

8 April 2024

Financial Markets Team

The Treasury

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## **ICNZ SUBMISSION ON THE DRAFT NATURAL HAZARDS INSURANCE AMENDMENT REGULATIONS 2024**

Te Kāhui Inihua o Aotearoa The Insurance Council of New Zealand (**ICNZ**) welcomes the opportunity to make this submission on the draft Natural Hazards Insurance Amendment Regulations 2024 which relate to the independent review of decisions made by EQC Toka Tū Ake (**the Commission**) about breaches of the Code of Insured Persons' Rights (**the Code**).

ICNZ represents private general insurers who insure about 95 percent of Aotearoa New Zealand's general insurance market, including well over a trillion dollars' worth of property and liabilities. ICNZ members provide a range of insurance products, including most relevantly here, cover for natural hazard damage in excess of the cover provided by the Commission under the existing Earthquake Commission Act 1993 and the new Natural Hazards Insurance Act 2023.

The Treasury is seeking feedback on proposed regulations related to:

- The timeframe that an insured person must make an application in, and what information must be provided in the application.
- The timeframe that the independent reviewer must complete their review within.

ICNZ has previously provided feedback to the Treasury on the proposals for these regulations as they were being developed. We now take the opportunity afforded by the formal consultation to restate our views and provide some additional comment.

Overall, we believe that it would be desirable to align with existing industry complaints processes as much as possible. This will reduce confusion as customers may have multiple avenues of complaint open to them arising from the same claim.

### **Timeframes for making an application for an independent review of decisions about breaches of the Code**

Draft regulation 15(2)(b) provides that an application for an independent review of a decision about a breach of the Code *“must be made no later than 3 months after the date on which the decision made by the Commission ... was communicated to the insured person”*.

We consider that this is an appropriate timeframe and note that it is consistent with the timeframe that applies for making complaints under the new Financial Services (Rules for Approved Dispute Resolution Schemes) Regulations 2024 (**the Dispute Resolution Schemes Regulations**), which come into effect on

18 July 2024. The Dispute Resolution Schemes Regulations set consistent rules for the four approved dispute resolution schemes for the time periods for making complaints.

However, draft regulation 15(3) goes on to provide that the Commission may extend the 3 month deadline to up to 2 years. Draft regulation 15(3) provides: *“the Commission may extend the deadline ... to up to 2 years after the date on which the decision made by the Commission was communicated to the insured person, 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.”*

It is not appropriate for the Commission to be able to extend the deadline to 2 years. A 2-year period is too long even after taking into consideration absence, incapacity or other disability. The regulations also do not consider whether the delay will prejudice any review.

We consider that applications to review the Commission’s original decision should be made in a timely manner. Two years after the fact is not a good outcome for the Commission, their agents or the customer and it may encourage frivolous applications to be made.

If extensions were to be allowed, then we consider that this should only be for up to 1 year (i.e. for an additional 9 months) and only where the delay will not prejudice the ability to conduct the independent review. We note that such an approach would align with that set out in the Financial Disputes Resolution Schemes Regulations. Under those regulations a customer may bring a complaint to a scheme within 3 months of receiving a deadline notice but this timeframe may be extended to 1 year in exceptional circumstances.<sup>1</sup>

### **Information to be provided in the application**

Draft regulation 15(2)(a) provides that the application must be in writing. For equity considerations, it is worth considering accepting applications verbally over the phone, as is allowed under other dispute resolution schemes.

Draft regulation 15(c) sets out the information that must be set out in the application. We understand from previous correspondence with the Treasury that the regulations are intended to set out the minimum level of information required to progress the application to review, and that the Commission may seek further information when the application is made.

Nevertheless, we consider that the regulations need to include the requirement for full details about why a review is sought with reference to the relevant part of the Code. This will ensure that the issue is set out clearly and can be addressed by the reviewer. We appreciate that the Commission will hold details about the applicant’s original complaint in relation to the Code. However, it is important to understand if there is a particular aspect of the Commission’s decision on that complaint that the applicant wishes to challenge.

### **Timeframes for completing an independent review**

Draft regulation 16(2) provides that a reviewer must carry out the review within 4 months of the date on which the application for review was allocated to the reviewer. Draft regulation 16(3) then sets out how the timeframe will apply if a review is reallocated from one reviewer to another. If the Commission reallocates an application for review, the reviewer to whom the application is

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<sup>1</sup> Clause 1(4) and (5) of Schedule 2 to the Dispute Resolution Schemes Regulations.

reallocated must carry out the review within 4 months of the date on which the application was allocated.

We consider that a 4 month timeframe could be unrealistic for the reviewer, particularly if the Code complaint arises from a complex claim. For example, if the Code complaint arises out of a claim that involves multiple parties due to global remediation or shared ownership or a claim that requires technical expertise. It is our strong view there should be an ability to extend the timeframe in certain circumstances, i.e., for complex cases. An ability to extend the timeframe could also remove the need to make separate provision to deal with reallocations.

Thank you again for the opportunity to make this submission and the Treasury's previous engagement on this issue. Please contact me ([susan@icnz.org.nz](mailto:susan@icnz.org.nz)) if you have any questions on our submission or require any further information.

Yours sincerely

A handwritten signature in black ink that reads "Susan Ivory". The signature is written in a cursive style with a long, sweeping underline.

**Susan Ivory**  
Regulatory Affairs Manager