

Tabled, by leave, Mr Mackley

TAB 10

Clerk of the Parliaments

9/5/2024

EMERGENCY SERVICES LEVY INSURANCE MONITOR BILL 2024

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

- In November 2023, the Government announced its commitment to pursue emergency services funding reform to establish a fairer and more sustainable system for funding the State's emergency services.
- Currently, 73.7 per cent of emergency services funding is provided by the Emergency Services Levy (ESL) on insurance companies. The ESL is generally passed on to policy holders by insurers and increases premiums in NSW by around 18 per cent for residential property and around 34 per cent for commercial property. Part of the base premium that policy holders pay is attributed to the ESL, and consequently the ESL also increases the goods and services tax (GST) and stamp duty payable on insurance policies.
- As part of the reform, the ESL will be removed from insurance policies. The ESL on insurers will be replaced by a levy spread across property owners to help fund the emergency services agencies (Fire and Rescue NSW, the NSW Rural Fire Service, and the NSW State Emergency Service).
- Under the former government's attempt at emergency services levy reform in 2017, the Fire and Emergency Services Levy (FESL) reform, a consumer protection regime was put in place. This involved the appointment of an insurance monitor to ensure insurance premiums reflected the abolition of the ESL. This was legislated in the *Emergency Services Levy Insurance Monitor Act 2016*. The insurance monitor had the power, consistent with the insurance monitor set up for emergency services funding reform in Victoria, to monitor prices of regulated insurance contracts and could take action against prohibited conduct, including seeking court-ordered penalties for those who engage in price exploitation or false or misleading conduct.
- The then Legislative Council Portfolio Committee No. 4's inquiry into the FESL recognised that an insurance monitor plays an important role in holding insurance companies to account and that this role would need to continue if the FESL were to be reintroduced. The committee acknowledged that if the ESL were to be removed from insurance premiums that there would be no guarantee that the premiums will reduce accordingly and therefore recommended that the NSW Government revisit the role and funding arrangements for an insurance monitor.
- In the current policy context, an insurance monitor is required to ensure that insurers pass on savings from the removal of the ESL from insurance policies to consumers in the form of lower insurance premiums during a transition period between the current ESL on insurers and a replacement levy that is to be spread across property owners.
- The Independent Pricing and Regulatory Tribunal (IPART), the agency that will be appointed as the Insurance Monitor under the Bill, has been consulted in the development of this policy and Bill.

Objectives: What is the policy's objective couched in terms of the public interest?

- The policy aims to protect insurance policy holders, including households and businesses, by ensuring that insurers pass on the savings arising from the removal of the ESL from insurance premiums. It is in the public interest to ensure that consumers receive the intended savings from the removal of the ESL on insurance premiums.
- High insurance costs increase the number of households and businesses that underinsure or do not insure their property. Removing the ESL should reduce property insurance premiums and lower the number of uninsured and underinsured households, helping to improve household financial resilience when hazards occur.
- The policy is also part of the broader reform of the way emergency services are funded, which seeks to establish a fairer and more sustainable system for funding the State's emergency services.
- The NSW emergency services agencies serve everyone in NSW, and there is a collective benefit in having these agencies fully funded, well prepared and well resourced.

Options: What alternative policies and mechanisms were considered in advance of the bill?

- The option of replacing the ESL on insurers with a levy spread across property owners without an Insurance Monitor was considered.
- However, this option would not provide customers confidence that ESL reform savings will be passed on from insurers in the form of lower insurance premiums.
- Insurance premiums change from year to year due to a variety of factors and customers may find it difficult to determine if savings have been passed on without being ensured by an Insurance Monitor that they have been.
- Successful reform of emergency services funding will rely on insurers passing on, and consumers having confidence they have passed on, ESL removal related savings in the form of lower insurance premiums.
- There is no existing consumer protection regime that would be able to provide adequate assurance that ESL reform savings will be passed on to policy holders.

Analysis: What were the pros/cons and benefits/costs of each option considered?

Establishing an Insurance Monitor

- **Pros/benefits:** The option of establishing an Insurance Monitor with IPART in that role, as put forward in the Bill, would help protect insurance policy holders, including households and businesses, by monitoring the prices charged across the insurance industry and overseeing the conduct of insurance companies. Policy holders would be able to submit complaints to the Insurance Monitor who will have the power to investigate those activities and institute proceedings in respect of prohibited conduct. Having an Insurance Monitor should increase confidence in the broader community that savings in the form of lower premiums from the removal of ESL would be passed on by insurance companies.
- **Cons/costs:** This option requires Government funding of the costs relating to IPART in its capacity as the Insurance Monitor. It also places an increased regulatory burden on insurance companies that will need to regularly provide information to the Insurance Monitor and incur increased compliance costs from the monitoring activities.

Not establishing an Insurance Monitor

- **Pros/benefits:** This option would avoid the Government incurring the financial costs of establishing and operating an insurance monitor. Furthermore, not having an insurance monitor could reduce the regulatory burden that would otherwise be placed on the insurance industry.
- **Cons/costs:** This option would mean not having a consumer protection regime covering the transition from an ESL to a replacement levy. As the then Legislative Council Portfolio Committee No. 4 recognised, if the ESL were to be removed, there would be no guarantee that premiums would reduce accordingly. This option therefore risks consumers not receiving savings from the removal of the ESL and risks undermining, during the transition period, the reform's objective of a fairer and more sustainable system for funding the State's emergency services. The avoided financial costs that have been mentioned above would be partially offset by any costs incurred in increased complaint handling being borne by the NSW Government.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

- The Insurance Monitor will be established upon the Bill's assent.
- The Insurance Monitor will operate until the end of the monitoring period, which is to be set out in regulations. It is envisaged that the end of the monitoring period will be 18 months after the ESL on insurers is completely removed, consistent with the intention for the insurance monitor that was established in 2016 for the FESL reform.
- IPART will be appointed as the Insurance Monitor.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

- The Treasurer has led industry consultation on the reform, including the formation of a Stakeholder Reference Group comprising representatives or individuals associated with:
 - Insurance Council of Australia
 - Local Government NSW
 - Property Council of Australia
 - Real Estate Institute of New South Wales
 - Shopping Centre Council of Australia
 - NSW Rural Fire Service
 - Fire Brigade Employees Union
 - United Services Union
 - Tweed Shire Council
 - Business NSW
 - Public Service Association
 - Former Commissioner of Marine Rescue NSW
- Stakeholder views relevant to this legislation were considered in developing this policy.
- IPART, the Insurance Monitor to be appointed under this legislation, was also consulted for their input in the development of this policy.