objectives. We do not recommend this option.

What are the marginal costs and benefits of the option?

80. Levy payers are liable to calculate and pay the levy to Fire and Emergency. Levy payers can be insurers or brokers if a policyholder enters into a contract of insurance, or a levy payer can be a policyholder paying the levy directly to Fire and Emergency. Fire and Emergency collects the levy and monitors levy payer's compliance with calculation and payment of the levy.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Levy payers – insurers and brokers	No additional cost	No/low impact	High
Levy payers –policyholders	No additional cost	No/low impact	High
Fire and Emergency	No additional cost	No/low impact	High
Total monetised costs	*N/A*	*N/A*	
Non-monetised costs		*No/low impact*	
Additional benefits of the preferred option compared to taking no action			
Levy payers – insurers and brokers	Insurers and brokers would have a method of pro-rating levy consistently	Medium impact	High
Levy payers - policyholders	Policyholders would have a method of pro-rating levy consistently	Medium impact	High
Fire and Emergency	Fire and Emergency would have more confidence that levy is being pro-rated correctly by levy payers, and have a calculation to check this against	Medium impact	High
Total monetised benefits	*N/A*	*N/A*	
Non-monetised benefits	*Clarity and consistency*	*High*	

Section 2.C: Refunds for overpaid levy

Levy payers may be entitled to refunds for overpaid levy

81. The new Act sets out a regime for penalising levy payers for a levy shortfall (not paying enough levy) and empowers Fire and Emergency to recover the shortfall. However, the Act does not set out a refunds process for levy payers to recover overpaid levy from Fire and Emergency. This instead may be provided for through regulations.

What options are being considered

Option One – Counterfactual

82. There would be no process provided for levy payers to follow to recover overpaid levy from Fire and Emergency. Under the transitional levy, refund amounts below $10,000 are treated as adjustments made to the next levy payment. These smaller amounts arise quite commonly from amendments and cancellations of insurance policies. Insurers and brokers may process an adjustment below $10,000 themselves. It could be expected that this may continue under the new levy in the absence of any refunds process being set out.

Option Two – Preferred option

83. This option would have a refunds process for overpaid levy be provided for through regulations. The proposed process is based on the refunds process currently provided for under the transitional levy in guidance.

84. Refunds of amounts below $10,000 would be accounted for by adjusting the next levy payment. Insurers and brokers would be permitted to do this adjustment themselves and notify Fire and Emergency. If the adjustment is too complicated for a particular insurance policy, insurers and brokers could still request Fire and Emergency process this adjustment.

85. Refunds of amounts above $10,000 would require a refund to be assessed against specified criteria once the levy payer provided the required information. The levy payer would have to provide a written request for a refund, a copy of the insurance policy or policies, and a property schedule showing the sum insured value of the property. Fire and Emergency would then use this information to assess the request against specified criteria. The following criteria would have to be met for a refund to apply:

- The request for the refund would have to be made within six years of the due date for the levy payment; and any of the following apply:
  - The levy must have been paid on exempt items under regulations; or
  - The levy payer has in error incorrectly classified the property and then calculated the levy at the incorrect rate; or
  - The sum insured against fire was amended; or
  - Irrespective of the three criteria above, at the discretion of the Board of Fire and Emergency, or an office holder delegated by the Board.

86. We tested with insurance stakeholders and Fire and Emergency whether the refunds process under the transitional levy was working well. These groups advised that it was.

87. Insurance stakeholders were supportive of maintaining a discretionary criterion in the refunds process that would allow Fire and Emergency to grant a refund, outside of the specific criteria a refund would automatically be granted under. They advised that there are other circumstances in which a refund should be granted that do not fit into the other limited criteria.

88. Additionally, both insurance stakeholders and Fire and Emergency were supportive of continuing to treat refunds below $10,000 as adjustments. Cancellations and amendments of insurance policies often occur, and it is administratively easier for insurers and brokers to make these adjustments themselves, then notify Fire and Emergency. Fire and Emergency have advised that it would require more administrative staff to process all refunds below $10,000 through the criteria applied to amounts over $10,000.

89. Fire and Emergency advised that the monetary boundary should be amounts greater than $10,000. Any refund over this amount is significant in that it could impact budgeting and forecasting of levy, so the extra scrutiny provided by assessing the refund against the criteria is necessary. Refunds this large are less common and so less administrative resourcing is required.

Option analysis

Clear and predictable

90. Option two would provide for a clear process for refunds of overpaid levy. Levy payers would know what process to follow for a refund in accordance with the amount to be refunded. Insurers and brokers would have clear parameters of when they can do an adjustment, and when they need to request Fire and Emergency for a refund. Fire and Emergency would have clear direction for the process it would need to follow if it received a request for a refund.

91. It is likely insurers and brokers would continue to process adjustments under the counterfactual, but it would not be clear what the parameters of their ability to do this would be. The transitional levy operational policy specifies that insurers and brokers may only process these adjustments for amounts under $10,000. Operational guidance would no longer be able to provide that clear parameter in accordance with the new Act.

92. Under option two, a refunds process would ensure predictable outcomes for both levy payers and Fire and Emergency. By setting out the criteria that needs to be met to receive a refund, it would make it predictable to levy payers when they can expect to be entitled to a refund of overpaid levy. It also would make it predictable to Fire and Emergency when it would need to refund overpaid levy. These outcomes would not be predictable under the counterfactual of having no refunds process.

Smooth transition

93. Option two allows for the refunds process under the transitional levy to continue under the new levy, providing for a smooth transition. Fire and Emergency would not have to change its approach to refunds, and levy payers could continue to process adjustments and request amendments in the same manner.

94. The counterfactual would mean there would be no refunds process, as it could no longer stay in operational policy in accordance with the new Act. This would not be a smooth transition for levy payers, as they suddenly would no longer have a way to recover overpaid levy in circumstances they previously would have been entitled to a refund.

95. Although option two does require the change of having the refunds process in regulations, this should not have a turbulent effect on levy payers or Fire and Emergency. The process itself would remain the same, meaning there would be no additional costs for implementation.

Encourage compliance

96. Fire and Emergency are only entitled to collect the amount of levy directed by the Act. If a levy payer overpays, Fire and Emergency would be liable to pay interest on the overpaid levy under section 137. The counterfactual would hinder Fire and Emergency's ability to comply with only collecting the levy it is entitled to, as there would be no clear refunds process. It would put Fire and Emergency at risk for needing

to pay more interest on the overpaid levy the longer it takes to refund it, increasing Fire and Emergency's costs.

97. Option two would enable a pathway for Fire and Emergency to refund any overpaid levy it receives. Option two would also reduce the times that Fire and Emergency would have to pay interest on overpaid levy, or at least the amount of that interest payable. It enables Fire and Emergency to pay the overpaid levy back as soon as possible.

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	Option Two (Preferred option) – Refunds for overpaid levy
Clear and predictable	**0** Would not have a clear process for refunds Confusing for levy payers, would not know how to apply for a refund or when they would qualify for one Confusing for Fire and Emergency, would not know how or under what circumstances it should issue a refund for overpaid levy	++ In alignment with main objective Sets out a clear process for levy payers to follow to apply for refunds above $10,000, and makes it clear what criteria Fire and Emergency would refund is assessed against Outcomes for overpaid levy would be predictable as they would be assessed with a consistent process; adjustments for amounts under $10,000, and criteria assessments for amounts over $10,000
Smooth transition	**0** Would not provide a smooth transition Levy payers would go from having a clear refunds process set out in Fire and Emergency operational guidance for the transitional levy, to having to refunds process under the new levy	++ Allows for a smooth transition by providing the same refunds process for the new levy as is currently provided in guidance for the transitional levy Insurers and brokers would be able to continue processing adjustments for amounts under $10,000 themselves, minimising disruption to their systems. Also ensures Fire and Emergency would not require more administrative staff under the new levy to process these adjustments itself
Encourage compliance	**0** Fire and Emergency would be liable to pay interest on overpaid levy owed back to levy payers. Providing no refunds process does not encourage Fire and Emergency's compliance with collecting only the levy it is entitled to under the Act	++ Would encourage Fire and Emergency's compliance with the levy regime. Provides a pathway for it to refund overpaid levy that it is not entitled to under the Act Fire and Emergency can inflict shortfall penalties on levy payers for underpaid levy, so providing a way for levy payers to recover overpaid levy makes the regime fair and encourages compliance
Overall assessment	**0**	++

Key: ++ best alignment with criterium; + good alignment with criterium; **0** neither aligned nor misaligned; - limited alignment with criterium; - - worse alignment with criterium

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

98. The Department considers option two to be the preferred option. Providing a refunds process is pursuant to the main objective of creating a clear administrative process with predictable outcomes. If a levy payer overpays levy, they should be able to know if they are entitled to a refund, and what process to follow to obtain that refund. Option two ensures that this is the case, and that Fire and Emergency equally knows what process to follow to refund levy it should not be collecting.

99. Option two will enable a smooth transition from the transitional levy to the new levy. The refunds process proposed under option two maintains the refunds process under the transitional levy and treats amounts below and over $10,000 in the same way. Fire and Emergency and levy payers can rely on the refunds process staying the same, aside from it now being located in regulations rather than operational guidance. This is a necessary change required by the Act.

100. Providing a refunds process through option two would encourage levy payers to comply with the levy regime better than the counterfactual. Providing no refunds process for overpaid levy but having a penalty regime set out in the Act to penalise levy payers for under paying levy, would be unfair. Levy payers should be equally entitled to recover levy Fire and Emergency should not have collected. A levy regime that is fair encourages compliance. Option two would also make sure Fire and Emergency has a clear pathway to comply with refunding levy when it should.

What are the marginal costs and benefits of the option?

101. Levy payers are liable to calculate and pay the levy to Fire and Emergency. Levy payers can be insurers or brokers if a policyholder enters into a contract of insurance, or a levy payer can be a policyholder paying the levy directly to Fire and Emergency. Fire and Emergency collects the levy and monitors levy payer's compliance with calculation and payment of the levy.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Levy payers – insurers and brokers	No cost to insurers and brokers	No/low impact	High
Levy payers – policyholders	No cost to policyholders, whereas if no action is taken, they would be out of pocket for the overpaid levy	No/low impact	High
Fire and Emergency	Cost of administrative resources for Fire and Emergency to process refund requests. These costs would be the same as they are currently under the transitional levy, as the process itself	No/low impact	High

	would remain the same Cost of counterfactual would be that Fire and Emergency is liable to pay more interest on the overpaid levy to levy payers the longer it is not refunded		
Total monetised costs	*N/A*	*N/A*	
Non-monetised costs		*No/low impact*	
Additional benefits of the preferred option compared to taking no action			
Levy payers – insurers and brokers	Insurers and brokers would have assurance that they can make adjustments for refund amounts below $10,000 Insurers and brokers would know how to apply for a refund over $10,000 and how a refund would be assessed	Medium impact	High
Levy payers - policyholders	Policyholders would know how to apply for a refund and how a refund would be assessed	Medium impact	High
Fire and Emergency	Fire and Emergency would have a clear process to follow to refund overpaid levy that it is not entitled to. It would reduce the risk and potential cost of needing to pay large amounts of interest to levy payers on overpaid levy under the counterfactual	Medium impact	High
Total monetised benefits	*N/A*	N/A	
Non-monetised benefits		*High*	

Section 2.D: Waivers and extensions of time

Additional criteria will be used to assess options for waivers

102. In addition to the principles set out in section 80 of the Act, the Act requires the Minister of Internal Affairs to have regard to the cost-effectiveness and efficiency of the administration of the levy before recommending regulations relating to waivers.

103. The criterion 'clear and predictable' used in this document was developed with reference to the core objective of providing for the necessary regulations needed to supplement the Act in setting out a clear process for administering the levy. This objective was set pursuant to the purpose of the levy under section 80 and will be used to assess options for waivers.

104. We consider cost-effectiveness and efficiency as additional criteria for assessing waivers. These are defined as follows:

- Cost-effectiveness – regulations allow Fire and Emergency to administer the levy in a way that provides the best value for money.
- Efficiency – regulations allow Fire and Emergency to use its available resourcing in a way that provides the greatest benefit to both levy payers and Fire and Emergency.

105. We also redefine the criteria 'encourage compliance' for assessing the following proposals. The purpose of considering options for waivers or extensions is to encourage compliance in standard situations, but also account for the need of some flexibility in exceptional circumstances.

Waivers and extensions for late payments of levy

Levy payers must comply with paying the correct amount of levy on time

Levy payers would only be penalised for not paying enough levy in certain circumstances

106. The new Act sets out how levy payers are to comply with the levy regime, and the consequences of not complying. In general, levy is payable on both motor vehicles and other property. The rates at which levy is payable on the different property types will be prescribed in regulations, along with those who are exempt from paying levy.

107. Levy payers must pay the correct amount of levy. The Act identifies that the amount of levy that is payable is an amount calculated on the basis of the sum insured, and pro-rated in respect of the contract of insurance. The corresponding levy rate to the property type is therefore charged on the sum insured.

108. If levy payers do not take reasonable care or are grossly careless in their calculation, or purposefully avoid paying the correct amount of levy, this may result in a shortfall (not paying enough levy). This may subject them to a shortfall penalty. However, so long as levy payers are taking reasonable care, they generally would not be subject to a penalty.

Interest on late payments of levy will strictly apply under the provisions in the Act

109. Levy payers must also pay the levy on time. A levy payer is liable to pay levy no later than the 15th day of the third month after the end of the month in which the contract of insurance was entered into. If levy is not paid on time, interest is payable on the unpaid levy beginning the day after the due date of the payment. This is regardless of the circumstance for the late payment.

110. Compliance with paying levy correctly is important. Fire and Emergency need to be able to depend on the levy as a stable source of funding for the provision of its services. Both the shortfall penalty regime and the interest charged on late payments are intended to encourage levy payers to pay the correct amount on time.

111. However, there are circumstances that arise where it would be either unfair to charge a levy payer interest on a late payment, or administratively impractical for Fire and Emergency to collect the small amount of interest owed. These circumstances are not accounted for in the framework under the Act itself. Instead, there may be pathways provided through regulations to account for them and provide relief from general compliance. The two ways of providing this relief would be waivers or extensions of time to pay.

What options are being considered

Option One – Counterfactual

112. Under the counterfactual, levy payers would be required to pay levy on time. Interest would strictly apply from the day after the payment is due. This would happen irrespective of the reason for the late payment.

Option Two – Waivers of interest on late payments

Overview of option

113. This option would allow for waivers of interest on late payments in specific circumstances. The regulation making power in the Act allows for the circumstances and conditions for waivers to be specified.

114. Under the transitional levy, waivers of interest are granted by Fire and Emergency through its operational policy. We consulted with Fire and Emergency to determine what circumstances it generally grants waivers of interest under, and the justification for allowing for waivers of interest in these circumstances.

Waivers of interest payable where it is administratively inefficient to collect

115. Fire and Emergency advised that it currently waives amounts of interest under $1,000 automatically. Generally, insurers and brokers take reasonable care to comply with paying levy on time. However, at times the levy may be paid slightly late for reasons beyond their control. For example, an unexpected system error may arise and cause a delay to payment.

116. Fire and Emergency also advised that slightly late payments resulting in small amounts of interest can also occur when a broker places an insurance policy with an insurer. Under the transitional levy, the insurer becomes liable to pay the levy to Fire and Emergency on the 15th day of the second month after that policy commenced. However, the insurance industry standard payment term for insurance policies is 90 days after the policy has commenced. This means that a broker may not place an insurance policy with an insurer until closer to the 90-day mark, which may result in a slightly late levy payment by the insurer.

117. Fire and Emergency have determined it to be administratively inefficient to collect interest below $1,000. For this reason, Fire and Emergency have issued waivers under the transitional levy for more than 68,738 individual polices over the past three years where the interest owing was below $1,000. Over the past 6 months, the median amount of interest waived was $20.13.

118. The circumstances described will continue to arise under the new levy. Fire and Emergency have advised that if it had to start collecting small amounts of interest and was unable to waive them, it would require more administrative resourcing. Additionally, it feels that it is not worth the resourcing required to collect these small amounts.

Waivers of interest payable for unexpected events or emergencies resulting in a late levy payment

119. In deciding whether to grant waivers of interest for amounts above $1,000 under the transitional levy, Fire and Emergency generally has regard to circumstances where a late payment has resulted from an event outside of a levy payer's control.

120. Fire and Emergency advised that these circumstances include an unexpected event which has occurred, such as the passing of a key person. Over the past three years it has granted 11 interest waivers for amounts over $1,000, due to various circumstances of this nature. Additionally, in 2020, levy payers were able to provide evidence of negative financial impact resulting from COVID-19 as a reason for requesting an interest waiver for a late levy payment.

121. Insurance stakeholders provided feedback that waivers should be available under the new levy for interest on late payments in the event of a significant natural disasters, or if the late payment results from an unexpected event that arises. Fire and Emergency equally support having the ability to grant interest waivers in these circumstances under the new levy.

This option would provide for waivers of interest in three circumstances

122. Fire and Emergency would have the ability to grant waivers of interest in any of the following circumstances (and subject to the following conditions) as outlined in **Table 1**:

Table 1: Proposed circumstances and conditions for waivers for Options Two and Three

Circumstances	Conditions
Fire and Emergency believes it would be administratively inefficient to collect the amount of interest owed	The levy payer must satisfy the following conditions: • The levy paye applies for the waiver as soon as reasonably possible; and • The levy payer pays the levy as soon as reasonably possible.
An unexpected event or error occurred outside of the levy payer's control	The levy payer must satisfy the following conditions: • The levy payer applies for the waiver as soon as reasonably possible; and • The levy payer pays the levy as soon as reasonably possible; and • The levy payer has provided evidence that the unexpected event was reasonable justification for the levy payer paying late.
A regional or national emergency has occurred and affected a group of levy payers	The levy payer must satisfy the following conditions: • The levy payer applies for the waiver as soon as reasonably possible; and • The levy payer pays the levy as soon as reasonably possible; and • The levy payer has provided evidence that the emergency event has affected their ability to pay the levy on time; and • The levy payer resides in the affected area of the emergency, or their insured assets are located in the affected area of the emergency.

Option Three – Waivers of interest on late payments and extensions of time for paying levy

123. This option allows for waivers of interest on late payments in the same specific circumstances as specified in **option two**. However, it also provides for extensions of time for paying levy.

Extensions of time for paying levy

124. The Act has a regulation making power allowing for extensions of time for paying levy to be provided for through regulations, and for the circumstances and conditions to be specified. Extensions of time for paying levy is not something that is provided for under the transitional levy. Fire and Emergency advised that the general cause of late levy payments is due to unexpected circumstances that arise and are not foreseeable. This was the justification for setting up the current interest waiver process for late levy payments.

125. Initial stages of consultation indicated that insurance stakeholders want relief available to levy payers in the event of a regional or national emergency, such as the COVID-19 pandemic, or the Hawkes Bay flooding event. Additionally, they felt relief should be available where unexpected events in general arise and may result in a late levy payment or do result in a late payment.

Two pathways for relief from complying with paying levy on time would be available under option three

126. This option would allow levy payers to apply either for an extension ahead of a levy payment being due, or for a waiver of interest after the late payment. Waivers would only be available in the same circumstances and conditions referred to above in **Table 1.**

127. The circumstances and conditions for Fire and Emergency granting extensions of time for paying levy are outlined in **Table 2** below.

Table 2: Proposed circumstances and conditions for extensions of time for option three

Circumstances	Conditions
An unexpected event occurred outside of a levy payer's control	The levy payer must satisfy the following conditions: • The levy payer applies for the extension as soon as reasonably possible; and • The levy payer has provided evidence that the unexpected event is reasonable justification for the levy payer paying late.
A regional or national emergency has occurred and affected a group of levy payers	The levy payer must satisfy the following conditions: • The levy payer applies for the extension as soon as reasonably possible; and • The levy payer provides evidence that the emergency event will affect their ability to pay the levy on time; and • The levy payer resides in the affected area of the emergency, or their insured assets are located in the affected area of the emergency.

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	Option Two (Preferred option) – Waivers of interest	Option Three – Waivers and extensions
Clear and predictable	**0** It would be clear that levy payers would have to pay interest on late payments under any circumstance	+ Would provide a clear process for levy payers to follow to get an interest waiver if they meet the circumstances and conditions provided	**0** Would provide a clear process for both waivers of interest and extensions of time for late payments May be less clear which path the levy payer should follow. Confusion may arise if a levy payer is denied an extension of time and then tries to apply for a waiver of interest on the late payment
Smooth transition	**0** Levy payers currently can apply for interest waivers under the transitional levy. They would no longer be able to when the new levy commences Fire and Emergency would need to start collecting small amounts of interest under the new levy. Under the current levy it waives interest amounts below $1,000	+ Would be allowing for interest waivers to continue under the new levy as they do under the transitional levy Minor change of having the waiver provided through regulations rather than operational policy. This is a necessary change under the new Act Levy payers and Fire and Emergency would still have access to interest waivers in the circumstances they do currently	- The same as Option Two for waivers Extensions of time are not provided under the transitional levy. This may require Fire and Emergency to make changes administratively to account for the new process. This would not provide for as smooth a transition

	Option One – Counterfactual	Option Two (Preferred option) – Waivers of interest	Option Three – Waivers and extensions
Encourage compliance	**0** Levy payers would have to pay the levy on time, irrespective of the situation, or risk paying interest. This encourages compliance in general situations Does not account for flexibility in exceptional situations	+ Levy payers in general situations would have to comply with paying the levy on time, or risk paying interest on the late payment The circumstance of providing interest waivers for levy amounts that Fire and Emergency consider administratively inefficient to collect would not encourage levy payers to pay levy on time. It may suggest to them they can pay slightly late with no consequences Accounts for some flexibility from general compliance in exceptional situations. Provides interest waivers for unexpected events or emergencies	++ The same as Option Two for waivers Would encourage compliance more by providing two pathways for levy payers to follow in exceptional situations. Would encourage compliance in general situations by providing a fair regime that has relief for levy payers in exceptional situations
Cost-effective	**0** Fire and Emergency would get the interest payable on all late levy payments to compensate it for not receiving the levy on time It would not be cost-effective to chase up the small amounts of interest that it does not currently collect. It would need more administrative staff	+ Fire and Emergency would get the interest payable on late levy payments except in the narrow circumstances for interest waivers provided Fire and Emergency would not have to chase up small amounts of interest where it would be administratively inefficient to do so. This would save administrative costs	- The same as Option Two for waivers Less cost-effective as it would require Fire and Emergency setting up an additional administrative process for granting extensions of time

	Option One – Counterfactual	Option Two (Preferred option) – Waivers of interest	Option Three – Waivers and extensions
Efficient	**0** Fire and Emergency would not need to spend time administering waivers It would be administratively inefficient for Fire and Emergency to chase up the small amounts of levy it does not currently collect	+ Fire and Emergency would need to continue administering waivers. However, it already does so and has an efficient process for doing so Fire and Emergency would not have to chase up small amounts of interest where it would be administratively inefficient to do so	- The same as Option Two for waivers Less efficient as it would require Fire and Emergency to administer a process for granting extensions of time and monitor that these are complied with
Overall assessment	**0**	+	-

Key: ++ best alignment with criterium; + good alignment with criterium; **0** neither aligned nor misaligned; - limited alignment with criterium; - - worse alignment with criterium

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Both option two and three are better than the counterfactual

128. The counterfactual, while encouraging compliance in general situations, would not provide for sufficient flexibility in exceptional situations. Under the counterfactual, Fire and Emergency also would need to start collecting small amounts of interest accrued on late payments, which it does not do currently. This would result in additional cost and administrative burden to Fire and Emergency, and Fire and Emergency has advised the small amounts of interest would not outweigh this cost.

The Department prefers option two

129. Although option two and three result in similar benefits, option two enables the smoothest transition between the transitional levy and the new levy to occur.

130. Waivers best address the flexibility needed in the types of exceptional circumstances that arise. We know from discussions with Fire and Emergency that the circumstances under which it grants interest waivers currently are events or emergencies that occur unexpectedly. The nature of these circumstances means that it would be unlikely a levy payer would both know ahead of the due date, and have capacity to apply for an extension of time. Therefore, waivers offer the more practical pathway for levy payers to follow to avoid having to pay interest on a late payment. Extensions would put more pressure on levy payers to apply ahead of time in circumstances where they may be experiencing pressure and stress from the unforeseen event.

131. While option three provides for both waivers and extensions, setting up an extensions process may require more administrative resources and costs. This could negatively impact Fire and Emergency, who would be handling the already significant administrative burden of transitioning to the new levy. The waivers process already exists under the transitional levy so would not require additional resources or costs. option two would minimise the changes Fire and Emergency need to make.

What are the marginal costs and benefits of the option?

132. Levy payers are liable to calculate and pay the levy to Fire and Emergency. Levy payers can be insurers or brokers if a policyholder enters into a contract of insurance, or a levy payer can be a policyholder paying the levy directly to Fire and Emergency. Fire and Emergency collects the levy and monitors levy payer's compliance with calculation and payment of the levy.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Levy payers – insurers and brokers	No additional cost	No/low impact	High
Levy payers – policyholders	No additional cost	No/low impact	High
Fire and Emergency	Ongoing cost of administering the waivers process. This cost should be the same as it is currently under the transitional	No/low impact	High

	levy, so no additional costs from the status quo.		
Total monetised costs	*N/A*	*N/A*	
Non-monetised costs		*No/low impact*	
Additional benefits of the preferred option compared to taking no action			
Levy payers – insurers and brokers	Would not have to pay interest on late payments where they have resulted from an unexpected event or emergency	Medium impact	High
Levy payers - policyholders	Would not have to pay interest on late payments where they have resulted from an unexpected event or emergency	Medium impact	High
Fire and Emergency	Would not have to collect administratively inefficient amounts of interest, saving administrative costs and resources	Medium impact	High
Total monetised benefits	*N/A*	N/A	
Non-monetised benefits		*High*	

Waivers for irrecoverable levy and interest

Section 91 of the Fire and Emergency Act allows for Fire and Emergency to release an insurer from liability where the levy and interest payable is irrecoverable

133. On entering into a contract of insurance, a policyholder becomes liable to pay the amount of levy owed to the insurer. The insurer is then liable to pay the levy to Fire and Emergency. The insurer's ability to pay the levy on behalf of the policyholder is contingent on the policyholder first being liable to pay that amount to the insurer.

134. Instances may arise where an insurer is unable to recover the levy owed by the policyholder: for example, if the policyholder was to suddenly go into liquidation. This puts the insurer into a position of being liable to Fire and Emergency for a debt, but the circumstance is beyond their control.

135. Section 91 of the Act provides for Fire and Emergency to release the insurer from this liability where it considers the amount of levy owed to the insurer by the policyholder is irrecoverable. Fire and Emergency may release all or part of the unpaid levy, and any related interest.

136. We received legal advice that a release of liability granted under section 91 must be made in the form of a waiver. Waivers must be provided for through regulations in accordance with the Act.

What options are being considered

Option One – Counterfactual

137. Under the counterfactual, section 91 would not be operationalised. Fire and Emergency would not have the mechanism needed to release an insurer from liability where it considers the amount of levy owed to the insurer by the policyholder is irrecoverable. Insurers would be liable for irrecoverable levy without a way to release them from that liability.

Option Two – Waivers for irrecoverable levy and interest

138. Option two would give effect to a release under section 91 of the Act through waiver regulations. This would allow Fire and Emergency to release insurers from liability.

139. Section 48(10) of the Fire Service Act 1975 is still operational under the transitional levy, and this allows Fire and Emergency to release an insurer from liability where it considers the levy irrecoverable by the insurer. However, the Fire Service Act did not require waivers to be provided for through regulations.

140. Fire and Emergency and insurance stakeholders both support allowing for this release to be possible under the new levy, and for waiver regulations to provide for the release. It would give effect to what is intended by the Act to happen under section 91, and release insurers from a debt that has occurred for reasons beyond their control.

141. The circumstance and conditions for the waivers are set out below in **Table 3**. These were developed within the scope of what is specified in section 91.

Table 3: Proposed circumstances and conditions for waivers of irrecoverable levy

Circumstance	Conditions
Fire and Emergency consider an amount of levy and interest payable to the insurer by a policyholder is irrecoverable by the insurer	In accordance with the wording of section 91(2)(b) of the Fire and Emergency New Zealand Act 2017, the waiver may be subject to any conditions that Fire and Emergency thinks fit

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	Option Two (Preferred option) – Waivers for irrecoverable levy and interest
Clear and predictable	**0** Under the counterfactual, it would not be clear how Fire and Emergency could release an insurer from liability. It would equally not be clear to insurers It would be confusing to have a release allowed for under section 91, but no way to actually operationalise the release	++ Would provide a clear way for Fire and Emergency to release an insurer from liability via section 91. Insurers would know this is available to them and how to request a release from liability through a waiver
Smooth transition	**0** Fire and Emergency may release an insurer from liability for irrecoverable	+

	levy under the transitional levy. Under the counterfactual, it would no longer be able to do so	Option Two would allow for Fire and Emergency to continue releasing insurers from liability as it may under the transitional levy Minimal disruption to an existing process by now providing the waiver for this through regulation, but this is a necessary change required by the Act
Encourage compliance	**0** Encourages insurers to comply with paying the levy they are liable to pay. They are generally liable for the debt if they do not pay Does not account for flexibility in the exceptional situation where an insurer is unable to recover the amount they need to pay from the policyholder	++ Encourages insurers to comply with paying the levy they are liable to pay. They are generally liable for the debt if they do not pay Accounts for flexibility in an exceptional situation, where the flexibility in this situation is recognised as necessary under the Act in section 91. Allows this power to be operationalised
Cost-effective	**0** Not cost-effective for administering the levy. Fire and Emergency would need to continue chasing up a debt owed that cannot be recovered, which is a waste of its administrative costs	+ Cost-effective for administering the levy. Once Fire and Emergency determines levy is irrecoverable by the insurer, it is more cost-effective to release the insurer from liability rather than continue chasing it up
Efficient	**0** Not efficient for administering the levy. Fire and Emergency would need to continue chasing up a debt owed that cannot be recovered, which is an inefficient use of resourcing	++ Efficient for administering the levy. Once Fire and Emergency determines levy is irrecoverable by the insurer, it is efficient to release the insurer from liability rather than continue wasting resourcing chasing it up
Overall assessment	**0**	++

Key: ++ best alignment with criterium; + good alignment with criterium; **0** neither aligned nor misaligned; - limited alignment with criterium; - - worse alignment with criterium

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

142. The Department prefers option two. The power for Fire and Emergency to release an insurer from liability is already provided for under the Act. Allowing for waivers to release an insurer from liability gives effect to the purpose of section 91. Without this regulation, the administrative process for releasing an insurer from liability under section 91 would be confusing and unclear.

143. Under the counterfactual, insurers would be liable for the debt of levy they are unable to recover from policyholders. This would be unfair, as the debt has resulted from circumstances beyond their control.

144. We consider that granting waivers for irrecoverable levy and interest under option two is cost-effective and efficient for the purposes of administering the levy. It would allow Fire and Emergency to waive levy and interest it knows to be irrecoverable, rather than wasting time and resources chasing it up with no benefit.

What are the marginal costs and benefits of the option?

145. The cost analysis of option two, the preferred option, in comparison with the counterfactual, is consistent with the cost benefit analysis set out for waivers and extensions for late payments of levy. Fire and Emergency already may release an insurer from liability under the current levy, and already issues waivers. No additional cost would be required.

146. There are different benefits. Option two, when compared with the counterfactual, has the highest benefit. Under option two, insurers can be released from liability for a debt they cannot recover. This would benefit both the insurer, and the policyholder who is unable to pay. Additionally, option two would benefit Fire and Emergency by allowing them to save the administrative cost and resource of following up an irrecoverable debt, and instead release the insurer from liability. These benefits would not be available under the counterfactual. The administrative cost for Fire and Emergency to chase up levy unable to be recovered may be significant, and would likely be a waste of resourcing if no levy or interest owed can be obtained.

Section 3: Delivering an option

How will the new arrangements be implemented?

147. Part 3 of the Act will come into force on 1 July 2026. This will give effect to the new levy and replace the existing legislative and operational framework for the transitional levy.

148. All regulations for the new levy need to be set by December 2024. Policy for the regulations for exemptions from paying the levy have already been approved by Cabinet. Additionally, regulations need to set the rates for the new levy. The Department is seeking policy approval simultaneously for rates regulations and administrative regulations.

149. Fire and Emergency and the insurance sector are responsible for implementation and administration of the levy. Setting regulations by December 2024 will allow for an 18-month implementation period before the new levy commences. The insurance sector has indicated that they require at least 18-months to update their systems to accommodate the new levy.

150. Fire and Emergency will work closely with insurance stakeholders to develop and issue the necessary operational guidance for administering the new levy. Working with insurance stakeholders will help ensure the guidance is workable.

Table 4: Timeline of steps for implementation

Timeframe	Step for implementation	Responsible for implementation step
September – December 2024	Fire and Emergency operational guidance is developed to support administering the new levy, informed by Cabinet decisions on regulations received in September	Fire and Emergency, with input from the insurance sector
December 2024	Regulations are made for exemptions, levy rates, and administrative measures	The Department
January 2025 – June 2026	18-month period to allow for system updates ahead of administering the new levy	Fire and Emergency The insurance sector
1 July 2026	The insurance-based levy under Part 3 of the Act commences. The new levy begins to be administered	Fire and Emergency The insurance sector

Risks for implementation

151. There are some risks associated with implementation of the new levy system. The risks identified from concerns raised by insurance stakeholders are the period for implementation, and the cost of the implementation. These relate to the updating of systems needed to administer the levy. We have mitigated these risks by providing 18-months for insurers and brokers to update their system, and minimising changes to the administrative process where possible under the new Act. We have proposed regulations that will provide the least disturbance to administrative processes possible under the new Act.

152. Insurance stakeholders have indicated that they would need Fire and Emergency's operational guidance to be ready before they could commit to starting implementation. This implies an expectation that the operational guidance will be completed by December 2024, in conjunction with Cabinet approval of regulations. This may be

challenging to achieve, given that operational guidance relies on regulations. We will communicate policy decisions to Fire and Emergency to enable the organisation to begin the development of operational guidance in conjunction with drafting of levy rates. We are also considering approaches to sharing regulations in draft to further support this work.

How will the new arrangements be monitored, evaluated, and reviewed?

153. The levy rates set for 1 July 2026 will apply for a period of 3 years, ending 30 June 2029. The Act requires the levy rates to be set every three-year levy period.

154. The Department will need to set the levy rates for the next period (2029 – 2032). The consultation for setting new rates will provide an opportunity to assess any feedback on administrative regulations received from Fire and Emergency or insurance stakeholders, who are responsible for administering the levy.

155. If issues with the administrative process are raised, these will be evaluated to determine if a further review is required. Fire and Emergency currently collects data on waivers and refunds it administers. It intends to continue collecting this data. The data would be available if issues with the waivers or refunds processes were raised, and a review was needed.