



# Natural Hazards Insurance Amendment Regulations 2024

Cindy Kiro, Governor-General

## Order in Council

At Wellington this 27th day of May 2024

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 159 of the Natural Hazards Insurance Act 2023—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Finance given in accordance with sections 6(10) and 159(2) of that Act.

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## Regulations

- 1 Title**  
These regulations are the Natural Hazards Insurance Amendment Regulations 2024.
- 2 Commencement**  
These regulations come into force on 1 July 2024.
- 3 Principal regulations**  
These regulations amend the Natural Hazards Insurance Regulations 2024.
- 4 New regulation 4A and cross-heading inserted**  
After regulation 4, insert:

*Large-scale accommodation*

**4A Large-scale accommodation: holiday homes**

- (1) This regulation applies for the purposes of section 6(9) of the Act.
- (2) A building, or part of a building, is a **dwelling** if all of the following apply to it, subject to subclause (3):
  - (a) it meets the criteria in section 6(1)(a) of the Act:
  - (b) it is—
    - (i) used by 1 or more persons as their holiday home; or
    - (ii) capable of being, and intended by the owner to be, used for the purpose set out in subparagraph (i):
  - (c) it is used to provide accommodation on a scale larger than is typical for use as the home of a single household:
  - (d) it is not used by any person to live in as their home:
  - (e) it is not intended by the owner to be used by any person to live in as their home.
- (3) The following provisions of section 6 of the Act apply with the modification specified (if any) to the application of the criteria in subclause (2) to a building, or part of a building:
  - (a) section 6(3), (4), (6), and (11), as if the reference in each provision to section 6(1) of the Act were a reference to subclause (2):
  - (b) section 6(5), as if the reference in the provision to section 6(1)(a) of the Act were a reference to subclause (2)(a):
  - (c) section 6(8).

**5 Regulation 8 replaced (Insured persons)**

Replace regulation 8 with:

**8 Insured persons for the purposes of shared property, shared land, and shared ownership interest**

- (1) This regulation and regulation 8A apply for the purposes of section 22(2) of the Act to specify classes of persons who are insured persons for the purposes of sections 15(2), 19(5), and 20(4) of the Act.
- (2) An **insured person**, in relation to all or part of a residential building or residential land, or both, includes a person (A) who—
  - (a) is not an insured person under section 22(1) of the Act; and
  - (b) holds an insurable interest in the residential building or residential land in either of the circumstances described in subclause (3).
- (3) The circumstances are that, at the relevant time,—

- (a) a specified insured person had the legal obligation to insure A's interest in the residential building or residential land against physical loss or damage; or
- (b) a specified insured person had retained or assumed the risk of physical loss or damage in relation to A's interest in the residential building or residential land.

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**Example**

Each apartment of an apartment block is held by an individual owner under a leasehold title. The freehold owner of the apartment block has an obligation under the leases to take out insurance covering the whole apartment block. The freehold owner is the specified insured person under subclause (3)(a). The leasehold owner of each apartment is in the position of A and so would be an insured person as a result of the operation of subclauses (2) and (3).

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*Exceptions: circumstances when A is not an insured person*

- (4) However, A is not an insured person if—

*Exception if A has separate cover*

- (a) all of the following apply:
  - (i) A has the benefit of a contract of insurance against physical loss or damage by 1 or more natural hazards, or has the benefit of natural hazard cover under the Act, covering A's interest in the residential building or residential land;
  - (ii) the contract or natural hazard cover referred to in subparagraph (i) is not the fire insurance contract or natural hazard cover of the person who is the specified insured person under subclause (3)(a) or (b) (whichever is relevant);
  - (iii) if A has the benefit of a contract of insurance of the kind referred to in subparagraph (i), the residential building or residential land has suffered natural hazard damage as a direct result of a natural hazard covered by that contract:

*Exception if A and specified insured person have mutual obligations to insure*

- (b) A and the person who is the specified insured person under subclause (3)(a) or (b) (whichever is relevant) have mutual obligations to insure the residential building or residential land.

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**Example**

The 2 owners of semi-detached dwellings in a cross-lease title arrangement each have an obligation to insure their own dwelling. Each owner is the specified insured person for their own dwelling and, as a result of the operation of subclauses (2) and (3), is an insured person in relation to the other owner's dwelling. Because the dwellings share a party wall that they have mutual obligations to insure, subclause (4)(b) applies to that part of the residential buildings. This means

neither owner will be an insured person under the other owner's natural hazard cover for that part of the residential buildings. As a result, the party wall remains shared property under each owner's natural hazard cover. The remaining parts of the dwellings would not be shared property, despite the other owner's insurable interest in them under the cross-lease title arrangement.

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*Definition of specified insured person*

- (5) In this regulation and regulation 8A, **specified insured person** means a person who is an insured person in relation to all or part of the residential building or residential land—
- (a) under section 22(1) of the Act; or
  - (b) as a result of the operation of this regulation.

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**Example**

In the example for subclauses (2) and (3), one of the leasehold owners has a mortgage over their apartment. The terms of the mortgage require the leasehold owner to insure the apartment. Because all the leasehold owners are insured persons (see example for subclauses (2) and (3)), the definition in subclause (5) means that they are all also specified insured persons. As a result of the definition, the leasehold owner's mortgagee is an insured person (it is a person in the position of A under subclause (3)(a) with respect to the leasehold owner as the specified insured person).

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**Guidance note**

Under this regulation, the definition of insured person (see section 22 of the Act) is expanded in certain circumstances to include other related persons for the purposes of the meanings of shared property (see section 15(2) of the Act), shared land (see section 19(5) of the Act), and shared ownership interest (see section 20(4) of the Act).

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**8A Extension of application of regulation 8 in relation to residential land**

- (1) If A is an insured person as a result of the operation of regulation 8 in relation to all or part of a residential building (**building X**), A is also an insured person in relation to the residential land for building X unless subclause (2) applies to all or part of that land.

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**Examples**

*Example 1*

The owner of a home has a mortgage over their property. The terms of the mortgage require the owner to insure the home and other improvements at the property. The owner is the specified insured person under regulation 8(3)(a). The mortgagee is an insured person as a result of the operation of regulation 8(2) and (3) in relation to the home. Because of this, the mortgagee is also an insured person in relation to the residential land for the home as a result of the operation of subclause (1).

*Example 2*

The 2 semi-detached dwellings in a cross-lease title arrangement each have an area of residential land relating to them. The owner of each dwelling is an insured person in relation to the other person's dwelling as a result of the operation of regulation 8(2) and (3). Under subclause (1), each owner is also an insured person in relation to the residential land for the other owner's dwelling. This means that residential land would not be shared land, despite both owners' insurable interest in it under the cross-lease title arrangement.

*Exceptions when extension does not apply and A is not insured person in relation to residential land*

- (2) Subclause (1) does not apply to all or part of the residential land for building X if—
- (a) A does not hold an insurable interest in the residential land; or
  - (b) regulation 8(4)(a) applies in relation to the residential land; or
  - (c) A has a legal obligation to insure A's interest in the residential land, which A owes to the person who is the specified insured person under regulation 8(3)(a) or (b) (whichever is relevant); or
  - (d) in relation to the person who is the specified insured person under regulation 8(3)(a) or (b) (whichever is relevant), A has retained or assumed the risk of physical loss or damage in relation to A's interest in the residential land; or
  - (e) all of the following apply:
    - (i) A has an insurable interest in a building or part of a building (**building Y**) that relates to the residential land, which is not, and is not part of, building X:
    - (ii) the residential land is for the use or benefit of the owners or other occupants of premises in both building X and building Y:
    - (iii) building Y is not part of the same eligible building as building X.

**Example**

In example 2 for subclause (1), part of the residential land is for the use of the occupants of both dwellings and subclause (2)(e) applies to that part of the land. This means neither owner will be an insured person under the other owner's natural hazard cover for that part of the residential land. As a result, that part of the land will be shared land under both owners' natural hazard cover.

*Definition of residential land for building X*

- (3) In this regulation, **residential land for building X** means the land that is residential land within the meaning of section 17 of the Act in relation to building X.

**6 New regulations 11A and 11B and cross-heading inserted**

After regulation 11, insert:

*Cancellation of cover or limitation of liability*

**11A Content of certificate recording cancellation of cover or limitation of liability**

- (1) This regulation applies for the purposes of section 51(4)(a) of the Act to the extent that it relates to a certificate recording the Commission's cancellation of building cover or land cover, or both, under section 49 of the Act or limitation of liability for future damage under section 50 of the Act.
- (2) The certificate to be given to the Registrar-General of Land by the Commission under section 51(2) of the Act must be in a form approved, if any, by the Registrar-General of Land.
- (3) The certificate must include the following information:
  - (a) a statement that the purpose of the certificate is to record the cancellation of building cover or land cover, or both, or the limitation of the Commission's liability under the Act (as the case requires):
  - (b) a reference to whichever of the following provisions of the Act is relevant in the particular case:
    - (i) if the certificate records the cancellation of building cover or land cover, or both, section 49:
    - (ii) if the certificate records the limitation of the Commission's liability for future damage, section 50:
  - (c) any unique identifier assigned to the claim by the Commission:
  - (d) a description of the land affected by the certificate, including the name of the registered proprietor, the record of title reference, and the land registration district:
  - (e) the date from which the cancellation or limitation applies:
  - (f) the Commission's reasons for the cancellation or limitation:
  - (g) a statement indicating whether the cancellation or limitation applies to building cover or land cover, or both:
  - (h) a statement summarising the following provisions of the Act:
    - (i) in the case of a certificate recording the cancellation of building cover or land cover, or both, section 49(6) and (7):
    - (ii) in the case of a certificate recording the limitation of the Commission's liability for future damage, section 50(4) and (5):
  - (i) the signature of a person authorised by the Commission to give the certificate to the Registrar-General of Land.

**11B Content of notice recording reinstatement of cancelled cover or removal of limitation of liability**

- (1) This regulation applies for the purposes of section 51(4)(a) of the Act to the extent that it relates to a notice recording the Commission's reinstatement of cancelled cover or the removal of limitation of liability for future damage (and the discharging of a certificate referred to in regulation 11A(1)).
- (2) The notice to be given to the Registrar-General of Land by the Commission under section 51(3) of the Act must be in a form approved, if any, by the Registrar-General of Land.
- (3) The notice must include the following information:
  - (a) a statement that the purpose of the notice is to record the reinstatement of cancelled building cover or land cover, or both, or the removal of a limitation of the Commission's liability under the Act, as the case requires (and the discharging of a certificate referred to in regulation 11A(1)):
  - (b) a reference to whichever of the following provisions of the Act is relevant in the particular case:
    - (i) if the notice records the reinstatement of cancelled building cover or land cover, or both, section 49:
    - (ii) if the notice records the removal of a limitation of the Commission's liability, section 50:
  - (c) any unique identifier assigned to the claim by the Commission:
  - (d) a description of the land affected by the notice, including the name of the registered proprietor, the record of title reference, and the land registration district:
  - (e) the date from which the cancelled cover was reinstated, or the limitation of liability removed (as the case requires):
  - (f) the signature of a person authorised by the Commission to give the notice to the Registrar-General of Land.

**7 New regulations 15 to 20 and cross-headings inserted**

After regulation 14, insert:

*Review of complaint procedure decisions about breaches of Code*

**15 Application for independent review of decision: manner, time frame, and content**

- (1) This regulation applies for the purposes of section 93(2) of the Act, which relates to applications for independent review of decisions made by the Commission under the Commission's internal complaints procedure in relation to breaches of the Code.



- (2) An application for independent review of a decision—
  - (a) may be made orally or in writing; and
  - (b) must be made no later than 3 months after the date on which the Commission notifies the insured person to whom the decision relates of the decision; and
  - (c) must include the following:
    - (i) the name of the applicant;
    - (ii) contact details for the applicant;
    - (iii) confirmation that the applicant authorises another person to make the application on their behalf (if relevant);
    - (iv) information identifying the decision in respect of which the applicant is seeking a review;
    - (v) the address or location of the insured property that the decision was about (if relevant).
- (3) However, the Commission may extend the deadline in subclause (2)(b) to up to 1 year after the date on which the Commission notifies the insured person of the decision, if the Commission is satisfied that an applicant was unable to make the application (or arrange for it to be made) within 3 months because of absence, incapacity, or other disability.

#### **16 Review of decision: time frame for decision**

- (1) This regulation applies for the purposes of section 95(a) of the Act, which relates to the period in which an independent reviewer must carry out the review of a decision made by the Commission.
- (2) A reviewer must carry out the review within 4 months of the date on which the Commission allocated the application for review to the reviewer under section 93(3) of the Act.
- (3) However, if the Commission reallocates an application for review in accordance with section 93(5) of the Act, the reviewer to whom the application is reallocated must carry out the review within 4 months of the date on which the application was reallocated.

#### *Certain decisions of Commission excluded from referral to dispute resolution scheme*

#### **17 Definition of referable decision: certain decisions excluded**

- (1) This regulation applies for the purposes of the definition of referable decision in section 104(6) of the Act.
- (2) If the Commission decides to settle a claim, or part of a claim, using 1 or more of the methods set out in section 61(1)(a), (c), or (d) of the Act, the decision as to which of those methods (or what combination of those methods) will be

used in relation to the claim, or the relevant part of the claim, is not suitable for resolution under the dispute scheme and is not a referable decision.

*Levy*

**18 Rate of levy payable for natural hazard cover**

- (1) This regulation applies for the purposes of section 116(2) of the Act.
- (2) The rate of the levy payable in respect of a residential building that is insured under a fire insurance contract is,—
  - (a) if the period of insurance under the fire insurance contract is 1 year, 16 cents (plus GST) for every \$100 of the building cover cap for the building; or
  - (b) if the period of insurance under the fire insurance contract is any other period, a pro rata proportion (on a daily basis) of the amount calculated in accordance with paragraph (a), rounded to the nearest 5 cents.
- (3) No levy is payable in respect of the insurance of any residential land under the Act.
- (4) In this regulation, **building cover cap** means the building cover cap for the residential building determined—
  - (a) under sections 35 to 37 of the Act; and
  - (b) excluding GST.

**19 Manner in which levy must be paid**

- (1) This regulation applies for the purposes of section 117(1)(b) of the Act.
- (2) A fire insurer must pay the levy to the Commission by way of electronic funds transfer into a bank account nominated by the Commission.

*Fire insurers' information obligations*

**20 Manner in which records must be kept**

- (1) This regulation applies for the purposes of section 152(3)(b) of the Act.
- (2) A fire insurer must keep all records of their fire insurance contracts in safe custody.

**8 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in the Schedule of these regulations as the last Part; and
- (b) make all necessary consequential amendments.

## Schedule

### New Part 2 inserted into Schedule 1

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#### Part 2

#### Provision relating to Natural Hazards Insurance Amendment Regulations 2024

##### 1 Application of regulations 18 and 19 relating to levies

Regulations 18 and 19 apply only in respect of a fire insurance contract entered into on or after 1 July 2024.

Nicola Purvis,  
Acting Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations but is intended to indicate their general effect.*

These regulations, which come into force on 1 July 2024, amend the Natural Hazards Insurance Regulations 2024 (the **principal regulations**). The principal regulations, which also come into force on 1 July 2024, prescribe matters for the purposes of the Natural Hazards Insurance Act 2023 (the **Act**).

These regulations prescribe the following matters for the purposes of the Act:

- the criteria for determining when large-scale holiday homes are dwellings for the purposes of section 6(9) of the Act;
- how classes of persons are specified as insured persons for the purposes of section 22(2) of the Act by replacing regulation 8 of the principal regulations with *new regulations 8 and 8A*. The replacement provisions give more precise guidance in relation to residential land and include examples of how the regulations work in practice;
- for the purposes of section 51(4)(a) of the Act, the content required for certificates recording Toka Tū Ake – Natural Hazards Commission’s (the **Commission’s**) cancellation of building cover or land cover, or both, or limitation of liability for future damage, and notices recording the reinstatement of cancelled cover or the removal of limitation of liability for future damage;
- the manner, time frame, and content of an application for independent review of the Commission’s decision under its internal complaints procedure in relation to breaches of the Code of Insured Persons’ Rights for the purposes of section 93(2) of the Act;

- the time frame in which an independent reviewer must carry out the review for the purposes of section 95(a) of the Act:
- the types of decision that are not suitable for resolution under the dispute scheme for the purposes of the definition of referable decision in section 104(6) of the Act:
- how the rate of the levy payable under section 116 of the Act is determined:
- how that levy must be paid for the purposes of section 117(1)(b) of the Act:
- how records of fire insurance contracts must be kept for the purposes of section 152(3)(b) of the Act.

Issued under the authority of the Legislation Act 2019.  
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These regulations are administered by the Treasury.