

Departmental Disclosure Statement

Accident Compensation 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;
- 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.

28 March 2018

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Part One: General Policy Statement

This Bill has 2 broad objectives -

- to ensure that ACC continues to meet society's expectations by providing cover and entitlements that are appropriate, consistent and sustainable:
- to improve the Accident Compensation Act 2001 (the Act) by ensuring that it is effective, efficient, and accords with best regulatory practice.

The amendments will achieve these objectives by—

- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation
- keeping the regulatory system up to date and relevant.

The amendments in the Bill were identified partly through the regulatory systems work programme of the Ministry of Business, Innovation, and Employment's (the Ministry) This work programme arises from the Chief Executive's responsibility to relevant under section 32 of the State Sector Act 1988 to relevant Ministers for the regulatory stewardship of the legislation administered by the Ministry. The Ministry has a stewardship role which includes the responsibility to review the regulatory instruments under its portfolios to ensure they are fit for purpose. The amendments to the Act are intended to maintain the effectiveness and efficiency of regulatory systems by -

- removing the election requirement for ACC clients to choose between weekly compensation and New Zealand superannuation after being entitled to a year of both:
- amending the current provisions to ensure that all clients who are close to or above superannuation qualification age receive up to 24 months of weekly compensation:
- allowing surviving spouses to receive up to five years of weekly compensation, regardless of age:
- removing the requirement for an 'other dependant' to elect between weekly compensation and superannuation:
- moving from an annual review to a biennial review of the treatment costs payable under Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Regulations 2003:
- enabling the maximum and minimum liable earnings which set the parameters for weekly compensation and levies payable to be specified by a method (for example linking the maximum and minimum liable earnings to the minimum wage and the Labour Cost Index respectively to improve the workability of biennial levy rounds):
- disestablishing the Accident Compensation Appeal Authority, which hears cases under the 1972 and 1982 Accident Compensation Acts.

The Bill addresses other fairness and sustainability issues. This includes an amendment that will treat the spouses, partners and dependants of New Zealand workers posted overseas who suffer an injury consistently with how they would be treated had the injury occurred while they were living in New Zealand. Coverage would primarily be on return to New Zealand because ACC does not usually cover overseas

treatment costs.

The Veterans' Support Act 2014 (VSA) includes a 'mirror' accident compensation scheme for veterans that is aligned with entitlements provided in the Accident Compensation Act 2001. The Bill's changes to the interface between weekly compensation and superannuation require amendments to the VSA to maintain VSA's alignment with the weekly compensation provisions in the Accident Compensation Act 2001.

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
Most of the Bill responds to the New Zealand Productivity Commission's June 2014 report, Regulatory Institutions and Practices. The New Zealand Productivity Commission found that it can be difficult to find time on the Parliamentary calendar for "repairs and maintenance" of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This creates unnecessary costs for regulators and regulated parties and means that regimes may not keep up with public or political expectations.	

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
A regulatory impact statement was prepared by the Ministry of Business, Innovation and Employment in December 2016 for the Accident Compensation Amendments to be Included in the Regulatory Systems Bill (2). 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 remove the election between weekly compensation and superannuation and to disestablish the Accident Compensation Appeal Authority. 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 Statement for the Accident Compensation Amendments to be Included in the Regulatory Systems Bill (2), Ministry of Business, Innovation and Employment, December 2016.	

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

One of the amendments in the Bill will address a declaration of inconsistency by the Human Rights Review Tribunal.

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)?

YES

The Bill disestablishes the Accident Compensation Appeal Authority (the Authority). Following the disestablishment of the Authority, all new appeals under the repealed 1972 and 1982 Acts will be heard by the District Court; however any appeals which have already been lodged with the Authority before the commencement of the disestablishing amendment will continue to be heard by the Authority. Appeal to the District Court will maintain the substantive rights of claimants.

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
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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 following agencies were consulted on the policy proposals included in the Bill: ACC, the Ministry of Foreign Affairs and Trade, the Ministry of Defence, New Zealand Defence Force, the Treasury, New Zealand Police, the Department of Internal Affairs, New Zealand Trade and Enterprise, Customs New Zealand, the Ministry for Primary Industries, the Department of the Prime Minister [PAG] and Cabinet, the Ministry of Education, New Zealand Education, the Ministry of Social Development, the Ministry of Justice, Veterans' Affairs, Te Puni Kōkiri and the Ministry for Women.	

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?	NO
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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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