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9 December 2021

## Legislative Statement for the First Reading of *the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill*

This legislative statement supports the first reading of the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill.

### Overview

The purpose of the *Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill* (the Bill) is to provide more equitable coverage of injuries under the Accident Compensation Scheme (the AC Scheme), offer greater clarity to claimants, and better give effect to the policy intent of the Accident Compensation Act 2001 (the AC Act).

### The Bill proposes to extend AC Scheme cover to maternal birth injuries

The Bill extends AC Scheme cover to a specific list of maternal birth injuries. This change ensures that maternal birth injuries, which have many of the same characteristics of injuries already covered by the AC Act, are treated in the same way under the AC Scheme. The list of maternal birth injuries was developed with input from experts in gynaecology and urogynaecology and includes:

- Labial, vaginal, vulval, clitoral, cervical, rectal, and perineal tears
- Levator avulsion
- Obstetric fistula (including vesicovaginal, colovaginal, and ureterovaginal)
- Obstetric haematoma of pelvis
- Pudendal neuropathy
- Ruptured uterus during labour
- Uterine prolapse

The extension of cover to maternal birth injuries is prospective. This is consistent with the Legislation Guidelines (2021 edition), the AC Scheme's principle of intergenerational equity, and previous expansions of the AC Scheme (e.g. the 2008 introduction of cover for work-related mental injury by section 21B of the AC Act).

The proposed commencement date for this new cover is 1 October 2022. This allows ACC sufficient time to prepare for its implementation.

## **The Bill also makes five other low-cost policy changes**

The additional five policy changes in the Bill have minimal financial implications to both Government and levy payers. These changes are to:

- clarify the section 30 test for work-related gradual process, disease or infection cover, and restore the more claimant-friendly test that was in place before 2010;
- require that occupational assessors ‘must’ (rather than ‘may’) consider pre-incapacity earnings when undertaking occupational assessments to support certainty and transparency
- reduce the threshold for injury-related hearing loss cover from 6% hearing loss to 5% hearing loss to ensure greater support to those with low-level hearing loss;
- increase the size of the ACC Board by one, which will assist the ACC Board in representing a wider range of specialists and stakeholders; and
- ensure legislative certainty that dependants of claimants would not be disentitled from fatal injury entitlements under the AC Scheme following a claimant’s assisted death in accordance with the End of Life Choice Act 2019.

## **Finally, seven technical changes are intended to provide greater clarity to claimants and better give effect to the policy intent of the AC Act**

This Bill also includes seven technical changes. These are to:

- move the definition of ‘medical practitioner’ to the Accident Compensation (Definitions) Regulations 2019. This will allow the definition to be more easily updated in future via regulations;
- update the definitions of ‘child’ and ‘other dependant’ to improve clarity of the AC Act, so that in certain circumstances, children and other dependants with links to New Zealand, but are outside New Zealand, can access ACC cover;
- enable a method to be set in regulations for the rate of interest for levy overpayments on interim assessments, to better and more efficiently enable the rate to reflect changes in economic circumstances;
- enable ACC to use the most recent employer filing to Inland Revenue Department (IRD) when determining a claimant’s weekly compensation. This will ensure the accurate amount of weekly compensation is paid to the claimant;
- align ACC’s penalty rules with IRD’s rules, so that ACC will be able to charge the one percent monthly interest rate from the day after a levy invoice is due, rather than 30 days after the payment is due;
- exclude Veterans’ Support Act 2014 (the VS Act) weekly compensation top-ups from abatement against ACC’s weekly compensation payments to address an unintended anomaly that arises where an injured veteran receives more than 100% of their pre-incapacity earnings through a combination of compensation under the AC Act and compensation under the VS Act;
- align the definitions of ‘moped’ and ‘motorcycle’ in the AC Act with the definitions in the Land Transport Act 1998 to ensure legal clarity.