

# Telecommunications Development Levy

## Important information for QLPs

The Telecommunications Development Levy (TDL) is an annual levy which is used to pay for telecommunications infrastructure and services including the relay service, broadband for rural areas and improvements to the emergency service calling system. The TDL is governed by Part 3 of the Telecommunications Act 2001 (**the Act**). Under the Act, each TDL year (12 month period from 1 July to 30 June), we are required to allocate the levy proportionately between qualifying telecommunications providers, being companies, or groups of companies, earning more than \$10 million per year for supplying telecommunications services over a public telecommunications network (PTN).

The purpose of this document is to outline the annual TDL timeline, the process we apply to determine which telecommunications providers qualify to contribute to the TDL, the reporting obligations for qualifying telecommunications providers, our compliance and enforcement role, and guidance for new and potential new qualifying telecommunications providers.

### Liable persons provide us with information on qualified revenue (s 82 of the Act)

Not later than 60 working days before the end of each financial year (usually a date in April), parties that meet both of the following criteria must provide us with a copy of their financial statements for the financial year preceding a TDL year and any other information we specify, to enable us to verify if the party is liable to pay the TDL:

- provide a telecommunication service in New Zealand by means of some component of a PTN that is operated by the party; and
- have earned at least \$10 million gross telecommunications service revenue in the preceding TDL year (s 79 of the Act requires that the total revenue of all connected bodies corporate to be used when assessing whether the \$10 million telecommunications services gross revenue threshold has been satisfied).

We refer to persons that meet the above criteria as “qualifying liable persons” (QLPs).

### Information disclosure obligations for QLPs (s 83 of the Act)

Section 83(1) of the Act requires that, not later than 60 working days after the end of each financial year (a date usually in September), each QLP must supply us with the following information:

- all prescribed information** (we prescribe this information in our “Specified information and assurance report instructions”, which we usually publish around June each year); and
- a report prepared by a qualified auditor.**

The flow chart on the next page provides further guidance on the type of report a QLP is required to provide us.

### Publication of draft and final TDL liability allocation determination and payment (s 84, 87, 89 of the Act)

Section 84 of the Act requires us to issue a draft TDL liability allocation determination (LAD) each TDL year, including the amount of each QLP’s qualified revenue and levy payable. The draft TDL LAD is usually issued in October each TDL year.

Section 87 of the Act requires us to issue a final TDL LAD each TDL year, including the final amount of each QLP’s qualified revenue and levy payable. The final TDL LAD is usually issued in December each TDL year.

Section 89 of the Act requires QLPs to pay their allocated levy amount to the Crown not later than 20 working days after the final TDL LAD is issued.



### Compliance and enforcement

The Act makes it a breach to fail, without reasonable excuse, to comply with s 82 or s 83 of the Act. It is also a breach to knowingly provide false or misleading information or documents under s 82 or s 83 of the Act. Persons who commit a breach may be liable for a pecuniary penalty of up to \$300,000. Any failure to immediately rectify identified non-compliance may increase the seriousness of the breach, and will be taken into account in determining the appropriate enforcement response.

### What this means for new and potential new QLPs

It is important that new QLPs (and persons approaching the \$10 million threshold) actively take steps to ensure they understand their TDL obligations under the Act and have the appropriate processes in place in advance of the disclosure deadlines to comply with s 82 and s 83 of the Act.

*For instance, if you are a new QLP with gross telecommunications revenue below \$50 million and have a 31 March year-end (ie, financial statements cover at least 263 days), under s 82 you will be required to provide us with a copy of your financial statements for the year preceding the TDL year (and any other information we specify), while under s 83, you will be able to choose between the Default Option and Alternative Option B. We recommend you outline the requirements and your options under s 83 to your auditors ahead of your annual audit being finalised.*

**Note:** This summary is intended as a quick reference only and does not contain a full statement of a person’s TDL obligations under the Act. This summary therefore should not be relied on when assessing whether a business is complying with the TDL obligations. For more detailed information, or to further understand the terms and concepts discussed here, please click the link below to be redirected to our TDL homepage or visit [www.comcom.govt.nz](http://www.comcom.govt.nz)

[TDL homepage](http://www.comcom.govt.nz)

# TDL timeline



# Guidance on which type of report a QLP must provide to the Commission

