

Version  
as at 28 October 2021



## Building Research Levy Act 1969

Public Act      1969 No 23  
Date of assent      11 September 1969  
Commencement      see section 1(2)

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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## **An Act to authorise the levying of building contractors to provide money for research into improved techniques and materials for use in the building industry**

### **1 Short Title and commencement**

- (1) This Act may be cited as the Building Research Levy Act 1969.
- (2) This Act shall come into force on 1 January 1970.

### **2 Interpretation**

In this Act, unless the context otherwise requires,—

**applicable auditing and assurance standard** has the same meaning as in section 5 of the Financial Reporting Act 2013

**association** means the Building Research Association of New Zealand (Incorporated), a society incorporated under the Incorporated Societies Act 1908; and, where appropriate, includes the board of the association

**builder**, in relation to any construction work, means—

- (a) in any case where there is a main contract by an employer for the performance of the construction work, the person with whom the contract is made:
- (b) in any case where there is no such contract and the construction work is performed by any person for the purposes of sale or leasing on his own account, that person:
- (c) in all other cases, the person responsible for the carrying out of the construction work

**building consent** means a building consent in terms of the Building Act 2004; but does not include a consent issued in respect of any demolition

**chief executive** means the chief executive of the Ministry (within the meaning of the Research, Science, and Technology Act 2010)

**consideration**, in relation to any contract, means the amount agreed between the employer and the builder at the time at which the contract is entered into as being the amount payable to the contractor under the contract; but does not

include any addition to or reduction in the amount so agreed which is subsequently agreed on as a result of any variation of the contract made after the levy payable in respect of the contract becomes due

**construction work** or **work** means any work in connection with the construction, erection, renewal, alteration, or improvement of a building for which a building consent is required under the Building Act 2004

**contract** means a contract between an employer and a builder which is for the performance of construction work and which determines the amount of consideration payable to the builder in respect of the work

**employer** means any owner or other person who contracts with a builder for the performance of construction work by the builder, or at whose request, or on whose behalf or on whose credit, with his privity or consent, construction work is performed; and includes all persons claiming under him whose rights are acquired after the commencement of the work

**financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013

**financial year** means the period of 12 months ending with 31 March in any year

**generally accepted accounting practice** has the same meaning as in section 8 of the Financial Reporting Act 2013

**local authority** means a territorial authority within the meaning of the Local Government Act 2002

**Minister** means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**owner** means the person to whom the land in respect of which any construction work is to be, is being, or has been performed belongs; and includes a person having a leasehold or other limited estate or interest in the land

**prescribed**, in relation to any levy imposed under this Act, means the rate of levy for the time being prescribed by the Minister under section 4.

Section 2 **applicable auditing and assurance standard**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2 **builder**: substituted, on 9 October 1975, by section 2(1) of the Building Research Levy Amendment Act 1975 (1975 No 62).

Section 2 **building consent**: inserted, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

Section 2 **building consent**: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 2 **chief executive**: inserted, on 2 August 1990, by section 14(1) of the Foundation for Research, Science, and Technology Act 1990 (1990 No 72).

Section 2 **chief executive**: amended, on 1 February 2011, by section 18 of the Research, Science, and Technology Act 2010 (2010 No 131).

Section 2 **construction work** or **work**: substituted, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

Section 2 **construction work** or **work**: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 2 **Director-General**: repealed, on 2 August 1990, by section 14(1) of the Foundation for Research, Science, and Technology Act 1990 (1990 No 72).

Section 2 **financial statements**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2 **generally accepted accounting practice**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2 **local authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **Minister**: substituted, on 2 August 1990, by section 14(1) of the Foundation for Research, Science, and Technology Act 1990 (1990 No 72).

Section 2 **prescribed**: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 3 Act to bind the Crown

This Act shall bind the Crown.

#### *Building research levy*

### 4 Minister may prescribe rates of levy

- (1) Subject to the provisions of this Act, the Minister may from time to time, after consulting with the association and the New Zealand Master Builders' Federation Incorporated, prescribe by notice the rate of levy to be paid by builders for the purposes of this Act.
- (2) Subject to the provisions of this section, the rate so prescribed shall—
  - (a) in the case of construction work performed pursuant to a contract, be based on the total consideration payable under that contract; and
  - (b) in the case of construction work performed otherwise than pursuant to a contract, be based on the total value of the work as ascertained under section 5.
- (3) The prescribed rate shall not exceed \$1 for every \$1,000 (or part thereof) of the total consideration payable under any contract or the total value of construction work, as the case may be.
- (4) A notice prescribing a rate of levy must be published under the Legislation Act 2019 at least 14 days before it is to come into force.
- (5) The Minister may at any time vary or revoke any notice made under subsection (1).
- (6) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):
  - (a) a notice under subsection (1); and

- (b) a variation or revocation of a notice under subsection (5).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 4(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **5 Payment of levies by builders**

- (1) For the purposes of this Act, a levy, the rate of which is for the time being prescribed under section 4, shall be payable by every builder—
- (a) in respect of the consideration payable to him under any contract entered into by him for the performance of construction work; or
  - (b) in any case where he performs or intends to perform any such work otherwise than pursuant to a contract, in respect of the value of the work as ascertained under subsection (2).
- (2) Where the value of any construction work is required to be ascertained for the purposes of paragraph (b) of subsection (1), that value shall be ascertained as follows:
- (a) the value (if any) specified in the building consent; or
  - (b) if no value is so specified, the value shall be such value as may be agreed upon between the association and the builder or, in default of such agreement, as may be determined by arbitration under section 6.
- (3) Every such levy shall become due and payable by the builder at the time the building consent is issued.
- (4) Notwithstanding the provisions of subsection (1)—
- (a) where a levy is assessable on the consideration payable under any contract, no levy shall be payable if the consideration is less than \$20,000:
  - (b) where a levy is assessable on the value of construction work, no levy shall be payable if the value of that work is less than \$20,000.