

## **Legislative Statement: Companies (Levies) Amendment Bill – Second Reading**

---

### **Overview**

The New Zealand Companies Office administers the corporate registry system of 16 registers and supports other statutory functions of its registrars. The Companies (Levies) Amendment Bill (the **Bill**) amends the Companies Act 1993 to create a new regulation-making power that:

- will enable regulations to be made that may impose levies on certain users of the registers administered by the Companies Office; and
- will expressly provide that money collected in levies can be used to fund the registry system as a whole.

This will support the Companies Office's integrated approach to running the corporate registry system by moving away from it being entirely funded on a register-by-register basis.

### **Enabling the charging of levies**

#### Regulation making power

Existing corporate registry legislation (see the list of Acts on page 2) only enables the Companies Office to charge fees to recover its costs. Money collected in fees under one Act may only be used to fund the register established by that Act.

This Bill inserts a new section into the Companies Act 1993 enabling the Governor-General to, by Order in Council made on the recommendation of the Minister, make regulations providing for levies to be paid by users. Money collected in levies may be used to recover the costs of any of the registers administered by the Companies office and may be imposed on any person listed in new Schedule 15 in the Bill. New Schedule 15 includes any person registered on one of the occupational licensing or entity registers administered by the Companies Office, and certain common users of the disclosure registers. The empowering provision further sets out the basis on which levies may be set and specifies what the regulations may prescribe.

Before making such a recommendation, the Minister must have regard to:

- the purpose of imposing levies (as set out at new section 404 of the Bill); and
- that levies should be set to recover no more than a portion of the costs of operating the registers, the costs of a registrar performing or exercising their functions, duties, and powers and the costs of recovering the levy moneys. The size of that portion of costs will be determined by the Minister.

The Minister must also consult the persons they consider are able to represent the views of persons liable to pay a levy under the proposed regulations and any other representatives of persons they believe will be significantly affected by the proposed regulations.

#### Regulation implementation

The Bill sets out that the registrar may refuse to perform or exercise a function, power, or duty until a levy is paid and any unpaid levy is recoverable in court, or by a prescribed person, on behalf of the Crown.

### **Enabling the funding of the regulatory system as a whole**

The Bill provides that money collected in levies can be used to fund the wider registry system and a new purpose section sets out the purpose for imposing the new levies by regulations. This section states the purpose of imposing levies by regulations is to recognise:

- the registers operate financially as a single system and not as separate registers;
- all registers should be funded, in part, through a levy imposed on specified users of each registry;
- the principles of equity, efficiency, and justification should be applied regarding the cost of administering the whole system of registers, not on the basis of the costs of administering individual registers;
- money collected from specified users of one register can legitimately be used to meet the costs of operating any or all of these registers; and
- using money collected from specified users of one or more registers in this way is the most efficient way of financing the registers.

### **List of affected Acts and registers**

The power to make levies by regulations will apply to the following Acts and corresponding Registers:

| <i>List of Acts</i>  | <i>List of registers</i>  |
|--|---|
| Companies Act 1993   | New Zealand register and overseas register  |
| New Zealand Business Number Act 2016                                       | New Zealand Business Number Register  |
| Incorporated Societies Act 1908 and Incorporated Societies Act 2022        | Register of Incorporated Societies  |
| Insolvency Practitioners Regulation Act 2019                               | Register of licensed insolvency practitioners   |
| Limited Partnerships Act 2008  | Registers of limited partnerships and overseas limited partnerships   |
| Friendly Societies and Credit Unions Act 1982                              | Register maintained by the Registrar of Friendly Societies and Credit Unions  |
| Retirement Villages Act 2003   | Register of retirement villages   |
| Financial Markets Conduct Act 2013   | Registers kept under Schedule 2 of that Act   |
| Financial Reporting Act 2013   | Registers kept under section 36N of that Act which relate to Approved Overseas Auditors and Associations of Accountants |
| Financial Service Providers (Registration and Dispute Resolution) Act 2008 | Register of Financial Service Providers   |
| Personal Property Securities Act 1999                                      | Register of Personal Property Securities  |
| Auditor Regulation Act 2011  | Register of licensed auditors and registered audit firms  |

|   |  |
|---|--|
| Industrial and Provident Societies Act 1908 | Registers kept under section 3D of the Industrial and Provident Societies Act 1908 |
| Building Societies Act 1965                 | Register of Building Societies   |
| Securities Act 1978 (as preserved in part)  | Contributory Mortgage Brokers Register   |

### **Changes made at Select Committee**

The Finance and Expenditure Committee has examined the Bill and recommended that it be passed with amendments. These amendments are consistent with the original policy of the Bill but make some technical amendments and add some additional safeguards for the levy-making power. The most notable recommended changes to the Bill are as follows:

- Amending proposed section 405(6), and inserting section 405(7), to make any levy setting regulations “confirmable instruments” for the purposes of the Legislation Act. Confirmable instruments are automatically revoked at a particular date unless confirmed by an Act of Parliament. This contrasts with “disallowable instruments”, which are valid unless disallowed by the House.
- Inserting new paragraphs (ia) and (ib) into proposed section 405(5) to make it clear that the regulations may require users to pay levies and fees in the same transaction. It is intended that fees and levies would be paid by Companies Office users at the same time, as this will be most convenient way for them to pay and is the most administratively efficient way of collecting levies also.
- Removing proposed section 408(2)(a). Proposed section 408(2)(a) states that the regulations would not be invalid on the grounds that the Minister did not comply with the consultation requirements in the Bill.
- Inserting sections 408(3) & (4) to expressly require that any proposals for regulations be made publicly available on a government department website.
- Inserting section 409 which requires a review to be conducted within 5 years of the date that the first set of regulations prescribing levies are made, with a requirement that the report be made publicly available.