

Circular 1998/2 (revised February 2012 and July 2017)

Fire Service Act 1975 – section 48

Guidance note – Indemnity value, valuations and declarations

This guidance note was amended as part of the implementation of the Fire and Emergency New Zealand Act 2017.

The Fire and Emergency New Zealand Act 2017 provides for a number of levy provisions under the Fire Service Act 1975 and the Fire Service Regulations 2003 to continue in force for a transitional period from 1 July 2017 until the commencement of Part 3 of the Fire and Emergency New Zealand Act 2017 (see clause 26 Schedule 1 to the Fire and Emergency New Zealand Act 2017).

Fire and Emergency New Zealand Fire ("Fire and Emergency") is responsible for the administration of the levy provisions of the Fire Service Act 1975 ("the Act"). The following circular is issued as guidance to assist those to whom the Act applies in regard to the Levy.

In issuing this circular, Fire and Emergency wishes to acknowledge the assistance of the Insurance Council of New Zealand and Insurance Brokers Association of New Zealand.

Statement of Policy

Fire and Emergency believes that the intent of the Levy collection system is that it should be fair and equitable. Consequently, Fire and Emergency will closely examine any insurance arrangements that it considers may be constructed so as to reduce the amount of levy intended.

1.0 CONTRACT OF FIRE INSURANCE

1.1 A "contract of fire insurance" means an agreement whereby any property is insured against loss or damage by fire, whether the agreement includes other risks or not but does not include any contract of marine insurance or reinsurance as defined in the Act.

2.0 INDEMNITY VALUE

2.1 For the purpose of calculation levy, the term Indemnity Value of any property shall mean the actual Indemnity Value in relation to the replacement value of the property. Actual Indemnity Value will be calculated as the Replacement Value less any depreciation on an age and condition basis.

2.2 That is, depreciated replacement value,

- i) as supported by a declaration by the owner of the property, that the value is "in relation to the replacement value of the property" ; or
- ii) as stated by a valuation certificate (given by a person as defined by the Act) that establishes clearly the Indemnity Value of the property for the purposes of levy.

Additional guidance on the calculation of indemnity valuation can be found in the Australia New Zealand Valuation Guidance Note 13 – Valuations for Insurance Purposes issued by the Property Institute of New Zealand.

3.0 INFLATION OF INDEMNITY VALUE

3.1 The indemnity inflation factor is deemed to be part of the Indemnity Value. Hence, whenever inflation is insured in an Indemnity Value contract of fire insurance, levy is deemed payable less the same discount, up to a maximum of 50%, that the insurer has applied in the premium rating of the contract of fire insurance.

4.0 DECLARATION CERTIFICATE

4.1 A declaration certificate, which is required to support the Indemnity Value, must be:

- i. signed by the owner during the period covered by the period of the contract; and
- ii. state that the declared Indemnity Value is fair and reasonable Indemnity Value in relation to replacement value of the property.

4.2 In the absence of any of the above details on the declaration certificate, the certificate will be deemed non-compliant.

4.3 A declaration is deemed to be valid only for the period of the contract.

5.0 DECLARED VALUE NOT CONSIDERED TRUE AND FAIR

5.1 If the Indemnity Value of a property as declared by the owner is considered unreasonable in relation to Replacement Value of the property, Fire and Emergency may request further explanation.

5.2 The Indemnity Value will be deemed to be not fair and reasonable in the event that:

- i. a suitable explanation is not furnished within 28 days of the request; and/or
- ii. the explanation is considered by Fire and Emergency to be unsatisfactory.

5.3 In the event the declared Indemnity Value is deemed not fair and reasonable, Fire and Emergency shall under section 48(6B)(a) of the Act determine a fair and reasonable Indemnity Value by assessment of the:

- i. replacement value of the property
- ii. less depreciation (see 2.0. above). and calculate levy on the basis of that determination.

5.4 Fire and Emergency shall, before the expiry of the contract, notify the owner in writing of-
(i) its determination (and if applicable, the reason the explanation provided was rejected); and
(ii) the owners right of objection under section 48(6B)(c) of the Act.

5.5 Should the owner object under section 48(6B)(c) of the Act, they will be liable to pay 50% of the costs of the valuation.

6.0 VALUATION CERTIFICATE

6.1 A valuation certificate must:

- be given by a person as defined by section 48(6)(c)(ii)(A) of the Act. The name, qualification of the person and organisation represented must be shown clearly; and
- establish clearly the Indemnity Value of the property for the purposes of levy.
- not be more than 2 years old. The certificate should show clearly the date the valuation was done or updated as the case may be.

6.2 In the absence of any of the above details on the valuation certificate, the certificate will be determined by Fire and Emergency to be non-compliant, and may result in Fire and Emergency seeking further information (see 5.2 above) or issuing its own assessment (see 5.3 and 5.4 above).

7.0 DECLARATION OR VALUATION DEEMED NON-COMPLIANT

7.1 Where a declaration or valuation is deemed to be non-compliant for the reasons set out in clauses 4 and 6 of this circular, the insurer and/or insured will have 28 days from date of notification, or 3 working days prior to the expiry of the insurance contract to rectify the situation, whichever is the earlier date.

7.2 If the Indemnity Value is deemed not established, Fire and Emergency shall under section 48(6)(d) of the Act calculate levy :

- (i) where the insurance contract specifies the sum insured, on that sum:
- (ii) where the insurance contract does not specify the sum insured, in the manner determined by Fire and Emergency.

8.0 WHERE THE CONTRACT DOES NOT SPECIFY THE SUM INSURED

8.1 Where Indemnity Value cannot be established, and where there is no sum insured in the contract, levy shall be calculated by applying the levy rate on the following base:

- i. Replacement value of the property
- ii. less depreciation (See 2.1 above)

9.0 DEFINITION OF PROPERTY

9.1 Section 47B of the Act defines property for levy purposes. However Fire and Emergency has determined that the following will not be considered to be property within the definition of the Act: -

- i) Demolition Costs
- ii) Fees
- iii) Expediting Costs following a claim
- iv) Cost of Property Protection following a claim
- v) Money
- vi) Employees Tools and Personal Effects
- vii) Employees vehicles whilst in use on insured's business

10.0 STOCK IN TRADE

10.1 If stock in trade is insured by what is known as a "Stock Adjustable" insurance and the sum insured represents the Indemnity Value of all of the insured's stock in trade, levy may be calculated and adjusted in the same manner as the insurance premium.

11.0 GOODS in TRANSIT

11.1 Levy on property that is insured whilst in transit, and incidental storage during that transit, is to be calculated at the rate of levy pro rata for the period of the insurance subject to a minimum levy representing a period of 7 days.