

# **Accident Compensation (Financial Responsibility and Transparency) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill has 2 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 that the public is better informed. ACC will be required to report on the long-term implications new levy rates will have for 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.

### Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=17>.

### Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 19 March 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/about-us/publications/ris/discontinuing-residual-levies-in-accs-levied-accounts.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that, except for *clauses 7 to 9*, the Bill comes into force on the day after the date on which it receives the Royal assent. *Clauses 7 to 9* relate to the repeal of provisions providing for the collection of residual levies and will come into force

by Order in Council. This is because flexibility is needed as to when these provisions are repealed.

*Clause 3* provides that this Act amends the Accident Compensation Act 2001 (the **principal Act**).

*Clause 4* amends section 6 of the principal Act by repealing the definition of fully funded.

*Clause 5* inserts *new sections 166A to 166C*.

*New section 166A* sets out the new principles of financial responsibility in relation to Accounts.

*New section 166B* provides for the issue of a funding policy statement by the Minister.

*New section 166C* provides for the process of making the funding policy statement by applying the same provisions of the Crown Entities Act 2004 that apply to the making of a ministerial direction.

*Clause 6* amends section 331 of the principal Act, which relates to consultation requirements for regulations relating to levy setting. A *new section 331(3)* is substituted, which provides that when recommending to the Minister the making of regulations prescribing levies the Corporation must give effect to the funding policy statement and any relevant policy direction give under section 103 of the Crown Entities Act 2004. A new requirement is added (*new section 331(5A) and (5B)*) for the Corporation to prepare a report at the time of the making of regulations prescribing levies. The report relates to the effect of the levies on the relevant Account. The report must be published.

*Clause 7* provides for the repeal of section 169AA of the principal Act, which relates to the basis on which funds are calculated for the Work Account. Section 169AA provides for the levies for the Work Account to be calculated to pay off the residual amount (as that term is defined in that section).

*Clause 8* provides for the repeal of section 215 of the principal Act, which relates to the basis on which funds are calculated for the Motor Vehicle Account. Section 215 provides for the levies for the Motor Vehicle Account to be calculated to pay off the residual amount (as that term is defined in that section).

*Clause 9* provides for the repeal of section 220A of the principal Act, which relates to the basis on which funds are calculated for the Earners' Account. Section 220A provides for the levies for the Earners' Account to be calculated to pay off the residual amount (as that term is defined in that section).



*Hon Nikki Kaye*

# **Accident Compensation (Financial Responsibility and Transparency) Amendment Bill**

Government Bill

## **Contents**

		Page
1	Title	2
2	Commencement	2
3	Principal Act	2

### **Part 1**

#### **Amendments relating to principles of financial responsibility and funding policy statement**

4	Section 6 amended (Interpretation)	2
5	New sections 166A to 166C inserted	2
	166A Principles of financial responsibility in relation to Accounts	2
	166B Funding policy statement	2
	166C Consultation, publication, and amendment of funding policy statement	3
6	Section 331 amended (Consultation requirements for regulations relating to levy setting)	3

### **Part 2**

#### **Repeal of provisions relating to residual levies**

7	Section 169AA repealed (Basis on which funds to be calculated)	4
8	Section 215 repealed (Basis on which funds to be calculated)	4
9	Section 220A repealed (Basis on which funds to be calculated)	4

### **Schedule**

#### **Consequential amendments to principal Act**

5

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Accident Compensation (Financial Responsibility and Transparency) Amendment Act **2015**.

**2 Commencement** 5

(1) Except as provided in **subsection (2)**, this Act comes into force on the day after the date on which it receives the Royal assent.

(2) **Sections 7 to 9** come into force on a date to be appointed by the Governor-General by Order in Council, and one or more orders may be made bringing different provisions into force on different dates. 10

**3 Principal Act**

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

**Part 1**

**Amendments relating to principles of financial responsibility and  
funding policy statement** 15

**4 Section 6 amended (Interpretation)**

In section 6, repeal the definition of **fully funded**.

**5 New sections 166A to 166C inserted**

After section 166, insert:

**166A Principles of financial responsibility in relation to Accounts** 20

(1) The cost of all claims under the levied Accounts are to be fully funded by meeting the outstanding claims liability in respect of the claims by offsetting an adequate level of assets to fund the cost of those claims.

(2) Levies must be set in accordance with the following principles:

(a) the levies derived for each Account must meet the lifetime cost of claims in relation to injuries that occur in a particular year: 25

(b) if an Account has a deficit of funds to meet the costs described in **paragraph (a)**, or has accumulated surplus funds, that deficit or surplus must be corrected by the setting of levies at an appropriate rate for a subsequent year or years: 30

(c) large changes in levies must be avoided.

**166B Funding policy statement**

(1) Within 3 months after the commencement of this section, the Minister must issue a funding policy statement.

- (2) The funding policy statement must specify—
- (a) a target level or band for the funding of each Account; and
  - (b) an approach to managing deviations from the target level or band for the funding of each Account over a period of time; and
  - (c) limits (if any) on any annual levy changes for all or any of the Accounts; and
  - (d) the circumstances (if any) in which levy changes are not required.
- (3) The funding policy statement must be consistent with, and explain how it is consistent with, the financial responsibility principles in **section 166A**.
- (4) The funding policy statement may prescribe specific actions for the Corporation to take to the extent that any such action is consistent with the Corporation’s functions under section 262.
- (5) Sections 113 and 114 of the Crown Entities Act 2004 do not apply in respect of a funding policy statement.
- 166C Consultation, publication, and amendment of funding policy statement**
- Section 115(1) to (3A) of the Crown Entities Act 2004 applies to the making of a funding policy statement as if it were a ministerial direction.
- 6 Section 331 amended (Consultation requirements for regulations relating to levy setting)**
- (1) In the heading to section 331, after “**Consultation**”, insert “**and other**”.
- (2) Repeal section 331(2)(a)(iv).
- (3) Replace section 331(3) with:
- (3) The Corporation must, when recommending to the Minister the making of regulations under this Act prescribing the rates of levies, give effect to—
- (a) the funding policy statement issued under **section 166B**; and
  - (b) any relevant policy direction given under section 103 of the Crown Entities Act 2004.
- (4) After section 331(5), insert:
- (5A) The Corporation must prepare a report in relation to the rates of levies prescribed.
- (5B) The report required by **subsection (5A)** must—
- (a) include, without limitation,—
    - (i) the long-term projections for the relevant Account of solvency rates, levy rates, Account balances, and the lifetime costs of claims in relation to injuries that occur in the year for which the levies apply; and

(ii)	the key assumptions on which the projections are based, including the assumptions made about claims numbers, trends in underlying costs, growth of the units to which levy rates apply (for example, numbers of vehicles), investment returns, and assumptions about economic conditions and rehabilitation performance; and	5
(b)	be prepared in accordance with generally accepted practice within the insurance sector in New Zealand; and	
(c)	be published at the time the regulations prescribing the rates of levies are made in the <i>Gazette</i> and on an Internet site maintained by or on behalf of the Corporation.	10

## Part 2

### Repeal of provisions relating to residual levies

<b>7</b>	<b>Section 169AA repealed (Basis on which funds to be calculated)</b>	
(1)	Repeal section 169AA.	
(2)	The provisions specified in <b>Part 1</b> of the <b>Schedule</b> are amended in the manner specified in that Part of that Schedule.	15
<b>8</b>	<b>Section 215 repealed (Basis on which funds to be calculated)</b>	
(1)	Repeal section 215.	
(2)	The provisions specified in <b>Part 2</b> of the <b>Schedule</b> are amended in the manner specified in that Part of that Schedule.	20
<b>9</b>	<b>Section 220A repealed (Basis on which funds to be calculated)</b>	
(1)	Repeal section 220A.	
(2)	The provisions specified in <b>Part 3</b> of the <b>Schedule</b> are amended in the manner specified in that Part of that Schedule.	



**Schedule**  
**Consequential amendments to principal Act**

**ss 7- 9**

**Part 1**  
**Amendments relating to repeal of section 169AA** 5

**Section 167**

Section 167(4)(b): delete “and the purpose specified in section 169AA(1)(a)”.

**Section 169**

Section 169(4): repeal.

**Section 170** 10

Section 170(1): replace with:

- (1) For the purpose of setting levies payable under sections 168, 168B, and 211, the Corporation must classify an employer and a self-employed person in an industry or risk class that most accurately describes their activity, being an industry or risk class set out in regulations made under this Act. 15

**Section 329**

Section 329(1)(m)(i): repeal.

**Part 2**  
**Amendments relating to repeal of section 215**

**Section 213** 20

Section 213(7)(b): delete “and the purpose specified in section 215(1)(a)”.

**Section 329**

Section 329(1)(m)(ii): repeal.

**Part 3**  
**Amendments relating to repeal of section 220A** 25

**Section 218**

Section 218(5)(b): delete “and the purpose specified in section 220A(1)(a)”.

**Section 329**

Section 329(1)(m)(iii): repeal.

**Accident Compensation (Financial Responsibility and  
Transparency) Amendment Bill**

---

---

Wellington, New Zealand:

Published under the authority of the New Zealand Government—2015