

Policy on mid-term adjustments (MTAs) in transitional period



Introduction

This draft policy has been developed in response to a request by the Insurance Council of New Zealand (**ICNZ**) and the Insurance Brokers Association of New Zealand (**IBANZ**) that mid-term adjustments to contracts of insurance (MTAs) be levied at the rate that applied at the contract start date.

This policy is a pragmatic concession for the period from 1 July 2017 to 31 December 2018, made on a one-off basis in light of the wider transition. It is not a statement as to Fire and Emergency New Zealand's (**the organisation**) views of the proper application of the levy provisions. In the organisation's view, the correct legal position is that MTAs are assessable at the rate that applies at the time of their making. This is because an MTA has the potential to amount to a contract of insurance in its own right, and is capable of incurring distinct levy liability within the context of the earlier contractual position.

ICNZ advised that it considers MTAs are not a new contract of insurance and therefore not assessable for levy at the levy rate at the time of the adjustment. Rather, ICNZ considers MTAs should be assessed at the relevant levy rate at the inception of the contract of insurance. This is not addressed in this policy, and will be addressed separately by the organisation and ICNZ.

Application of the Policy

This policy relates to MTAs and applies to policies endorsed between 1 July 2017 through to 31 December 2018 (**the prescribed period**) for contracts with effective dates before 1 July 2017.

This policy applies only:

- to MTAs which increases an amount insured and are made during the prescribed period, and
- where returns are made and levy is paid, for those contracts of insurance in the usual and correct way (but at the levy rate which applied at the contract start date),

This policy does **not** apply to any MTA which extends the period of a contract of insurance.

Policy

For MTAs to which this policy applies :

- they will be assessed for levy at the rate which applied at the contract start date.
- the organisation will not recover levy and interest (under s 53(1) FSA) on the amount payable at the new rate (that is, the rate applying when the MTA is made)

This policy does not extinguish levy liability, rather is an approach to enforcement recovery position taken by the organisation.

Policy on interest during grace period from 1 July 2017 to 30 September 2017



Introduction

This draft policy has been developed in response to what NZFS understood to be a request by the Insurance Council of New Zealand (**ICNZ**) for a grace period for interest (but not surcharge) where:

- a contract of insurance is entered between 1 July 2017 and 30 September 2017,
- levy is paid at the rate which applied before 1 July 2017, due to limitations in the insurer's computer system, and
- the levy underpayment (the difference between the amount payable at the prior levy rate and the levy rate applying from 1 July 2017) is paid within a prescribed period.

Fire and Emergency New Zealand (**organisation**) notes that the following policy is a pragmatic concession, on a one-off basis in light of the wider transition. This is not a statement about the organisation's views of the proper application of the levy provisions.

Application of the policy

This policy relates to interest that would otherwise be payable under s 53(1) of the Fire Service Act 1975 (but not penalty surcharge) where:

- A contract of insurance is entered between 1 July 2017 and 30 September 2017 (inclusive), or any other dates as may be decided on (**prescribed period**);
- Levy is paid in the usual way at 7.6 cents (**prior rate**) and not at 10.6 cents (**new rate**) because of limitations with the insurer's computer systems; and
- The underpayment (the difference (between the amount paid and the amount payable at the new rate) is subsequently paid within six months from the date on which the levy return was due to be made.

Policy

Contracts of insurance entered within the prescribed period will be subject to limited enforcement action in that the organisation will not seek recovery of interest on underpaid levy, **only** in the following circumstances:

- where returns are made and levy is paid, for those contracts of insurance in the usual and correct way (but at the prior rate of levy),
- where an insurer or broker in the view of Fire and Emergency New Zealand is trying to do the right thing. (The organisation will take enforcement action for anything it considers to be outright non-compliance.),
- if the underpaid amount of levy (being the difference between the levy paid at the prior rate and the levy payable at the new rate) is paid within six months from the date on which the levy return was due to be made, and
- the insurer establishes to the satisfaction of the organisation that the relevant computer system is incapable of implementing a different levy rate, without a disproportionate or unreasonable measures being required.

Underpaid levy which is not paid in accordance with the above will be subject to recovery by the organisation in the usual way (interest and penalty surcharge will also be payable where applicable).

This approach will not extinguish any legal liability, but it will amount to a recovery position that the organisation is entitled to take. (However, where the organisation does act to so recover, it has no discretion as to the recovery of penalty surcharge.)

Policy provision of information under the Fire and Emergency New Zealand (Levy Rates and Information Requirements in Transitional Period) Regulations 2017 (2017/102) for the period 1 July 2017 to 31 December 2017



Introduction

This draft policy has been developed in response to what NZFS understood to be a request by the Insurance Brokers Association of New Zealand (**IBANZ**) for a grace period for the provision of new and additional data in the Fire and Emergency New Zealand (Levy Rates and Information Requirements in Transitional Period) Regulations 2017 (2017/102).

Application of the policy

This policy relates to the new and additional information set out in the regulations that is additional to the data required of brokers under the current Act, and those currently supplied voluntarily by insurers supporting payments of levies by a client equal to and above \$1,000

Policy

- The organisation will not seek to require from insurers or brokers the additional information set out in the regulations.
- Insurers and brokers will continue to provide the current information supplied in the current format in a timely manner – i.e. either contemporaneous with the payment advice, the payment or within 2 business days of the payment being made.

