

Departmental Disclosure Statement

Accident Compensation (Financial Responsibility and Transparency) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

1 May 2014

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Part One: General Policy Statement

This Bill has two broad objectives:

- to improve the framework for determining how ACC's levied Accounts are funded so it is clearer, more transparent, has a longer-term focus, and supports more stable levies:
- to ensure that the residual levy is not over collected.

The first objective will be achieved through 3 changes.

Firstly, this Bill will improve the framework for funding ACC's Accounts through levies, by replacing current provisions with a more comprehensive set of principles governing the trade-offs involved. These principles provide greater guidance for balancing the need to collect levies that meet the lifetime cost of claims in a particular year, and the need to maintain a reasonable level of solvency and levy stability.

Secondly, this Bill will improve the governance of the process for setting levies by requiring the Government to set a funding policy in line with the statutory principles, which will inform ACC's public consultation on levy rates. This will replace current provisions that require ACC to set the funding policy and will thereby improve the continuity between levies consulted on by ACC and subsequently agreed by the Government.

Thirdly, setting a funding policy will also improve the transparency of the levy setting process, and ensure the public is better informed. ACC will be required to report on the long-term implications that new levy rates will have on future levy paths, Account solvency, and other elements relating to ACC's funding.

Although elements of the Government's funding policy could be issued by Ministerial direction under the Crown Entities Act 2004, there are limits to the level of specificity and scope that is possible. It may also create confusion relating to ACC's obligations. The amendments in this Bill will require the funding policy statement to be in line with the new statutory principles and roles for the Government and ACC. The Bill also outlines how the new funding policy statement will fit into the process for consulting on, and setting, levies.

The second objective is to ensure that the payment of residual levies continues only so long as there are outstanding liabilities for residual levies to offset.

In 1999, ACC moved to a system of fully funding the lifetime costs of an injury claim. Prior to this, levies covered only the current costs of a claim. Residual levies are required to meet the ongoing costs of earlier injuries, but should only be collected until those costs are met. Currently, legislation provides that ACC must continue to collect residual levies until 2019.

The Bill provides for residual levies to be discontinued by Order in Council, reflecting the fact that residual liabilities will continue to fluctuate and that a decision to discontinue residual levies therefore needs to be made closer to the time at which it is appropriate to discontinue them.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<i>Performance Improvement Framework: Review of the Accident Compensation Corporation (ACC)</i> , State Services Commission, the Treasury and the Department of the Prime Minister and Cabinet, December 2014. http://www.ssc.govt.nz/sites/all/files/pif-review-acc-dec14.PDF	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<i>Discontinuing residual levies in ACC's levied Accounts</i> , Ministry of Business, Innovation and Employment, 19 March 2015. This will be made available online when the Bill is introduced.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
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2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
The regulatory impact statement only covers proposals to discontinue residual levies. Regulatory impact analysis was not required by the Treasury for the remaining proposals in the Bill.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES
Refer to the Regulatory Impact Analysis: <i>Discontinuing residual levies in ACC's levied Accounts</i> , Ministry of Business, Innovation and Employment, 19 March 2015.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

None. The policy to be given effect by the Bill is not expected to impact on any international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

None. The policy to be given effect by the Bill is not expected to impact on the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?

YES

The Accident Compensation Corporation was consulted on the draft of this Bill.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
The Bill provides for the timing of the discontinuation of residual levies to be set by Order in Council. The Order in Council is intended to come into effect when sufficient residual levies are collected to offset residual liabilities. The timing will be informed by independent actuarial assessment, allowing for some variability in the valuation of the liability.	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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