



## **Biosecurity Amendment Act (No 2) 2015**

Public Act      2015 No 56  
Date of assent      27 May 2015  
Commencement      see section 2

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### **The Parliament of New Zealand enacts as follows:**

#### **1      Title**

This Act is the Biosecurity Amendment Act (No 2) 2015.

#### **2      Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Principal Act

This Act amends the Biosecurity Act 1993 (the **principal Act**).

### 4 Section 9 amended (Powers of responsible Minister)

In section 9(1)(d), replace “section 137(1)” with “section 137(1) or section 140AA(3)”.

### 5 Sections 140AA and 140AB inserted

After section 140, insert:

#### **140AA Levies for recovering border processing costs**

- (1) In this section, **traveller** means any person who arrives in New Zealand from any place outside New Zealand.
- (2) Every traveller who arrives in New Zealand on or after 1 January 2016 is liable, while there is a levy order in force under subsection (3), to pay a levy to the Director-General in relation to the costs incurred by the Ministry in, or for the purpose of, exercising its powers or performing its functions under this Act in relation to travellers and the goods in their possession or under their control (including as part of their personal effects or baggage).
- (3) The Governor-General may, by Order in Council, on the recommendation of the responsible Minister, make a levy order prescribing—
  - (a) the rate of levy or the basis on which the rate is to be calculated or ascertained; and
  - (b) insofar as the order does not set an actual rate, how the actual rate of the levy is to be set; and
  - (c) when and how the levy is to be paid; and
  - (d) how the rate of levy, and any variation of the rate, is to be notified.
- (4) The responsible Minister must, before recommending that a levy order be made under this section, consult with persons who the Minister believes are representative of interests likely to be affected substantially by the order.
- (5) A levy order must not be made in respect of the costs that are otherwise recovered or otherwise to be recovered under this Act or the Airports (Cost Recovery for Processing of International Travellers) Act 2014.
- (6) A levy order made under this section—
  - (a) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012; and
  - (b) must be presented to the House of Representatives under section 41 of that Act.
- (7) To avoid doubt, this section does not limit section 135 or 137.

**140AB Contents of border processing levy order**

A levy order under section 140AA may—

- (a) prescribe different rates of levy, on any differential basis, for different persons or different classes of persons:
- (b) prescribe a maximum rate or maximum rates of levy:
- (c) exempt certain persons or classes of persons from the requirement to pay the levy:
- (d) prescribe persons responsible for collecting the levy from those primarily responsible for paying it:
- (e) allow persons collecting the levy to recover the costs of collecting the levy and, if so, prescribe the basis on which those costs are to be calculated or ascertained:
- (f) require that returns be made to the Director-General or some other person or body to enable amounts of levy payable to be calculated, determined, or verified:
- (g) provide, subject to such conditions as may be prescribed, for extensions of time for the payment of levy:
- (h) provide for the payment of additional or increased levy in the event of late payment or non-payment:
- (i) provide for circumstances in which levy paid may be refunded:
- (j) require that levy funds payable be held on trust in separate accounts.

**6 Section 140A amended (Trust accounts for levy money payable to Director-General)**

In section 140A, replace “section 137” with “section 137 or 140AA” in each place.

**7 Section 141 amended (Effect of levy order)**

- (1) In section 141, replace “section 137” with “section 137 or 140AA”.
- (2) In section 141(a), replace “for paying the levy to the Director-General” with “for paying or collecting the levy”.
- (3) In section 141(b), replace “for paying it” with “for paying or collecting it”.

**8 Section 141A amended (Orders to provide for records to be kept for Director-General’s levy)**

In section 141A, replace “section 137” with “section 137 or 140AA”.

**9 Section 141B amended (Compliance audits for Director-General’s levy)**

In section 141B, replace “section 137” with “section 137 or 140AA” in each place.

**10 Section 154N amended (Section 154N offences)**

In section 154N(15) and (16), replace “and 137” with “137, and 140AA”.

**Legislative history**

21 May 2015

Divided from Border Processing (Arrivals and Departures) Levy  
Bill (Bill 19–1), third reading

27 May 2015

Royal assent

This Act is administered by the Ministry for Primary Industries.