

Presented to the House of Representatives in accordance with Standing Order 272

LEGISLATIVE STATEMENT: NATURAL HAZARDS INSURANCE BILL THIRD READING

Introduction

The Natural Hazards Insurance Bill (the Bill) will modernise the Earthquake Commission Act 1993 (EQC Act) and its associated natural hazard insurance scheme and governing Crown entity, the Earthquake Commission (EQC).

The proposals draw on lessons learned since the development of the current EQC Act and the report of the Public Inquiry into the EQC.

The proposals retain the current EQC insurance scheme. Key continuing features include:

- first loss natural hazard insurance cover on residential property, provided through cover attached to private fire insurance policies and payment of the associated levy
- levies are used to pay claims and running costs and otherwise accumulate in a fund
- a Crown funding guarantee provides assurance claimant entitlements will be met by the Crown if necessary, regardless of the financial state of the fund or entity, and
- the governing entity will continue to be a Crown agent under the Crown Entities Act 2004.

The Bill will also change the name of the *Earthquake Commission* to *Toka Tū Ake – Natural Hazards Commission* (the Commission) to reflect the broad range of hazards covered by the Act and dealt with by the Commission.

This legislative statement focuses on changes made to the Bill at the Committee of the Whole House stage.¹

Natural hazard cover

The description of “eligible building” has been amended to include the requirement for the holder of the associated fire insurance policy to have an insurable interest in that building (clauses 7(1) and 7(2)).

The description of “insured person” has been amended to enable classes of persons to be specified in regulations, who will be treated as insured persons for the purpose of the shared property provisions in the Bill (clause 22(2)). This change extends the previous wording, which provided only for coverage of the interest of the insured person’s mortgagee. The amended wording provides a broader mechanism, allowing regulations to deal with situations where more complex ownership arrangements create doubt as to whether the insurable interest of a person connected with the insured person should be covered by natural hazard cover.

¹ The legislative statements for the first and second readings provide an overview of the Bill as a whole, and can be found at this link: <https://www.parliament.nz/en/pb/papers-presented/current-papers/>

The provision dealing with the replacement cost for imminent damage to buildings (clause 33A) has been amended to more clearly describe the circumstances where these costs are allocated between building and land cover, when a given repair mitigates the risk of both building and land damage. This includes a related change to clause 45A(6).

Claims

The provision dealing with the treatment of multiple occurrences of natural hazard damage (clause 51) has been substantially amended to more clearly describe when further damage is part of a previous initial claim or forms a new initial claim. Generally, natural hazard damage occurring within 7 days of the initial damage (for damage caused by volcanic activity or natural hazard fire) or 48 hours of the initial damage (for damage caused by all other natural hazards) is the subject of the same claim.

This amendment includes clarifying the treatment of claims when the existing damage subsequently worsens or leads to further damage, without the continuing action of the natural hazard (clause 51(3B)). This damage incurred after the claim is part of the claim that caused the original damage.

These changes also include consequential changes to transitional provisions dealing with claims that straddle the old and new Acts, with clause 2 of Schedule 1 being replaced by a new clause 3A of Schedule 1.

Claim settlement

The provision dealing with settlement payments if the insured person is two or more persons (clause 61) has been amended by the addition of clause 61(3A). This amendment clarifies that in circumstances where another law would require a particular division of the payment to the insured persons, that law takes precedence over the method for division set out in the Bill. This avoids the Bill overriding any pre-existing legal requirements for division of payments.

The Bill provides for the Commission to settle a claim by relocating a residential building (or its associated services) to another site on the insured person's land, or to a new site to be transferred to the insured person (clause 62).

This provision has been broadened so that where a claim is settled by relocating the building or services within the insured person's land, this may extend to land that is contiguous with the insured person's land, and is land on which the relocated property may lawfully be situated. The associated example has been amended to show an example of when this might occur (relocation of services on council road reserve).

The provision regarding the Commission's salvage rights for land (clause 81) has been amended to (i) clarify that where the Commission can salvage the insured person's land because the settlement is equal to or greater than the prior market value of that land, that value takes into account the deduction of excess from the settlement, and to (ii) clarify valuation where the salvaged land involves shared, common or joint land.