

Earthquake Commission Amendment Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Dr Megan Woods

Earthquake Commission Amendment Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2
Part 1	
Amendments commencing on day after assent date	
4 New section 3A inserted (Transitional, savings, and related provisions)	2
3A Transitional, savings, and related provisions	2
5 New section 31A inserted (Collection and disclosure of information)	2
31A Collection and disclosure of information	2
6 New Schedule 1AA inserted	3
7 Schedule 3 amended	3
Part 2	
Amendments with delayed commencement	
8 Section 18 amended (Residential buildings)	4
9 Section 20 repealed (Personal property)	4
10 Section 22 amended (Voluntary insurance against natural disaster damage)	4
11 Schedule 1AA amended	4
12 Consequential amendments	5
Schedule 1	
New Schedule 1AA inserted	
Schedule 2	
Consequential amendments	

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Earthquake Commission Amendment Act **2018**.

2 Commencement

- (1) This Act, other than **Part 2**, comes into force on the day after the ~~assent date~~ date on which this Act receives the Royal assent. 5
- (2) **Part 2** comes into force on 1 July 2019 or a later date appointed by the Governor-General by Order in Council.

3 Principal Act

This Act amends the Earthquake Commission Act 1993 (the **principal Act**). 10

Part 1**Amendments commencing on day after assent date****4 New section 3A inserted (Transitional, savings, and related provisions)**

After section 3, insert:

3A Transitional, savings, and related provisions 15

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

5 New section 31A inserted (Collection and disclosure of information)

Before section 32, insert:

31A Collection and disclosure of information 20

- (1) The Commission may collect information for any of the following purposes:
- (a) administering this Act:
 - (b) performing its functions:
 - (c) facilitating natural disaster preparedness, response, or recovery (including settlement of insurance claims by insurance companies). 25
- (2) Information collected by the Commission for any of the purposes referred to in **subsection (1)** is taken to have been collected—
- (a) for all of those purposes; and
 - (b) if it is property-related information, for the purpose of making the information available (including to the public). 30
- (3) The Commission may make available any information in its possession if it believes on reasonable grounds that doing so is necessary to prevent or lessen a

	serious threat to public health or public safety or to the life or health of any individual.	
(4)	This section does not limit the Privacy Act 1993 or any other right the Commission may have to collect or disclose information.	
(5)	In this section,—	5
	property-related information means information about property (whether generally or in relation to 1 or more identified properties), including information about—	
	(a) natural disaster damage to the property; and	
	(b) any claims made under this Act in relation to the property (including information about the assessed cost of replacing or reinstating damaged property, reinstatement methods, and settlement amounts)	10
	serious threat has the same meaning as in section 2(1) of the Privacy Act 1993.	
6	New Schedule 1AA inserted	15
	After section 41, insert the Schedule 1AA set out in Schedule 1 of this Act.	
7	Schedule 3 amended	
(1)	In Schedule 3, clause 7(1)(a), replace “30 days (or such longer time as may be prescribed by regulations made under this Act)” with “the time allowed by subclause (2) ”.	20
(2)	In Schedule 3, replace clause 7(2) with:	
(2)	The notice under subclause (1)(a) must be given to the Commission—	
	(a) not more than 3 months after the damage occurred (or any longer period prescribed by regulations made under this Act); or	
	(b) subject to subclause (2B) , after the period set out in paragraph (a) has expired but not more than 2 years after the damage occurred (or any longer period prescribed by regulations made under this Act).	25
(2A)	However, the regulations may permit the Commission to accept notice given after the time limit applying under subclause (2)(b) if—	
	(a) either or both of the following apply:	30
	(i) the natural disaster damage could not reasonably have been discovered in time to enable the insured person (acting reasonably promptly) to give notice within the time limit applying under subclause (2)(b) :	
	(ii) the insured person is unable to give notice within the time limit applying under subclause (2)(b) because of absence, incapacity, or other disability; and	35
	(b) the notice is given—	

- (i) as soon as is reasonably practicable after the natural disaster damage is discovered or as soon as the insured person is reasonably able to give notice; and
- (ii) in any event, within the time specified in the regulations.
- (2B) If notice is given after the time limit applying under **subclause (2)(a)**, the Commission may decline the claim if the lapse of time before the notice was given materially prejudices the Commission’s ability to assess the claim. 5

Part 2

Amendments with delayed commencement

- 8 Section 18 amended (Residential buildings)** 10
- (1) In section 18(1)(c), replace “\$100,000” with “\$150,000”.
- (2) In section 18(2), replace “a sum of not less than \$1,000” with “\$2,500”.
- (3) In section 18(2), replace “be \$1,000” with “be the amount calculated by multiplying \$2,500.”
- 9 Section 20 repealed (Personal property)** 15
- Repeal section 20.
- 10 Section 22 amended (Voluntary insurance against natural disaster damage)**
- (1) In section 22(1), replace “, residential land, or personal property, the Commission may enter into a contract to insure that building, land, or personal property” with “or residential land, the Commission may enter into a contract to insure that building or land”. 20
- (2) In section 22(1), replace “any of sections 18 to 20” with “section 18 or 19”.
- (3) Replace section 22(2)(a) and (b) with:
- (a) for the insurance of any residential building or residential land that is not insured under section 18 or 19; or 25
- (b) for the insurance of any residential building or residential land in substitution for the insurance of that building or land under section 18 or 19.
- 11 Schedule 1AA amended**
- In **Schedule 1AA** (as inserted by **section 6**), after **clause 2**, insert: 30
- 3 New regime phased in over 12 months**
- (1) The new regime applies in relation to all contracts on and after the commencement date unless **subclause (2)** provides otherwise.
- (2) If the period of cover under a contract (the **existing contract**) began before the commencement date,— 35

- (a) the old regime continues to apply in relation to the existing contract; and
- (b) if the existing contract is renewed 1 or more times after the commencement date, the old regime also applies in relation to each renewed contract.
- (3) However, **subclause (2)** ceases to have effect (and the old regime therefore ceases to apply) in relation to the existing contract and each renewed contract at the beginning of the first anniversary date of the existing contract after the commencement date. 5
- (4) In this clause,—
- anniversary date of the existing contract** means the anniversary of the first day of the period of cover under,— 10
- (a) if the existing contract was not a renewal of a previous contract, the existing contract; or
- (b) if the existing contract was a renewal in a series of 1 or more previous contracts, the first contract in the series 15
- commencement date** means the date on which **Part 2** of the Earthquake Commission Amendment Act **2018** comes into force
- contract** means—
- (a) a contract of fire insurance of a kind referred to in section 18 or 20; or
- (b) a contract entered into by the Commission under section 22 20
- new regime** means this Act as amended by **Part 2** of the Earthquake Commission Amendment Act **2018**
- old regime** means this Act as in force immediately before **Part 2** of the Earthquake Commission Amendment Act **2018** comes into force.
- 12 Consequential amendments** 25
- Amend the principal Act as set out in **Schedule 2**.

Schedule 1
New Schedule 1AA inserted

s 6

Schedule 1AA
Transitional, savings, and related provisions

5

s 3A

Part 1
Provisions relating to Earthquake Commission Amendment Act 2018

- | | | |
|----------|--|----|
| 1 | Collection and disclosure of information | 10 |
| | Information collected by the Commission before section 5 of the Earthquake Commission Amendment Act 2018 comes into force is taken to have been collected for all of the purposes referred to in section 31A(1) and (2) . | |
| 2 | Reporting of claims | |
| (1) | Clauses 7 and 13 of Schedule 3, as in force before the commencement date, continue to apply in relation to a claim relating to natural disaster damage that occurred before that date. | 15 |
| (2) | In this clause, commencement date means the date on which section 7 of the Earthquake Commission Amendment Act 2018 comes into force. | |

Schedule 2

Consequential amendments

s 12

Section 2

In section 2(1), repeal the definition of **personal property**. 5

In section 2(1), replace the definition of **replacement value** with:

replacement value, in relation to a residential building, means any costs which would be reasonably incurred in respect of—

- (a) demolition and removal of debris, to the extent that is essential to enable the building to be replaced or reinstated; and 10
- (b) replacing or reinstating the building to a condition substantially the same as but not better or more extensive than its condition when new, modified as necessary to comply with any applicable laws; and
- (c) complying with any applicable laws in relation to the replacement or reinstatement of the building; and 15
- (d) other fees or costs payable in the course of replacing or reinstating the building, including architects' fees, surveyors' fees, and fees payable to local authorities

Section 21

In section 21(1), replace “to 20” with “and 19”. 20

Section 23

In section 23(1), replace “any of sections 18 to 20” with “section 18”.

Section 27

In section 27(a), replace “, residential land, or personal property under sections 18 to 20” with “or residential land under section 18 or 19”. 25

In section 27(b), replace “, residential land, or personal property” with “or residential land”.

Sections 30 and 31

In sections 30(1) and (3) and 31, replace “any of sections 18 to 20” with “section 18 or 19”. 30

Section 36

In section 36(1)(a), replace “, residential land, or personal property” with “or residential land”.

In section 36(1)(b), replace “, residential land, or personal property, or class of residential building, residential land, or personal property, are insured under any or all of 35

Section 36—*continued*

sections 18 to 20” with “or residential land, or class of residential building or residential land, are insured under any or all of sections 18, 19,”.

In section 36(1)(e), replace “, residential land, or personal property or class of residential buildings, residential land, or personal property,” with “or residential land, or class of residential buildings or residential land,”.

5

Schedule 3

In Schedule 3, clause 5(2)(a)(i), replace “, residential land, or personal property” with “or residential land”.

Legislative history

22 March 2018
29 March 2018
28 September 2018

8 November 2018
11 December 2018

Introduction (Bill 37–1)
First reading and referral to Finance and Expenditure Committee
Reported from the Finance and Expenditure Committee (Bill 37–2)
Second reading
Committee of the whole House (Bill 37–3)