

## ACCIDENT COMPENSATION AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Accident Compensation Act 1982.

*Clause 1* relates to the Short Title and the commencement. Except as provided in *clauses 3, 8, 9, and 10*, the Bill is to come into force on 1 April 1985.

*Clause 2* amends section 15 of the principal Act to provide that, for the purposes of the State Services Conditions of Employment Act 1977, the Managing Director of the Corporation shall be the employing authority.

*Clause 3* amends section 26 of the principal Act to ensure that certain sections of the principal Act are to apply, as from 1 April 1983 (being the date of commencement of the principal Act) in relation to persons who suffered personal injury by accident during the currency of the Accident Compensation Act 1972 and had cover or were entitled to cover under that Act.

The sections concerned relate to cover for specified categories of persons (sections 30 to 34), rehabilitation (sections 36 and 37), calculation of entitlement (sections 52 to 56), earnings related compensation after first week for temporary loss of earning capacity (section 59 (2), (3), and (8)), earnings related compensation payable to surviving dependent spouse, children, and other dependants (section 65), compensation payable to persons outside New Zealand (section 68), extension of entitlement to earnings related compensation (section 69), and *ex gratia* payments (section 118).

In most cases the provisions to be applied are simplified versions of provisions contained in the 1972 Act. In other cases this clause enables the Corporation—

- (a) To apply the relaxation in respect of the earnings of a husband or wife employed by the injured spouse;
- (b) To disregard all or part of the earnings received where a person is being reinstated or placed in employment for the purpose of rehabilitation (section 59 (2) as amended by *clause 9* of the Bill);
- (c) To disregard any change of accountancy procedures or methods of any self-employed person for the purpose of calculating the post-accident earnings of that person (section 59 (3));
- (d) To increase the taxable value of accommodation supplied by the employer for the purposes of calculating pre-accident earnings (section 59 (8));
- (e) To consider the cessation or commutation of weekly compensation for persons who permanently leave New Zealand (section 68).

*Clause 4:* Section 43 of the principal Act deals with the annual delivery of statements and the payment of levies by employers.

*Subclause (1):* Any employer who commenced business before 1 April 1980 was required to pay start-up levies, in effect to pay the levy in advance. This subclause provides that where any such employer ceases to carry on business, that employer may apply for an adjustment to the levy in the year of cessation and either pay a reduced amount or receive a refund, as the case may require.

*Subclause (2)* reinstates the prescribed domestic allowance for employers (previously contained in section 43 (4) of the Accident Compensation Act 1972) that applies where the only earnings of an employer's employees are domestic earnings.

Where those earnings are less than \$400, or such other amount as may from time to time be prescribed by the Governor-General by Order in Council, no statement need be delivered and no levy paid. Where those earnings exceed that amount, only the amount of the excess is to be included in the statement.

*Clause 5:* Section 44 of the principal Act deals with the annual delivery of statements and payment of levies by self-employed persons.

Any person who commenced as a self-employed person on or before 30 September 1979 was also required to pay start-up levies. This clause provides that where any such person ceases to be a self-employed person that person may apply for an adjustment to the levy for the year of cessation and either pay a reduced amount or receive a refund, as the case may require.

*Clause 6* authorises the Corporation to determine, on a fair and reasonable basis, the reduced amount of levy payable for the year of cessation, as provided in *clauses 4 (1) and 5* of the Bill, and to make the required refund, where appropriate.

*Clause 7* makes a minor drafting amendment to section 53 (8) of the principal Act so that it ties in more correctly with section 69 of that Act.

*Clause 8* corrects, as from the commencement of the principal Act, an incorrect reference in section 57 (8) (a) of the principal Act.

*Clause 9* amends section 59 of the principal Act which provides for payment of earnings related compensation after the first week for the temporary loss of earning capacity.

This amendment gives the Corporation a discretion, when calculating the amount of compensation payable to a person who suffered personal injury, to disregard all or part of the earnings received by that person while that person is being reinstated or placed in employment for the purposes of that person's rehabilitation.

This amendment also has effect from the commencement of the principal Act.

*Clause 10* removes surplus words from section 74 of the principal Act. The amendment has effect as from the commencement of the principal Act.

*Clause 11* amends section 89 of the principal Act to enable a deduction notice issued by the Social Security Commission under the liable parent scheme to be accepted by the Corporation as a charge against earnings related compensation.

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*Hon. S. J. Rodger*

## ACCIDENT COMPENSATION AMENDMENT

### ANALYSIS

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### A BILL INTITULED

#### **An Act to amend the Accident Compensation Act 1982**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Accident Compensation Amendment Act 1984, and shall be read together with and deemed part of the Accident Compensation Act 1982\* (hereinafter referred to as the principal Act).

(2) Except as provided in sections 3, 8, 9, and 10 of this Act, this Act shall come into force on the 1st day of April 1985.

**2. Staff not in service of the Crown**—Section 15 (3) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The Managing Director shall be the employing authority:”.

\*1982, No. 181  
Amendment: 1983, No. 60

**3. Purposes and scope of Act**—(1) Section 26 of the principal Act is hereby amended, as from its commencement, by adding the following subsection:

“(3) Sections 30 to 34, 36, 37, 52 to 56, 59 (2), 59 (3), 59 (8), 65, 68, 69, and 118 of this Act shall, on and after the 1st day of April 1983, apply in relation to any person who suffered personal injury by accident on or after the 1st day of April 1974 and on or before the 31st day of March 1983 to the extent that the person had cover or was entitled to cover under the Accident Compensation Act 1972 in relation to that personal injury by accident.”

(2) Section 65 of the principal Act is hereby consequentially amended, as from its commencement, by repealing subsection (10).

(3) Section 122 (4) of the principal Act is hereby consequentially amended, as from its commencement, by omitting the expression “65”, and substituting the expression “26 (3)”.

**4. Statements by employers**—(1) Section 43 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every employer who, on the disposal or cessation of his business, is required to furnish, pursuant to and for the purposes of section 353 (1) (f) of the Income Tax Act 1976, a reconciliation statement as defined in that Act shall—

“(a) Within the time in which he is required to furnish that reconciliation statement, deliver a statement of the amount of earnings as employees that have been paid or have become payable by him during the period commencing on the 1st day of April last preceding the date on which he so ceases to be an employer and ending at the time at which he so ceases; and

“(b) Either—

“(i) Where he was, on the 31st day of March 1980, an employer and has continued to be an employer, in relation to that business, until the date of that disposal or cessation, make an application for an adjustment under **section 44A** of this Act to the amount of the levy otherwise payable in relation to that statement, and pay the amount (if any) of the adjusted levy then payable within one month of the date of the determination by the Corporation under that section; or

“(ii) In any other case, at the same time pay in relation to that statement a levy calculated in accordance with subsection (3) of this section.”

5 (2) Section 43 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) Notwithstanding anything in this section, it shall not be necessary for an employer to furnish a statement of the amount of earnings as employees that have been paid by him in the  
10 preceding year if—

“(a) The only such earnings were domestic earnings; and

“(b) The domestic earnings during that period amount to less than \$400 or such other amount as may from time to time be prescribed for the purposes of this  
15 subsection by the Governor-General by Order in Council:

“Provided that where such earnings are in excess of the amount specified by **paragraph (b)** of this subsection, the statement of earnings shall include only the excess.”

20 **5. Statements by self-employed persons**—Section 44 of the principal Act is hereby amended by adding the following subsection:

“(6) Every person who ceases to be a self-employed person shall—

25 “(a) Deliver a statement of his earnings in accordance with this section; and

“(b) Either—

“(i) Where he was, on the 30th day of September 30 1979, a self-employed person and has continued to be a self-employed person until the date he so ceased, make an application for an adjustment under **section 44A** of this Act to the amount of the levy otherwise payable in relation to that statement, and pay the amount (if any) of the adjusted levy then  
35 payable within one month of the date of the determination by the Corporation under that section; or

“(ii) In any other case pay in relation to that  
40 statement the amount of the levy in accordance with this section.”

**6. Adjustment of amount of levy on cessation**—The principal Act is hereby amended by inserting, after section 44, the following section:

“44A. Where any application is made pursuant to **section 43 (2) (b) (i) or section 44 (6) (b) (i)** of this Act for an adjustment to be made to the amount of the levy, the Corporation shall determine the amount which, in the opinion of the Corporation, is a fair and reasonable amount of levy to be payable in the circumstances and shall inform the applicant accordingly and, where as a result of the determination any amount of levy has been paid in excess, the Corporation shall refund the amount of the excess as soon as practicable.” 5

**7. Relevant earnings**—Section 53 (8) of the principal Act is hereby amended by omitting the words “his cover is deemed under section 69 of this Act to extend”, and substituting the words “he is deemed under section 69 of this Act to continue to be an earner”. 10

**8. First week**—Section 57 (8) (a) of the principal Act is hereby amended, as from its commencement, by omitting the words “section 28 of the Waterfront Industry Act 1953”, and substituting the words “section 38 of the Waterfront Industry Act 1976”. 15

**9. Earnings related compensation after first week for temporary loss of earning capacity**—Section 59 (2) of the principal Act is hereby amended, as from its commencement, by adding the following additional proviso: 20  
“Provided also that in so fixing the amount to be deducted the Corporation may, in its discretion, in any particular case, disregard all or any part of the earnings received by an earner in the course of his reinstatement or placement in employment for the purposes of his rehabilitation pursuant to section 37 of this Act.” 25

**10. Conveyance by ambulance**—Section 74 of the principal Act is hereby amended, as from its commencement, by omitting from the proviso the words “in either case”. 30

**11. Compensation not assignable**—Section 89 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

5 “(5) Nothing in this section shall affect sections 4 and 5 of the Maori Housing Act 1935, sections 27Y and 71 of the Social Security Act 1964, section 400 of the Income Tax Act 1976, and sections 110, 118, and 121 of the Family Proceedings Act 1980.”