

**Reprint  
as at 1 April 2017**



## **Accident Compensation Amendment Act 2015**

Public Act      2015 No 71  
Date of assent      4 September 2015  
Commencement      see section 2

### **Contents**

	Page
1      Title	2
2      Commencement	2
3      Principal Act	2
4      New section 5A inserted (Provisions affecting application of amendments to this Act)	2
5A      Transitional, savings, and related provisions	3
5      Section 6 amended (Interpretation)	3
6      Section 167 amended (Application and source of funds)	3
7      Section 169 amended (Rates of levies)	3
8      New sections 174A to 174F inserted	3
174A      Corporation may develop and establish workplace incentive programmes	3
174B      Process to develop workplace incentive programme	3
174C      Minister's approval of certain workplace incentive programmes	4
174D      Establishment of workplace incentive programmes	5
174E      Amendments to workplace incentive programme	5
174F      Corporation must report on effectiveness of workplace incentive programmes	6

---

**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

9	Section 175 amended (Risk adjustment of Work Account levies)	6
10	Section 176 amended (Incorporation by reference)	6
11	Section 190 amended (Purchase of weekly compensation by shareholder-employees)	6
12	Section 263 amended (Prevention of personal injury)	6
13	New sections 264A and 264B inserted	7
	264A Workplace injury prevention action plan	7
	264B Injury prevention measures undertaken by WorkSafe and funded by Corporation or jointly undertaken	8
14	Section 280 amended (Disclosure of information to Corporation)	8
15	Section 286 amended (Corporation to provide information to Ministry of Business, Innovation, and Employment and to WorkSafe)	8
16	New Schedule 1AA inserted	9
	<b>Schedule</b>	10
	<b>New Schedule 1AA inserted in Accident Compensation Act 2001</b>	

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

**1 Title**

This Act is the Accident Compensation Amendment Act 2015.

**2 Commencement**

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates and appointing different dates for different purposes.
- (2) Any provision that has not earlier been brought into force comes into force on 1 January 2018.

Section 2(1): sections 4, 9, and 16, brought into force, on 1 April 2017, by clause 2(2) of the Accident Compensation Amendment Act 2015 Commencement Order 2016 (LI 2016/10).

Section 2(1): this Act, except sections 4, 9, 13, and 16, brought into force, on 4 April 2016, by clause 2(1) of the Accident Compensation Amendment Act 2015 Commencement Order 2016 (LI 2016/10).

Section 2(1): section 13 brought into force, on 4 July 2016, by clause 2(3) of the Accident Compensation Amendment Act 2015 Commencement Order 2016 (LI 2016/10).

**3 Principal Act**

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

**4 New section 5A inserted (Provisions affecting application of amendments to this Act)**

After section 5, insert:

**5A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

**5 Section 6 amended (Interpretation)**

In section 6, insert in its appropriate alphabetical order:

**health and safety regulator** has the same meaning as regulator in section 16 of the Health and Safety at Work Act 2015

**6 Section 167 amended (Application and source of funds)**

Replace section 167(3)(g) with:

(g) audits and assessments referred to in sections 174D and 175; and

**7 Section 169 amended (Rates of levies)**

After section 169(4)(a), insert:

(ab) section 174A(2):

**8 New sections 174A to 174F inserted**

After section 174, insert:

**174A Corporation may develop and establish workplace incentive programmes**

- (1) The Corporation may develop and establish 1 or more workplace incentive programmes to provide incentives for employers and self-employed persons to reduce the incidence, severity, and impact of work-related personal injuries.
- (2) A Work Account levy determined for the purposes of section 168, 168B, or 211 may be adjusted up or down for a particular employer or a particular self-employed person in accordance with the terms and conditions of a workplace incentive programme.
- (3) Regulations made under section 333 may prescribe fees and charges payable by employers and self-employed persons who participate in a workplace incentive programme, including—
  - (a) administration fees to meet the costs, or part of the costs, incurred in administering the programme; and
  - (b) fees or charges for audits and assessments provided for under section 174D(3).

**174B Process to develop workplace incentive programme**

- (1) In developing a workplace incentive programme, the Corporation must—
  - (a) have regard to the following matters:
    - (i) the extent to which the programme is likely to lead to reductions in the incidence, severity, and impact of work-related personal in-

- juries and to improvements in rehabilitation and durable return to work; and
- (ii) the extent to which the programme may affect the Work Account levies payable by levy payers who are not participating in the programme; and
  - (iii) the expected administration costs of the programme; and
  - (iv) the impact of the programme on the administration of the accident compensation scheme as a whole and on claims management processes; and
- (b) endeavour to ensure that programmes are available for a variety of types of employers and self-employed persons, including small and large businesses; and
  - (c) endeavour to ensure that the rates of adjustment to Work Account levies that will be available under the programme are proportionate to the expected increases or decreases in costs to the Corporation as a result of employers and self-employed persons participating in the programme.
- (2) In developing a workplace incentive programme, the Corporation must consult the persons or organisations it considers appropriate, having regard to—
- (a) the potential participants in the programme; and
  - (b) the potential impact of the programme on the Work Account levies of non-participating levy payers.
- (3) Subsection (2) does not apply if the Minister determines under section 174C that the workplace incentive programme must be approved by the Minister.

#### **174C Minister's approval of certain workplace incentive programmes**

- (1) The Minister may determine, in relation to any proposed workplace incentive programme, that the programme must be approved by the Minister before it is established under section 174D.
- (2) In deciding whether to make a determination under subsection (1), the Minister may consider any relevant factors, including—
  - (a) the public interest; and
  - (b) how the proposed workplace incentive programme aligns with the Government's broader objectives; and
  - (c) the impact of the proposed workplace incentive programme on levy payers generally or on particular groups of levy payers; and
  - (d) the impact of the proposed workplace incentive programme on levy payers who, despite being eligible to participate in the proposed programme, may choose not to participate.
- (3) If the Minister makes a determination under subsection (1), before the Minister approves the establishment of the workplace incentive programme, the Minis-

ter must consult any persons or organisations that the Minister considers appropriate, having regard to—

- (a) the potential participants in the programme; and
- (b) the potential impact of the programme on the Work Account levies of non-participating levy payers.

#### **174D Establishment of workplace incentive programmes**

- (1) The Corporation may, by notice in the *Gazette*, establish a workplace incentive programme.
- (2) A notice in the *Gazette* under subsection (1) must set out the terms and conditions of the workplace incentive programme, including—
  - (a) any criteria that must be met before an employer or a self-employed person may participate in the programme; and
  - (b) the basis and conditions on which, and periods for which, Work Account levies may be adjusted for participants in the programme; and
  - (c) the level or levels of levy adjustment that may apply to participants in the programme.
- (3) Without limiting subsection (2), a notice in the *Gazette* under subsection (1) may provide for audits or assessments of participants in the workplace incentive programme, including—
  - (a) the order in which applications for audits or assessments are to be dealt with;
  - (b) the approval of auditors and assessors;
  - (c) requirements that audits or assessments be conducted in accordance with an audit tool or audit tools developed or approved by the Corporation;
  - (d) the frequency of audits or assessments and the circumstances under which additional audits or assessments may be required.
- (4) A notice in the *Gazette* under subsection (1), and an audit tool developed for the purposes of subsection (3)(c), may incorporate by reference any material referred to in section 176, and that section and section 177 apply as if the notice were a regulation made for the purposes of section 175, the audit tool were an audit tool referred to in section 175(4), and the reference to the Minister in section 176(3) were a reference to the Corporation.
- (5) A notice in the *Gazette* under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

#### **174E Amendments to workplace incentive programme**

- (1) A workplace incentive programme may be amended in the same manner as a workplace incentive programme is developed and established.

- (2) Sections 174B to 174D apply, with all necessary modifications, in relation to an amendment to a workplace incentive programme.
- (3) Despite subsection (2), sections 174B(2) and 174C(3) do not apply if the amendment is a minor or technical amendment.
- (4) A notice in the *Gazette* under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

**174F Corporation must report on effectiveness of workplace incentive programmes**

The Corporation must include in its annual report under section 150 of the Crown Entities Act 2004 a report on the effectiveness of workplace incentive programmes in reducing the incidence and impact of work-related personal injuries.

**9 Section 175 amended (Risk adjustment of Work Account levies)**

- (1) Repeal section 175(1) and (2).
- (2) In section 175(4), replace “An audit of an employer’s or a self-employed person’s safety management practices must, and an assessment of a self-employed person’s safety management capabilities may,” with “An audit of an employer’s safety management practices must”.
- (3) In section 175(7), replace “subsection (1)(a) or (3) must, and regulations made for the purposes of subsection (1)(b) may,” with “subsection (3) must”.
- (4) Replace section 175(7)(c) with:
  - (c) the frequency of audits of an employer’s safety management practices and the circumstances under which additional audits may be required:

**10 Section 176 amended (Incorporation by reference)**

Replace section 176(1)(a) with:

- (a) New Zealand standard, or any requirement or recommended practice of any New Zealand organisation; or

**11 Section 190 amended (Purchase of weekly compensation by shareholder-employees)**

In section 190(2), replace “sections 175,” with “sections 174D, 175,”.

**12 Section 263 amended (Prevention of personal injury)**

Replace section 263(5) with:

- (5) The Corporation must ensure that any measures undertaken or funded in accordance with this section—

- (a) are co-ordinated with similar activities of other government agencies to contribute to the overall injury prevention objectives in an efficient and effective way; and
- (b) to the extent that the measures will be funded from the Work Account, take account of the Health and Safety at Work Strategy published under section 195 of the Health and Safety at Work Act 2015.

### 13 New sections 264A and 264B inserted

After section 264, insert:

#### 264A Workplace injury prevention action plan

- (1) The Corporation and WorkSafe must at all times have a workplace injury prevention action plan.
- (2) The Corporation and WorkSafe—
  - (a) may amend the workplace injury prevention action plan at any time; and
  - (b) must review the workplace injury prevention action plan at least once every 3 years.
- (3) The workplace injury prevention action plan must—
  - (a) outline all workplace injury prevention programmes that will be undertaken by WorkSafe and the Corporation (jointly or separately) in the period to which the plan relates; and
  - (b) state how those programmes are to be funded; and
  - (c) if funding from one agency is to be used to fund programmes undertaken by the other agency, state the amount of that funding; and
  - (d) in relation to programmes, or aspects of programmes, to be undertaken by WorkSafe, be consistent with the Health and Safety at Work Strategy published under section 195 of the Health and Safety at Work Act 2015; and
  - (e) in relation to programmes, or aspects of programmes, to be undertaken by the Corporation, be consistent with the Corporation's priorities for injury prevention measures relating to the Work Account.
- (4) The Corporation and WorkSafe must, to the extent practicable, ensure that—
  - (a) the workplace injury prevention action plan outlines a coherent scheme of workplace injury prevention programmes that do not involve the duplication of activities carried out by the Corporation and WorkSafe; and
  - (b) workplace injury prevention programmes are undertaken by the agency that is best suited to undertake them; and
  - (c) programmes outlined in the workplace injury prevention action plan complement the agencies' other activities, such as enforcement and education activities.

**264B Injury prevention measures undertaken by WorkSafe and funded by Corporation or jointly undertaken**

- (1) This section applies to injury prevention measures that are—
  - (a) jointly undertaken by the Corporation and WorkSafe; or
  - (b) undertaken by WorkSafe and partly or wholly funded by the Corporation.
- (2) Before measures to which this section applies commence, the Corporation and WorkSafe must enter into 1 or more written agreements that specify—
  - (a) how the measures—
    - (i) are likely to result in a cost-effective reduction in actual or projected levy rates in the Work Account; and
    - (ii) are consistent with the Health and Safety at Work Strategy published under section 195 of the Health and Safety at Work Act 2015; and
    - (iii) are consistent with the Corporation’s priorities for injury prevention measures relating to the Work Account; and
  - (b) the amount of funding to be provided by the Corporation and by WorkSafe; and
  - (c) how and when that funding will be provided; and
  - (d) how the measures will be evaluated, including the key performance indicators to be used and the expected outcomes; and
  - (e) any requirements for reporting between the agencies.
- (3) If funding for injury prevention measures undertaken by WorkSafe is to be provided by the Corporation, the agreement may also provide that the Corporation may cease providing funding if it is satisfied that—
  - (a) key performance indicators are not being met; or
  - (b) expected outcomes are not being achieved.

**14 Section 280 amended (Disclosure of information to Corporation)**

In section 280(2), replace “Worksafe” with “health and safety regulators”.

**15 Section 286 amended (Corporation to provide information to Ministry of Business, Innovation, and Employment and to WorkSafe)**

- (1) In the heading to section 286, replace “**Worksafe**” with “**health and safety regulators**”.
- (2) In section 286(1), replace “Worksafe” with “a health and safety regulator”.
- (3) In section 286(1)(b), replace “Worksafe” with “the health and safety regulator”.
- (4) In section 286(2), replace “Worksafe” with “the health and safety regulator” in each place.



- (5) In section 286(3), replace “Worksafe” with “health and safety regulators”.
- (6) In section 286(5)(e), replace “Health and Safety in Employment Act 1992” with “Health and Safety at Work Act 2015”.

**16 New Schedule 1AA inserted**

Before Schedule 1, insert the Schedule 1AA set out in the Schedule of this Act.

**Schedule****New Schedule 1AA inserted in Accident Compensation Act 2001**

s 16

**Schedule 1AA****Transitional and savings provisions relating to amendments to this Act made by Accident Compensation Amendment Act 2015**

s 5A

**1 Transitional provision relating to risk adjustment of Work Account levies**

- (1) This clause applies to any employer or self-employed person if the Work Account levy payable by that person immediately before the commencement of this schedule has been adjusted down in accordance with regulations made for the purposes of section 175(1).
- (2) A person to whom this clause applies continues to be eligible to pay a Work Account levy at an adjusted rate until—
  - (a) the person gives notice in writing to the Corporation that the person no longer wishes to pay the levy at the adjusted rate; or
  - (b) the person's adjusted levy is cancelled or discontinued in accordance with the regulations; or
  - (c) the period to which the adjustment relates expires.
- (3) For the purposes of subclause (2),—
  - (a) section 175, including the power to make regulations, continues to apply as if it had not been amended by the Accident Compensation Amendment Act 2015; and
  - (b) the regulations in force immediately before the commencement of this schedule in accordance with which the person's rate was adjusted, or the person's adjusted rate was continued, continue to apply until—
    - (i) they are replaced by regulations made under paragraph (a); or
    - (ii) this clause is repealed.
- (4) This clause is repealed on 30 June 2019.

**2 Transitional provision relating to Accredited Employers Programme**

- (1) This clause applies to any employer who—
  - (a) is an accredited employer under the accredited employers programme framework established by the Minister under section 183; and
  - (b) is entitled to a safety management practices discount set out in regulations made under section 175.

- (2) For the purposes of calculating the premium payable by a person to whom this clause applies, the regulations made under section 175 that were in force immediately before the commencement of this schedule, and any replacement regulations made under clause 1(3)(a), continue to apply until—
  - (a) the accredited employers programme framework is amended or revoked;  
or
  - (b) this clause is repealed.
- (3) This clause is repealed on 30 June 2019.

## Reprints notes

### **1** *General*

This is a reprint of the Accident Compensation Amendment Act 2015 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Accident Compensation Amendment Act 2015 Commencement Order 2016 (LI 2016/10)