

Legislative Statement for the third reading of the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill

27 September 2022

This legislative statement supports the third 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 (AC Scheme), offer greater clarity to claimants, and better give effect to the policy intent of the *Accident Compensation Act 2001* (AC Act).

The Bill:

- extends AC Scheme cover to a list of maternal birth injuries. The list of maternal birth injuries will be reviewed after the maternal birth injury provision has been in operation for 3 years
- clarifies the section 30 test for work-related gradual process, disease or infection cover, and restores the more claimant-friendly test that was in place before 2010
- requires that occupational assessors ‘must’ (rather than ‘may’) consider pre-incapacity earnings when undertaking occupational assessments to support certainty and transparency
- reduces 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
- increases the size of the ACC Board by one, which will assist the ACC Board in representing a wider range of specialists and stakeholders
- ensures 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.

It also contains seven technical changes which are intended to provide greater clarity to claimants and better give effect to the policy intent of the AC Act. 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 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 Inland Revenue'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 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 Veterans' Support 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.

Changes made by the Committee of the whole House

The Committee of the whole House made two technical changes to the Bill:

- aligning the timing of uplifts to the AC Scheme's minimum weekly compensation and Loss of Potential Earnings rates with uplifts to the minimum wage
- clarifying that the review of the maternal birth injury provisions must commence as soon as practicable after 1 October 2025. This is three years from the commencement of the birth injury provisions on 1 October 2022.