

Accident Compensation Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Accident Compensation Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

This bill seeks to amend the Accident Compensation Act 2001 to ensure that it is effective and efficient and accords with best regulatory practice. It would address a number of issues identified in the course of the administering department's regulatory stewardship.

The changes proposed in the bill would address some issues in ACC coverage. They would also correct regulatory duplication, errors, and inconsistencies, with the aim of keeping the regulatory system up to date, fair, and relevant.

The bill includes the following measures:

- removing the requirement for ACC clients, and their dependents, to choose between weekly compensation and New Zealand Superannuation or the Veteran's Pension
- addressing the gap in coverage for spouses, partners, and dependents of New Zealand employees posted overseas
- allowing surviving spouses to receive up to 5 years of weekly compensation, regardless of age
- disestablishing the Accident Compensation Appeal Authority as it is no longer cost-effective or efficient.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Commencement timing for the bill

In the bill as introduced, all changes would come into effect on the day after the date of Royal assent. We recommend amending clause 2 to insert a commencement date of 1 July 2019 for the amendments that relate to the removal of election between weekly compensation and New Zealand Superannuation or the Veterans' Pension. This commencement date would also apply to consequential amendments to the Veteran's Support Act 2014.

Our amendments would ensure that the changes established by the bill align with the timing of funding allocated in Budget 2018.

Submissions outside the scope of the bill

Many of the submissions we received and considered, and much of the oral evidence heard during our hearings, touched on issues with ACC and the Accident Compensation scheme that were outside the scope of this bill. The Minister for ACC noted in his first reading speech on the bill that he has asked officials to take a careful look at ways to improve the scheme, and that a more substantive bill may follow this one. We recommend that officials take into account all submissions on this bill in that review process.

Appendix

Committee process

The Accident Compensation Amendment Bill was referred to the committee on 9 May 2018. The closing date for submissions was 29 June 2018. We received and considered 25 submissions from interested groups and individuals. We heard oral evidence from 13 submitters at hearings in Wellington.

We received advice from the Ministry of Business, Innovation and Employment.

Committee membership

Dr Parmjeet Parmar (Chairperson)

Simeon Brown

Hon Clare Curran (from 24 October 2018)

Hon Nikki Kaye

Denise Lee

Marja Lubeck

Jo Luxton

Mark Patterson

Jamie Strange (until 24 October 2018)

Jan Tinetti

Chlöe Swarbrick

Accident Compensation Amendment Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Iain Lees-Galloway

Accident Compensation Amendment Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal Act	2
Part 1		
Amendments to Accident Compensation Act 2001		
4	Section 17 amended (Ordinarily resident in New Zealand)	3
5	Section 324A replaced (Annual review of amounts prescribed by regulations made under section 324)	3
	324A Biennial review of certain amounts	3
6	Section 329 amended (Regulations relating to levies)	4
7	Section 391 amended (Review and appeal proceedings for decisions under former Acts)	4
8	New section 402 and cross-heading inserted	4
<i>Disestablishment of Accident Compensation Appeal Authority</i>		
	402 Disestablishment of Accident Compensation Appeal Authority	4
9	Schedule 1AA amended	4
10	Schedule 1 amended	5

Part 2		
Related and consequential amendments		
Subpart 1—Amendment to New Zealand Superannuation and Retirement Income Act 2001		
11	Amendment to New Zealand Superannuation and Retirement Income Act 2001	6
Subpart 2—Amendments to Veterans’ Support Act 2014		
12	Amendments to Veterans’ Support Act 2014	6
13	Section 65 replaced (Relationship between weekly income compensation and New Zealand superannuation or veteran’s pension)	6
	65 Relationship between weekly income compensation and New Zealand superannuation or veteran’s pension	6
14	Section 104 replaced (Relationship between weekly compensation and New Zealand superannuation or veteran’s pension)	7
	104 Relationship between weekly compensation and New Zealand superannuation or veteran’s pension	7
15	Schedule 1 amended	7
16	Schedule 2 amended	7
Schedule 1		
New Part 2 inserted into Schedule 1AA of Accident Compensation Act 2001		
Schedule 2		
New Part 3 inserted into Schedule 1 of Veterans’ Support Act 2014		

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Accident Compensation Amendment Act **2018**.

2 Commencement

(1AA) The following come into force on **1 July 2019**: 5

(a) **section 10**; and

(b) **Part 2** (and **Schedule 2**).

(1) ~~This~~The rest of this Act comes into force on the day after the date of Royal assent.

3 Principal Act

This Act amends the Accident Compensation Act 2001 (the **principal Act**). 10

Part 1

Amendments to Accident Compensation Act 2001

4 Section 17 amended (Ordinarily resident in New Zealand)

Replace section 17(4) with:

- (4) A person must be treated as having New Zealand as the person's permanent place of residence if— 5
- (a) the person—
 - (i) intends to resume a place of residence in New Zealand; and
 - (ii) is absent from New Zealand primarily in connection with the person's employment duties (the remuneration for which is treated as income derived in New Zealand for New Zealand income tax purposes) or for up to 6 months following the completion of the person's period of employment outside New Zealand; or 10
 - (b) the person—
 - (i) intends to resume (or assume) a place of residence in New Zealand; and 15
 - (ii) is the spouse or partner, child, or other dependant of a person described in **paragraph (a)** and generally accompanies that person; and
 - (iii) is outside New Zealand during the period of employment of the person described in **paragraph (a)** or for up to 6 months following the completion of it. 20

5 Section 324A replaced (Annual review of amounts prescribed by regulations made under section 324)

Replace section 324A with:

324A Biennial review of certain amounts

- (1) The Corporation must conduct a review in 2018, and in every second year after that, of the amounts prescribed by regulations made under section 324 that the Corporation is liable to pay for the entitlement of rehabilitation. 25
- (2) The purpose of the review is to assess whether adjustment to any of the amounts is required to take into account changes in costs of rehabilitation. 30
- (3) The Corporation must, by 1 December of each year in which a review is conducted,—
- (a) provide a report on the results of the review to the Minister; and
 - (b) include in that report any recommendations for change that it may have. 35

6 Section 329 amended (Regulations relating to levies)

Replace section 329(1)(a) with:

- (a) specifying, in relation to levies, the maximum amounts or deemed minimum amounts of earnings for levy purposes or methods for calculating any of those amounts:

5

7 Section 391 amended (Review and appeal proceedings for decisions under former Acts)

After section 391(1), insert:

(1A) Subsection (1) is subject to the following qualifications:

- (a) any appeal to which subsection (1) applies that is commenced on or after the date on which this subsection comes into force must be made to the District Court and not to the Accident Compensation Appeal Authority; and
- (b) to the extent practicable, the procedure for such an appeal is to be the same as the procedure for appeals under Part 5.

10

15

8 New section 402 and cross-heading inserted

After section 401, insert:

Disestablishment of Accident Compensation Appeal Authority

402 Disestablishment of Accident Compensation Appeal Authority

- (1) The Accident Compensation Appeal Authority that was established by section 155 of the Accident Compensation Act 1972 and continued by section 103 of the Accident Compensation Act 1982 is disestablished.
- (2) No member or employee of the Authority before its disestablishment is entitled to any payment or compensation for any loss arising out of the disestablishment.

20

25

9 Schedule 1AA amended

- (1) In the Schedule 1AA heading, replace “**Transitional and savings provisions relating to amendments to this Act made by Accident Compensation Amendment Act 2015**” with “**Transitional, savings, and related provisions**”.
- (2) In Schedule 1AA, before clause 1, insert:

30

Part 1

Provisions relating to Accident Compensation Amendment Act 2015

- (3) In Schedule 1AA, insert the Part 2 set out in **Schedule 1** of this Act.

10 Schedule 1 amended

(1) In Schedule 1, replace clauses 52 and 53 with:

52 Relationship between weekly compensation and New Zealand superannuation

- (1) **Subclause (2)** applies to a claimant who— 5
 - (a) first becomes entitled to weekly compensation before reaching New Zealand superannuation qualification age; and
 - (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The claimant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to a claimant who first becomes entitled to weekly compensation— 10
 - (a) less than 24 months before reaching New Zealand superannuation qualification age; or
 - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The claimant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation. 15
- (5) Nothing in this clause entitles a claimant to weekly compensation if the claimant is not otherwise entitled to it under this Act.

(2) In Schedule 1, repeal clauses 68 and 69.

(3) In Schedule 1, replace clauses 72 and 73 with: 20

72 Relationship between other dependant’s weekly compensation and New Zealand superannuation

- (1) **Subclause (2)** applies to any other dependant who— 25
 - (a) is entitled to weekly compensation immediately before reaching New Zealand superannuation qualification age; and
 - (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The dependant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to any other dependant who first becomes entitled to weekly compensation— 30
 - (a) less than 24 months before reaching New Zealand superannuation qualification age; or
 - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The dependant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this clause entitles any other dependant to weekly compensation if the dependant is not otherwise entitled to it under this Act. 35

Part 2

Related and consequential amendments

Subpart 1—Amendment to New Zealand Superannuation and Retirement Income Act 2001

- 11 Amendment to New Zealand Superannuation and Retirement Income Act 2001** 5
- (1) This section amends the New Zealand Superannuation and Retirement Income Act 2001.
- (2) Replace section 7(2) with:
- (2) However, a person is not entitled to receive New Zealand superannuation in respect of the period for which the person has made an election, as contemplated by any of the following provisions, to be entitled to weekly compensation rather than to New Zealand superannuation: 10
- (a) **clause 3(3) clauses 4(3) and 5(3)** of Schedule 1AA of the Accident Compensation Act 2001: 15
- (b) **clause 16(3) or 17(3)** of Schedule 1 of the Veterans' Support Act 2014.

Subpart 2—Amendments to Veterans' Support Act 2014

- 12 Amendments to Veterans' Support Act 2014**
- Sections 13 to 16** amend the Veterans' Support Act 2014. 20
- 13 Section 65 replaced (Relationship between weekly income compensation and New Zealand superannuation or veteran's pension)**
- Replace section 65 with:
- 65 Relationship between weekly income compensation and New Zealand superannuation or veteran's pension** 25
- (1) **Subsection (2)** applies to a veteran who—
- (a) first becomes entitled to weekly income compensation before reaching New Zealand superannuation qualification age; and
- (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The veteran loses entitlement to weekly income compensation on reaching that age. 30
- (3) **Subsection (4)** applies to a veteran who first becomes entitled to weekly income compensation—
- (a) less than 24 months before reaching New Zealand superannuation qualification age; or 35

- (b) on or after reaching New Zealand superannuation qualification age.
- (4) The veteran is entitled to weekly income compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this section entitles a veteran to weekly income compensation if the veteran is not otherwise entitled to it under this Act. 5
- 14 Section 104 replaced (Relationship between weekly compensation and New Zealand superannuation or veteran’s pension)**
- Replace section 104 with:
- 104 Relationship between weekly compensation and New Zealand superannuation or veteran’s pension** 10
- (1) **Subsection (2)** applies to a veteran who—
- (a) first becomes entitled to weekly compensation before reaching New Zealand superannuation qualification age; and
- (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The veteran loses entitlement to weekly compensation on reaching that age. 15
- (3) **Subsection (4)** applies to a veteran who first becomes entitled to weekly compensation—
- (a) less than 24 months before reaching New Zealand superannuation qualification age; or
- (b) on or after reaching New Zealand superannuation qualification age. 20
- (4) The veteran is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this section entitles a veteran to weekly compensation if the veteran is not otherwise entitled to it under this Act.
- 15 Schedule 1 amended** 25
- In Schedule 1, after clause 15, insert the **Part 3** set out in **Schedule 2** of this Act.
- 16 Schedule 2 amended**
- (1) In Schedule 2, repeal clauses 56 and 57.
- (2) In Schedule 2, replace clauses 60 and 61 with: 30
- 60 Relationship between other dependant’s weekly compensation and New Zealand superannuation**
- (1) **Subclause (2)** applies to any other dependant who—
- (a) is entitled to weekly compensation immediately before reaching New Zealand superannuation qualification age; and 35
- (b) has been entitled to it for 24 months or longer before reaching that age.

-
- (2) The dependant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to any other dependant who first becomes entitled to weekly compensation—
- (a) less than 24 months before reaching New Zealand superannuation qualification age; or
 - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The dependant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this clause entitles any other dependant to weekly compensation if the dependant is not otherwise entitled to it under this Act.

5

10

Schedule 1
New Part 2 inserted into Schedule 1AA of Accident Compensation Act 2001

s 9(3)

Part 2	5
Provisions relating to Accident Compensation Amendment Act 2018	
3AA Interpretation	
<u>In this Part, 2018 Act means the Accident Compensation Amendment Act 2018.</u>	
3 Retrospective application of amended section 17(4)	10
Section 17(4) (as amended by the Accident Compensation Amendment Act 2018 2018 Act) applies between 1 July 1999 and the commencement of this clause as if it were in force during that time.	
4 Certain claimants may elect rules of former scheme	
<u>(1AA) This clause applies on and after the commencement of section 10 of the 2018 Act.</u>	
(1) In this clause, former provisions means clauses 52(6) to (9) and 53 of Schedule 1 as they read immediately before the commencement of this clause section 10 of the 2018 Act .	
(2) This clause applies to a claimant who first became entitled to weekly compensation—	20
(a) under the former provisions; and	
(b) while the claimant was 64 years of age or older but not yet 65 years of age.	
(3) The claimant may make an election under clause 52(8) of the former provisions in accordance with clause 53 of the former provisions, and, if the claimant does so, the former provisions continue to apply to the claimant.	25
5 Certain other dependants may elect rules of former scheme	
<u>(1AA) This clause applies on and after the commencement of section 10 of the 2018 Act.</u>	
(1) In this clause, former provisions means clauses 72(6) to (9) and 73 of Schedule 1 as they read immediately before the commencement of this clause section 10 of the 2018 Act .	30
(2) This clause applies to any other dependant who first became entitled to weekly compensation—	35

- (a) under the former provisions; and
- (b) while the other dependant was 64 years of age or older but not yet 65 years of age.
- (3) The other dependant may make an election under clause 72(8) of the former provisions in accordance with clause 73 of the former provisions, and, if the other dependant does so, the former provisions continue to apply to the other dependant. 5
- 6 Completion of matters-in-process by Accident Compensation Appeal Authority**
- (1) In this clause, **matter-in-process** means a matter before the Accident Compensation Appeal Authority immediately before the commencement of this clause and includes— 10
- (a) an appeal that had been lodged with the Authority but not finally determined by it; and
- (b) an application to the Authority for leave to appeal to the High Court, including any made under— 15
- (i) section 168 of the Accident Compensation Act 1972; or
- (ii) section 111 of the Accident Compensation Act 1982.
- (2) The Authority must complete any matter-in-process.
- (3) For the limited purpose of completing all matters-in-process, the Authority is deemed to continue, and the Authority's powers and capacities continue in effect for that purpose. 20
- (4) A member of the Authority is entitled to be paid reasonable remuneration, fees, or salary for the member's work in completing a matter-in-process, and any related allowances and expenses. 25
- (5) The Ministry of Justice must continue to provide support services to the Authority to the extent that those services are required to complete the matters-in-process.

Schedule 2

New Part 3 inserted into Schedule 1 of Veterans’ Support Act 2014

s 15

Part 3

Provisions relating to Accident Compensation Amendment Act 2018 5

- 16 Certain veterans may elect rules of former scheme: weekly income compensation**
- (1) In this clause, **former provisions** means subsections (6) to (11) of section 65 of this Act as they read immediately before the commencement of this clause.
 - (2) This clause applies to a veteran who first became entitled to weekly income compensation—
 - (a) under the former provisions; and
 - (b) while the veteran was 64 years of age or older but not yet 65 years of age.
 - (3) The veteran may make an election under subsection (8) of the former provisions in accordance with subsection (10) of the former provisions, and, if the veteran does so, the former provisions continue to apply to the veteran. 15
- 17 Certain veterans may elect rules of former scheme: weekly compensation**
- (1) In this clause, **former provisions** means subsections (6) to (11) of section 104 of this Act as they read immediately before the commencement of this clause. 20
 - (2) This clause applies to a veteran who first became entitled to weekly compensation—
 - (a) under the former provisions; and
 - (b) while the veteran was 64 years of age or older but not yet 65 years of age. 25
 - (3) The veteran may make an election under subsection (8) of the former provisions in accordance with subsection (10) of the former provisions, and, if the veteran does so, the former provisions continue to apply to the veteran.
- 18 Certain other dependants may elect rules of former scheme**
- (1) In this clause, **former provisions** means clauses 60(6) to (9) and 61 of Schedule 2 as they read immediately before the commencement of this clause. 30
 - (2) This clause applies to any other dependant who first became entitled to weekly compensation—
 - (a) under the former provisions; and
 - (b) while the other dependant was 64 years of age or older but not yet 65 years of age. 35

- (3) The other dependant may make an election under clause 60(8) of the former provisions in accordance with clause 61 of the former provisions, and, if the other dependant does so, the former provisions continue to apply to the other dependant.

Legislative history

12 April 2018
9 May 2018

Introduction (Bill 49–1)
First reading and referral to Education and Workforce
Committee