



THE FIRE SERVICE (LEVY) REGULATIONS 1975

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 30th day of June 1975

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Fire Services Act 1972, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fire Service (Levy) Regulations 1975.

(2) These regulations shall come into force on the 1st day of July 1975.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Fire Services Act 1972:

“Commission” means the Fire Service Commission established under the Fire Services Act 1972:

“Contract of fire insurance” means a contract whereby any property is insured against loss or damage by fire, whether the contract includes other risks or not; but does not include any contract of marine insurance or any contract of reinsurance:

“Insurance company” means any person, or any body of persons, whether incorporated or not, who undertakes liability under any contract of fire insurance:

“Levy” means the levy under section 60A of the Act:

“Mortgage” means a deed, memorandum of mortgage, instrument, or agreement whereby security for the payment of any money or for the performance of any contract is granted over any property; and includes any statutory or other charge on any property, other than a charge for land tax or income tax or for rates under the Rating Act 1967; and also includes an agreement for the sale and purchase of land and a hire purchase agreement affecting any property other than land; but does not include any security for death duty, Maori succession duty, estate duty, gift duty, or stamp duty:

“Mortgagee” means the person entitled to the benefit of the security of a mortgage; and includes the vendor under an agreement for sale and purchase or under a hire purchase agreement:

“Mortgagor” means the owner of the property that is subject to a mortgage, or, in relation to any property that is subject to an agreement for sale and purchase or to a hire purchase agreement, means the purchaser thereunder:

“Property” means any real or personal property in New Zealand:

“Ship” means any kind of vessel used in navigation, and not propelled by oars only; and includes any barge, hulk, mining dredge, floating crane, or floating dock; and also includes any other vessel or thing made to float, whether it is fixed or free, and whether or not it has any means of propulsion.

3. Exemptions—Section 60A of the Act shall not apply to—

- (a) Any ship or anything in a ship except while the ship is on land:
- (b) Any land:
- (c) Any standing bush or forest:
- (d) Any road, street, or path:
- (e) Any railway track or pole, or any tramway track or pole:
- (f) Any bridge or viaduct either completed or in course of construction, or any boxing or falsework used in the construction of any bridge or viaduct:
- (g) Any tunnel or cutting:
- (h) Any retaining wall, dam, breakwater, mole, groyne, fence, or wall:
- (i) Any drain or channel:
- (j) Any reservoir, swimming bath, water tank (other than a water tank installed as part of the water supply system of any dwelling or farm building), water tower, or septic tank:
- (k) Any water or gas reticulation pipe (other than a water or gas reticulation pipe which in the opinion of the Earthquake and War Damage Commission, constitutes a structural part of any building):
- (l) Any electric supply, telegraph, or telephone pole, line, or cable:
- (m) Any mine or quarry:
- (n) Any primary products purchased by the New Zealand Government for sale to Her Majesty’s Government in the United Kingdom in accordance with contracts made between the two Governments:
- (o) Any aircraft or anything in an aircraft except while insured under a contract which is substantially a contract of fire insurance:
- (p) Any goods in transit, except while insured under a contract which is substantially a contract of fire insurance:
- (q) Any explosives:
- (r) Any livestock:
- (s) Any growing crops (including fruit trees and vines):
- (t) Any ensilage insured in the open field:
- (u) Any hay or other cut crops insured in the open field.

4. Payment of levy by insurance companies—(1) The amount of the levy for which any insurance company becomes liable in any month shall be paid by the company to the Commission within 2 months after the end of that month.

(2) Every such payment shall be accompanied by a certificate by an officer or agent of the company, stating that, according to the books thereof, and to the best of his knowledge and belief, the payment is correct.

5. Information to be kept secret by Commission—(1) The amount of every such payment, and all such certificates, and all information obtained, and all extracts made in order to verify the certificates, shall be kept secret by the Commission and every member thereof, and by every officer and person appointed or employed thereby.

(2) Nothing in this regulation shall be construed to prohibit the publication of the gross amount of the levy received by the Commission from all insurance companies during or in respect of any period.

6. Accounts and audit—(1) Every insurance company shall at all times keep in safe custody all records of contracts of fire insurance in respect of which it becomes liable to pay the levy, including full particulars of each contract and the amount of the levy and the date of its payment to the Commission.

(2) For the purpose of ascertaining whether all levies for which any insurance company is liable have been paid and whether the provisions of the Act and of these regulations have been complied with, the Commission may from time to time require the Audit Office or any auditor to examine the books and accounts of the company and it shall be the duty of the Audit Office or that auditor to make an examination accordingly and to report the result thereof to the Commission, and the company shall forthwith on demand submit its books and accounts accordingly to any duly authorised officer of the Audit Office or of that auditor.

7. Amount of levy payable in respect of any periods other than 1 year—(1) The amount of the levy payable in respect of the insurance of any property against fire damage for any period other than 1 year shall be—

- (a) Where the period is less than 1 year, a pro rata proportion of the amount of the levy for 1 year; or
- (b) Where the period is more than 1 year but less than 2 years, the amount of the levy for 1 year together with a pro rata proportion of the amount of the levy for 1 year.

8. Mortgaged property—(1) Where any property is insured against loss or damage by fire and at the time of the making of the contract of fire insurance the property is subject to a mortgage or to two or more mortgages, the following provisions shall apply as between the mortgagor and the mortgagees:

- (a) One-half of the levy shall be payable by the mortgagor;
- (b) One-half of the levy shall be payable by the mortgagee or mortgagees; and where there are two or more mortgages an equal proportion shall be payable by the mortgagee under each mortgage;

- (c) The proportion of the levy payable as aforesaid by the mortgagee under any mortgage shall not exceed the amount of the interest payable under the mortgage for the preceding year:
- (d) The amount by which the proportion of the levy payable by the mortgagee under any mortgage is reduced under paragraph (c) of this subclause shall be payable by the mortgagor, unless the property is subject to any other mortgage or mortgages, in which case it shall be payable by the mortgagor and the mortgagees under the other mortgage or mortgages, in the same proportions as if the property were not subject to the first-mentioned mortgage:
- (e) For the purposes of paragraph (c) of this subclause the expression "the preceding year" means the period of 12 months ending on the last half-yearly or other regular date for the computation of interest before the making of the contract of fire insurance or, where there is no such regular date, means the period of 12 months ending on the last day of the month preceding the month in which the contract is made, and where the mortgage has been in existence for part only of the preceding year the interest actually payable for that part of the year shall be deemed to be increased by the proportion that one year bears to that part of the year:
- (f) The proportion of the levy payable by any mortgagee under paragraphs (c) to (e) of this subclause shall be proportionately increased or reduced if the period in respect of which the contract of fire insurance is made is greater or less than a year:
- (g) If the mortgagor or any mortgagee pays to the insurance company any part of the levy in excess of the proportion payable by him under this regulation he may recover the excess as a debt from any other person or persons liable under this regulation to pay any part of the levy, to the extent to which they are respectively so liable:
- (h) No action for the recovery of any amount under paragraph (g) of this subclause shall be commenced except within 2 years after the payment of the levy:
- Provided that a failure to commence an action within the time hereby limited shall be no bar to the action if, in the opinion of the Court, the failure was occasioned by mistake, or by absence from New Zealand or by any other reasonable cause:
- (i) Any amount recoverable as a debt by the mortgagor under paragraph (g) of this subclause may be deducted by him from any money payable by him to the person from whom the amount is recoverable at any time within 2 years after the payment of the levy:
- (j) Any person who is bound to pay the levy by a contract or agreement with the mortgagor shall have the same rights under the foregoing provisions of this subclause as if he were the mortgagor:
- (k) Any amount so recoverable by any mortgagee from the mortgagor shall, until it is paid, be deemed to be added to the money secured by the mortgage, but no interest shall be payable thereon.

(2) Nothing in this regulation shall be construed to affect the liability of any person to pay to the insurance company the full amount of any premium for which he may be liable.

(3) No covenant or agreement entered into before or after the commencement of these regulations shall have any force or effect to deprive any person of any right, power, privilege, or benefit provided for by this regulation.

P. G. MILLEN,
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 prescribe the manner in which the levy under section 60A of the Fire Services Act 1972 is to be imposed.

Regulation 2 is the interpretation provision.

Regulation 3 declares certain property exempted from the levy.

Regulation 4 prescribes when the payment of the levy is to be made.

Regulation 5 provides for information given in connection with the levy to be kept secret, except for the gross amount received in respect of the levy in any period.

Regulation 6 provides for accounts and audit.

Regulation 7 prescribes the method of calculating the amount of the levy in respect of periods other than 1 year.

Regulation 8 provides for payment of one-half of the levy by the mortgagee or mortgagees of the property.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 3 July 1975.

These regulations are administered in the Department of Internal Affairs.