

Legislative statement: Accident Compensation (Interest on Instalment Plans) Amendment Bill

This legislative statement supports the First Reading of the *Accident Compensation (Interest on Instalment Plans) Amendment Bill*.

Overview

The purpose of the *Accident Compensation (Interest on Instalment Plans) Amendment Bill* (the Bill) is to explicitly allow for ACC to charge, and in some circumstances, waive, debit interest on levies paid to the Work Account by instalments, and to validate ACC's past and current practice of doing so.

ACC offers the option for businesses and self-employed levy payers to pay their levies to the Work Account in instalments over three-, six- or ten-month instalments, instead of paying the total amount in a lump sum annually. This is a valuable and well-used option for businesses and self-employed people that may otherwise need to access other forms of finance that cost more, or be unable to pay their levies at all. ACC currently charges debit interest on the ten-month plan at a rate of 2.73 per cent as part of the administration fee, and does not charge interest on the three- or six-month plans. The practice of charging debit interest on payments by instalments dates back to at least 2004.

ACC had charged debit interest on the understanding that the Accident Compensation Act 2001 (the AC Act) allowed it to do so. However, the Government now understands that this is not clearly allowed for in the AC Act as part of the administration fee. While other parts of the AC Act could be used to support the practice, that too is uncertain. The practice is therefore vulnerable to legal challenge from levy payers who have paid debit interest in the past.

The charging of debit interest is prudent and essential to avoid imposing an effective cost on ACC, as well as ensuring fairness between levy payers that pay in lump sums and those that pay via instalments. This Bill explicitly provides for ACC to charge debit interest, as well as explicitly validating its past and current practice of doing so, providing much-needed clarity for ACC and levy payers.

The Bill explicitly allows the charging of debit interest on payments of levies by instalments

The Bill amends section 234 of the AC Act to clarify that ACC has the power to charge debit interest on payments of levies to the Work Account by instalments.

It is important that ACC is able to charge this debit interest as, by allowing businesses to pay their levies in instalments, ACC is forgoing any interest it would have earned from investing the funds. If it could not charge debit interest on instalments, this would effectively be a cost to ACC. It also means that businesses and self-employed people that pay in lump sums are not

disadvantaged for doing so by having to cross-subsidise those who pay their levies over a period of months.

The Bill provides an initial rate of 2.73 per cent debit interest on ten-month payment plans, and zero per cent interest on six- and three- month payment plans. These are the current fees that ACC charges for those respective payment plans. The 2.73 per cent fee is entirely debit interest as ACC does not currently collect its costs on any of the plan types. This means that there will be no immediate changes for businesses when the Bill comes into force.

The Bill also provides that these rates may be updated in future through amendment to the Injury Prevention, Rehabilitation and Compensation (Interest Rate for Late Payment of Levies) Regulations 2002. Any changes to the rates made via these regulations would be subject to public consultation as part of ACC's regular levy rounds.

The Bill also provides that new regulations be made to set out circumstances under which ACC can waive all, or part of, debit interest charges. These regulations would be subject to public consultation.

The Bill validates ACC's past and current practice of charging debit interest by clarifying that it is lawful

The Bill also validates ACC's past and current practice of charging debit interest on payments by instalments. Without validation, ACC would remain vulnerable to legal challenge. It is reasonable to protect ACC from this type of challenge as it was reasonable in charging the interest.

Should any legal challenge be successful, it would likely be operationally very difficult to refund the debit interest charged over the extended time span of twenty years or more. This therefore would represent a financial risk for ACC.

The Bill contains this risk by clarifying that ACC's past and current practice is lawful, as should have been clearly included in the AC Act.