

ACCIDENT COMPENSATION AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill amends the Accident Compensation Act 1972.

Clauses 7, 14, 15, 17, 20, 22, 24, and 32 implement recommendations of the Cabinet/Caucus Committee to review the Accident Compensation Act.

Clause 1: Subclause (1) relates to the Short Title.

Subclause (2) states that, except as otherwise provided, these provisions are to come into force on 1 October 1981.

Clause 2 omits references to future liabilities of the Fund from the matters the Corporation is required to make recommendations to the Minister.

Clause 3: Section 63 of the principal Act provides that in certain cases disablement or death of a member of the Armed Forces during or attributable to a war or emergency is covered by the principal Act. There is no provision in the section however to determine when the "accident" happened.

This clause rewrites the section to provide that, in the case of disablement, the accident is deemed to have happened at the commencement of the period in respect of the disablement pension is payable, and, in the case where the pension is payable in respect of death, at the time of death. The revised section also makes it clear that the section applies in respect of a person who is no longer in the Armed Forces at the time of the determination.

Clause 4: At present under section 67 of the principal Act compensation for diseases arising out of employment is subject to various restrictions regarding the length of time between the date the claimant ceases the employment and the date of commencement of the incapacity.

This clause rewrites the section to remove these restrictions where that employment ceases on or after 1 October 1981.

Clause 5: Section 74 of the principal Act prescribes the maximum amount on which levies are payable by an employer in respect of the wages of any employee, and also authorises this amount to be amended by the Governor-General from time to time by Order in Council, but such amount so prescribed is not to differ by more than 20 percent from the amount prescribed by the section.

This clause removes the restriction on the amount that may be prescribed by Order in Council.

Clauses 6, 8, and 9 relate to the elimination of the additional initial levy previously payable by self-employed persons.

At present this has been effected by regulations made pursuant to section 181 (1) (g) of the principal Act. These regulations are revoked by *clause 10*.

Clause 7 enables a full-time self-employed person (as defined) to elect to pay the levy based on the amount which represents the average ordinary time weekly wage as disclosed by the Department of Labour in the previous May, and to receive compensation on that basis under the new section 113A of the principal Act (see *clause 17*) for a period of 12 months commencing on the 7th day of September in any year.

However the election otherwise due by 7 September 1981 is to be delivered by 7 November 1981, and the compensation on the new basis is to be payable for a 10 month period until 6 September 1982.

Clause 11 increases the maximum fine for most offences to \$500.

Clause 12 amends section 104 of the principal Act, which deals with relevant earnings,—

- (a) By omitting the provision relating to the automatic increases in relevant earnings following a General Wage Order:
- (b) By providing for relevant earnings to be ascertained at date of incapacity where any period of incapacity does not arise at the date of the accident.

This clause applies in respect of any period of incapacity arising on or after 1 October 1981.

Clause 13 rewrites sections 107, 108, and 109 of the principal Act which relate to costs of conveyance for medical treatment and payment of earnings related compensation for working hours lost while receiving medical attention.

The clause distinguishes between accidents happening in New Zealand and those happening outside New Zealand. It makes it clear that payment for conveyance for medical attention when the accident happens outside New Zealand to a person who has cover under the Act is discretionary.

This clause is to apply in relation to any accident occurring on or after 1 October 1981.

Clause 14 provides that the injured person is to pay the cost of each of the first 2 visits to a general medical practitioner (as defined), not being an amount in excess of \$5 or such other amount as may be prescribed from time to time by the Governor-General by Order in Council in respect of each such visit.

Where the injury was caused to an employee in the course of his employment, the employer is to refund to the employee the amounts so paid.

This clause is to apply in relation to any accident occurring on or after 1 April 1982.

Clause 15: Section 112 of the principal Act provides that while an employee is unable to work due to personal injury arising out of and in the course of his employment, the employer is to pay the employee during the first week after the personal injury the full amount of his normal wages.

This amendment provides that the employer is now to pay 80 percent of those normal wages for the first 2 weeks.

This clause is to apply in relation to any accident occurring on or after 1 April 1982.

Clause 16: Section 113 of the principal Act prescribes the maximum amount of earnings related compensation that may be payable to any person, and also authorises this amount to be amended by the Governor-General from time to time by Order in Council, but such amount so prescribed is not to differ by more than 20 percent from the amount prescribed by the section.

This amendment removes the restriction on the amount that may be prescribed by Order in Council.

Clause 17 provides that any full-time self-employed person who so elects pursuant to the new section 78A of the principal Act (see *clause 7*) is entitled to receive compensation on the basis that his relevant earnings were equal to the amount of the average latest ordinary time weekly wage as disclosed by the Department of Labour at the time of the accident.

Compensation is to be payable for a period of 13 weeks on that basis without proof of loss of earning capacity, and thereafter with proof of such loss.

This clause is to apply from 7 September 1981.

Clause 18 repeals section 114 of the principal Act which provides for assessment of permanent incapacity and makes consequential amendments to other provisions of the principal Act.

This amendment will avoid the necessity of requiring the Corporation to assess the future prospects of the injured person in regard to loss of earnings, and to pay only in respect of the actual loss.

This clause is to apply in relation to any accident occurring on or after 1 April 1982.

Clause 19: Section 118 of the principal Act provides for compensation for loss of potential earning capacity in certain cases. Where an injured person had a definite arrangement to commence work and this is prevented by the injury, earnings related compensation of up to \$100 per week is payable, even if the proposed work was on a part-time basis only.

This clause provides that the maximum amount is payable only where the proposed work is for 30 hours or more and is to be reduced proportionately for shorter hours.

This clause is to apply in relation to any accident occurring on or after 1 October 1981.

Clause 20 rewrites section 119 of the principal Act which deals with lump sum compensation for non-economic loss related to permanent loss or impairment of bodily function and repeals section 120 of the principal Act which deals with lump sum compensation for other non-economic loss.

At present the appropriate percentage (as set out in the Second Schedule) of \$7,000 is payable under section 119, and up to \$10,000 under section 120 in respect of pain and suffering, loss of enjoyment of life, etc.

The new section 119 sets up a new system whereby the amount payable under the Second Schedule is the appropriate percentage of \$17,000, and no amount is payable specifically for pain and suffering, loss of enjoyment of life, etc. Provision is made for compensation up to a maximum of \$17,000 to be payable in cases which are not covered by the Schedule.

A further change is that no payment is to be made where the percentage of the lump sum compensation otherwise payable in respect of all injuries caused by one accident is less than 15 percent.

This clause is to apply in relation to any accident occurring on or after 1 April 1982.

Clause 21 amends the provisions relating to compensation for pecuniary loss not related to earnings.

Subclause (1): Section 121 (1) (a) provides that no compensation is payable in respect of any loss in respect of damage to property. In the case of *A.C.C. v. Nelson* it was held that the loss of goodwill in respect of a one-man company was not covered by this paragraph and that compensation was therefore payable.

This amendment widens the scope of section 121 (1) (a) to ensure that damage to all kinds of property is excluded.

Subclause (2): Section 121 (2) (a) provides that compensation is payable to any member of the household of an injured or deceased person for any quantifiable loss of service suffered by that person. In the case of *Kivi v. A.C.C.* it was held that this included the loss of services to a widow in respect of the labour costs to be incurred in carrying out house and property improvements that her husband had proposed doing.

This amendment restricts the compensation to weekly payments in respect of loss of quantifiable services of a domestic or household nature that was previously provided on a regular basis.

This clause is to apply in relation to any accident occurring on or after 1 October 1981.

Clause 22 provides that where a person who is in receipt of or entitled to receive earnings related compensation is absent from New Zealand for more than 12 months, the Corporation shall from time to time review the amount payable, and may continue, reduce, or postpone the payment, or may commute it to a lump sum. The criteria the Corporation is to take into account is set out in subsection (2) of the substituted section 130.

Clause 23: Subclause (1) empowers the Corporation to set-off against compensation payable to any person amounts owing by him in respect of compensation overpaid.

Subclause (2) provides that section 135 of the principal Act, which states that compensation is not assignable, is not to affect section 104 of the Domestic Proceedings Act 1968, which deals with receiving orders made where any money is in arrear under a maintenance order.

Clause 24 inserts a new section 138A in the principal Act that provides that where in the course of and as a result of committing any offence,

- being—
- (a) Any offence under section 58 of the Transport Act 1962 (driving with excessive breath alcohol or blood-alcohol concentration or while under the influence of drink or drugs); or
 - (b) Any offence for which the maximum penalty is life imprisonment or of a term of imprisonment of 2 years or more,—
- any person suffers personal injury by accident and is convicted of the offence and sentenced to a term of imprisonment, cover is to exist under the principal Act but no compensation is to be payable.



Where the Corporation has reason to suspect that any injury was suffered during the course of and as a result of any such offence, it may refuse to pay compensation for 12 months after the date of the accident or, where the injured person has been charged but not tried for the offence, for such longer period as the Corporation determines.

This clause is to apply in relation to any accident occurring on or after 1 October 1981.

Clause 25 inserts a new section 142A in the principal Act empowering Hospital Boards to supply accident statistics to the Corporation.

Clause 26: Section 154 (14) of the principal Act provides that, on an application for review, the Corporation may, in certain cases allow reasonable costs to the applicant.

This amendment provides that this power may also be exercised by the Hearing Officer, and that regulations may be made prescribing the circumstances in which and the extent to which such costs are payable.

Clause 27 corrects a drafting error.

Clause 28 provides for the Corporation to refund to the Justice Department the costs of providing administrative services to the Accident Compensation Appeal Authority.

Clause 29: Section 166 deals with the award of costs by the Appeal Authority.

This clause empowers the Authority, following an application for an adjournment of a fixture for an appeal made by either the Corporation or the appellant, to order the party requesting the adjournment to pay such sum for costs as it considers reasonable, where it considers that, in the interests of justice, the adjournment should be allowed but will cause inconvenience or expense to any person, including the Authority.

Clause 30 enables the Corporation to set-off against compensation payable any other compensation or rehabilitation assistance overpaid or any levies due.

It also increases the amount of overpaid compensation and underpaid levy which may be written off without consideration of possible recovery from \$2 to \$10, and provides that the power of set-off is subject to rights of review and appeal.

Clause 31 amends the First Schedule to the principal Act to include certain amendments previously made by Order in Council.

This clause is to apply as stated in *subclauses (2) and (3)*.

Clause 32 transfers all the assets and liabilities of the Uninsured Employers Claims Account and the Occupational Safety Trust Account to the Corporation.

Hon. Mr Bolger

ACCIDENT COMPENSATION AMENDMENT (NO. 2)

ANALYSIS

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A BILL INTITULED

An Act to amend the Accident Compensation Act 1972

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

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1. Short Title and commencement—(1) This Act may be cited as the Accident Compensation Amendment Act (No. 2) 1980, and shall be read together with and deemed part of the Accident Compensation Act 1972* (hereinafter referred to as the principal Act).

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(2) Except where otherwise provided, this Act shall come into force on the 1st day of October 1981.

2. Recommendations as to levies and compensation—

(1) Section 15 (2A) of the principal Act (as inserted by section 6 of the Accident Compensation Amendment Act (No. 2) 1973) is hereby amended by omitting the words “having regard to future commitments of that fund”.

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(2) Sections 15 (7) and 15 (8) of the principal Act are hereby amended—

(a) By omitting the words “the income”, and substituting in each case the words “any income”:

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(b) By omitting in each case the words “and future”.

3. Members of the Armed Forces of New Zealand—

(1) Section 63 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

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“(2) In any case where a War Pensions Board or a War Pensions Appeal Board established under the War Pensions Act 1954 determines that a pension is payable under Part II of that Act in respect of the disablement or death of a person who is or has been a member of the Armed Forces of New Zealand and that the disablement or the death, as the case may be, occurred during, or is attributable to, or was aggravated by, service in a war or emergency, being service on or after the 1st day of October 1981,—

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“(a) Compensation under this Act as determined by the Corporation (subject to Part VII of this Act) shall be payable and section 59 of this Act shall apply, in a case where the pension is payable in respect of

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*Reprinted 1975, Vol. 2, p. 1409
Amendments: 1977, No. 139; 1978, No. 36; 1979, No. 70

any disablement, as if that disablement were personal injury by accident happening at the commencement of the period for which the pension is payable in respect of that disablement, and, in a case where the pension is payable in respect of death, as if the death resulted from personal injury by accident happening at the time of death:

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“Provided that if, in a case where the pension is payable in respect of death, a pension (being a pension to which the foregoing provisions of this subsection relate) has become payable in respect of any period prior to the death by reason of the disablement of the deceased person, the Corporation may (subject to Part VII of this Act) determine that the death resulted from personal injury by accident happening at such time prior to the death (not being earlier than the commencement of the period for which the pension in respect of disablement was payable) as appears most appropriate, having regard to all the relevant circumstances, including the extent (if any) to which the death was attributable to any disablement in respect of which that pension was payable and the time as at which that pension commenced to be payable in respect of any disablement to which the death was attributable:

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“Provided also that, in any case to which this paragraph applies, no compensation shall be payable under sections 108, 110, 111, 119, 120, 121 (3), and 122 of this Act:

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“(b) In making any determination of the compensation payable under this subsection, the Corporation may, notwithstanding section 91 of the War Pensions Act 1954, have regard to any pension or allowance awarded under Part II of that Act (other than any pension or allowance awarded, pursuant to section 19 of that Act, under sections 20, 21, 22, 23, 32 (1), and 48 of that Act, to a member of the Armed Forces of New Zealand or in the event of his death to his widow or a person who is deemed to be or regarded as his wife or widow under section 76 or section 77 of that Act), but in all other respects any such determination shall be made in accordance with this Act.

“(3) In any case where a member of the Armed Forces dies as a result of personal injury by accident occurring during service in a war or emergency, being service on or after the 1st day of October 1981, but no pension is payable under Part II of the War Pensions Act 1954 in respect of the death, the Corporation shall determine the entitlement to compensation (if any) of any dependants of the person so dying in accordance with the provisions of sections 123, 124 and 125 of this Act.” 5

(2) Section 68 (4) of the principal Act is hereby amended 10 by omitting the expression “109”.

4. Compensation for diseases arising out of employment—
The principal Act is hereby further amended by repealing section 67, and substituting the following section:

“67. (1) Where an earner’s total or partial incapacity for work or an earner’s death results from any disease, and the disease is due to the nature of any employment in which the earner was employed during a period that ended on or after the 1st day of October 1981, cover shall exist, rehabilitation assistance shall be given and compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of his employment, and all the provisions of this Act shall apply accordingly subject, however, to the provisions of this section. 15 20

“(2) For the purpose of calculating the relevant earnings of an earner in a claim for any compensation under this section, the date of the commencement of the incapacity or, if there is more than one period of incapacity, the date of the commencement of each period of incapacity of the earner (or the date of his death if there has been no previous period of incapacity) shall be treated as the date of the happening of the accident; if he is then engaged in any employment; and if he is not then so engaged the last day on which he was so engaged shall for this purpose be treated as the date of the happening of the accident. 25 30 35

“(3) For all the other purposes of this Act, the date of the commencement of the incapacity or, if there is more than one period of incapacity, the date of the commencement of each period of incapacity of the earner (or the date of his death if there has been no previous period of incapacity) shall be treated as the date of the happening of the accident: 35 40

“Provided that, where more than one period of incapacity occurs in the employment of the same employer, only the date of commencement of the first period of incapacity with that employer shall be treated, for the purposes of section 5 112 of this Act, as the date of the happening of the accident.

“(4) If any earner contracts any disease in respect of which he would be entitled to a miner’s benefit under the Social Security Act 1964, he shall not be entitled to receive any earnings related compensation under this Act in respect of 10 that disease for any period for which he receives the miner’s benefit, or to receive a miner’s benefit for any period for which he receives any earnings related compensation under this Act.

“(5) Nothing in this section shall affect the right of any 15 person to recover compensation in respect of a disease if the disease is a personal injury by accident within the meaning of this Act.”

5. Maximum amount on which levies are payable—

Section 74 (1) of the principal Act is hereby amended by 20 omitting the words “(not differing therefrom by more than 20 percent)”.

6. Statements by self-employed persons—(1) The principal Act is hereby further amended by repealing section 78 (as amended by section 5 (1) of the Accident Compensation 25 Amendment Act 1978), and substituting the following section:

“78. (1) Every self-employed person who, on or after the 1st day of October 1979, is required to furnish under and for the purposes of the Income Tax Act 1976 a return of the 30 income derived by him in his financial year which corresponds with the income year that commenced on the 1st day of April 1979 or any succeeding income year, shall at the time when he furnishes that return of income, deliver a statement of his earnings as a self-employed person derived by him in 35 that financial year and pay, in relation to every such statement, within the period of 1 month immediately following the due date, a levy calculated in accordance with subsection (2) of this section.

“(2) Subject to sections 73 and 74 of this Act, where in 40 accordance with subsection (1) of this section, a person is required to deliver a statement of his earnings as a self-employed person and to pay a levy calculated in accordance

with this subsection, that levy shall be calculated at the appropriate rate prescribed in accordance with section 72 of this Act on the earnings shown in the statement or on the prescribed amount, whichever is the greater.

“(3) Notwithstanding anything in the foregoing provisions of this section but subject to any regulations made under this Act, if any self-employed person (with the consent of the Commissioner of Inland Revenue) changes the date of the annual balance of his accounts for the purposes of furnishing a return of income under the Income Tax Act 1976, he shall comply with such requirements concerning the delivery of statements and payment of levies as shall, in the opinion of the Corporation, be necessary in order to effect consequential adjustments and as shall be notified to him in writing.

“(4) In this section:

“‘Due date’, in relation to a levy calculated in accordance with subsection (2) of this section means the 7th day of February next following the date by which the statement of earnings in relation to which that levy is calculated is required to be delivered under subsection (1) of this section:

“‘Income year’ has the same meaning as in section 2 of the Income Tax Act 1976:

“‘Prescribed amount’ means the amount prescribed for the purposes of this section in Part I of the First Schedule to this Act or such other amount as may from time to time be prescribed for those purposes by the Governor-General by Order in Council; or in relation to any class or group of self-employed persons in respect of whom the Governor-General may from time to time prescribe an amount for those purposes, means the amount so prescribed in respect of that class or group.”

(2) Section 71 of the principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) the words “and, except as stated in section 78 of this Act, shall be payable at the rate or rates prescribed under section 72 of this Act” (as substituted by section 28 (2) (a) of the Accident Compensation Amendment Act (No. 2) 1973), and substituting the words “and shall be payable at the rate or rates prescribed under section 72 of this Act”:

(b) By omitting from subsection (2) the words “in accordance with section 78 of this Act” (as substituted by section 28 (2) (b) of the Accident Compensation Amendment Act (No. 2) 1973), and substituting the words “in accordance with section 78 or section 78A of this Act”.

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(3) Section 72 (1) of the principal Act is hereby consequentially amended by omitting the words “sections 73 and 78” (as substituted by section (2) (c) of the Accident Compensation Amendment Act (No. 2) 1973), and substituting the expression “section 73”.

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(4) Section 74 of the principal Act is hereby consequentially amended—

(a) By omitting from subsections (3), (5), and (6) (c) the words “subsection (5) of section (78)”, and substituting the expression “section 78 (2)”; and

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(b) By omitting from subsection (6) (c) the words “subsection (9) of that section (as inserted by section 9 (1) of the Accident Compensation Amendment Act 1975)”, and substituting the words “subsection (4) of that section”.

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(5) Section 75 (5) of the principal Act is hereby consequentially amended by omitting the words “subsections (6) and (8) of section 78”, and substituting the expression “section 78 (3)”.

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(6) The Accident Compensation Amendment Act (No. 2) 1973 is hereby consequentially amended by repealing section 28 (2).

(7) The Accident Compensation Amendment Act 1978 is hereby consequentially amended by repealing section 5.

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7. Election by full-time self-employed persons—The principal Act is hereby further amended by inserting, after section 78, the following section:

“78A. (1) Notwithstanding anything in this Act, any full-time self-employed person may—

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“(a) On or before the 7th day of November 1981; or

“(b) On or before the 7th day of September in any succeeding year,—

deliver to the Commissioner of Inland Revenue an election, in a Form approved by the Corporation to receive earnings related compensation calculated in accordance with section 113A of this Act.

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“(2) Every full-time self-employed person who delivers an election to receive earnings related compensation calculated in accordance with section 113A of this Act shall at the same time as he delivers that election pay a levy calculated at the appropriate rate prescribed in accordance with section 72 of this Act on the amount which represents: 5

“(a) In any case where subsection (1) (b) of this section applies, the annual sum of the average ordinary time weekly wage, as disclosed by the quarterly employment survey of salaries and wages conducted by the Department of Labour the previous May; or 10

“(b) In any case where subsection (1) (a) of this section applies, five-sixths of the said annual sum of the average ordinary time weekly wage.

“(3) In relation to any financial year in which a full-time self-employed person delivers an election to receive earnings related compensation calculated as aforesaid and at the same time pays levy in respect thereof in accordance with this section, he shall not be required to deliver a statement of his earnings as a self-employed person derived by him in that financial year or pay a levy thereon under section 78 of this Act. 15 20

“(4) Section 75 (2) of this Act shall not apply to the delivery of an election to receive earnings related compensation and the payment of levy in respect thereof.” 25

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the expression “financial year”, the following definition:

“‘Full-time self-employed person’ means a self-employed person who— 30

“(a) On or after the 7th day of August 1981, is required to furnish under and for the purposes of the Income Tax Act 1976 a return of income derived by him in his financial year which corresponds with the income year that commenced on the 1st day of April 1980 or any succeeding income year; and 35

“(b) Has worked wholly as a self-employed person an average of not less than 30 hours a week during that financial year.”

(3) This section shall come into force on the day that this Act receives the Governor-General’s assent. 40

8. Adjustments on cessation—The principal Act is hereby further amended by repealing section 79, and substituting the following section:

“79. Subject to any regulations made under this Act, where statements are delivered pursuant to subsection (6) of section 77 of this Act, the Corporation shall determine what adjustments (if any) are to be made, whether by way of
5 refund by the Corporation of any amount of levy which, in the determination of the Corporation, has been paid in excess, or by payment by the employer of any amount of levy which, in the determination of the Corporation, should be paid and shall notify the employer in writing of its determination,
10 whereupon either such refund (if any) as, in the determination of the Corporation, is to be made, shall forthwith be made by the Corporation, or the employer shall forthwith pay the amount of levy (if any) which, in the determination of the Corporation, should be paid.”

15 **9. Agent to pay levies to Corporation**—Section 81 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“ (1) Subject to this Act, where an employer is required
20 under sections 76 to 80 of this Act, to deliver a statement and pay a levy, the levy shall be paid not later than the last day allowed for delivering the statement by reference to which the levy is calculated.

“ (2) If any levy payable by an employer or a self-employed person is not paid on or before the last day allowed
25 for payment thereof, or if any levy in respect of which the Corporation causes notice of an assessment or amended assessment to be given under section 83 (4) of this Act, is not paid on or before the last day allowed for the payment thereof, a penalty of 10 percent of the amount unpaid in respect of the
30 levy shall be added to that amount, and shall be recoverable as if it were part of the levy:

“ Provided that the Corporation may remit all or part of any such penalty, if, in the special circumstances of any case, it thinks it fair and reasonable to do so, and if the amount so
35 remitted has been paid, it shall be dealt with in accordance with section 106 of this Act in such manner provided for by that section as the Corporation thinks fit.”

10. Revocation consequential upon sections 6, 8, and 9—
The Accident Compensation Self-Employed Levy Payment
40 Regulations 1979 are hereby revoked.

11. Fines and penalties—(1) The principal Act is hereby further amended—

(a) By omitting from sections 81A (5) (as inserted by section 6 of the Accident Compensation Amendment Act 1978), 101 (b), 107 (3), and 179, subsections (1), (2), and (3) of section 180, and section 181 (1) (p) the expression “\$200”, and substituting in each place the expression “\$500”:

(b) By adding to section 180 (2) (a) the words “and, if the offence is a continuing one, to a further fine of \$25 for every day during which the offence continues”.

(2) Section 136 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Any person who fails to comply with subsection (1) of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$500, and, if the offence is a continuing one, to a further fine not exceeding \$25 for every day during which the offence continues.”

12. Relevant earnings—(1) Section 104 of the principal Act is hereby amended by repealing subsections (7) and (8), and substituting the following subsection:

“(7) The Governor-General may, from time to time, by Order in Council, specify a percentage or amount by which (subject to subsection (13) of this section) the amount for the time being of any relevant earnings required to be ascertained under the provisions of this section or any amount for the time being determined under subsection (10A) of this section shall increase. Any such Order in Council may be made in relation to all such relevant earnings or determined amounts or to such only of those relevant earnings or determined amounts as may be specified in the Order, and may prescribe any limitation as to its effect, whether by way of reference to any persons or classes of persons or to the time at which an accident has happened or to the time at which a period of incapacity for work has commenced or

to the purposes for which the increase is to apply, or by way of any other specification, stipulation, condition, inclusion, or exclusion whatsoever. The Order in Council or any part or parts thereof may be made so as to come into effect on a date or dates to be specified therein in that behalf being either the date of the Order in Council or any other date or dates whether before or after the date thereof.”

5 (2) Section 104 (9) of the principal Act is hereby consequentially amended—

10 (a) By omitting the words “under subsection (8)”, and substituting the words “under subsection (7)”:

(b) By omitting the words “or subsection (8)”.

(3) Section 104 (10) of the principal Act is hereby amended by omitting the words “subsections (7) and (8)”,

15 and substituting the words “subsection (7)”.

(4) Section 104 of the principal Act is hereby amended by inserting, after subsection (10), the following subsections:

“(10A) Where any period of an earner’s incapacity for work does not commence on the date of the accident, and the

20 Corporation is of the opinion that relevant earnings ascertained in accordance with the foregoing provisions of this section do not fairly and reasonably represent the earner’s normal average weekly earnings at the time of the commencement of the period of incapacity for work, the Corporation may,

25 notwithstanding the foregoing provisions of this section, in its discretion determine an amount which in its opinion would fairly and reasonably represent his normal average weekly earnings at the time of the commencement of the period of incapacity for work, having regard to such information as it may obtain regarding his earnings before the

30 time of the commencement of the period of incapacity for work and his earnings at the time of the commencement of that period, and to his work history and the period of his residence in New Zealand before the time of the period of incapacity for work; and any amount so determined shall be treated

35 as if it were his relevant earnings for the purpose of assessing earnings related compensation during the particular period of incapacity for work:

“Provided that any determination made under this subsection shall not bind or prejudice the Corporation or limit or restrict its discretions or powers with regard to any assessment or determination of that person’s relevant earnings or loss of earning capacity during any other period of his incapacity for work to which the determination does not relate. 5

“(10B) In determining the amount under subsection (10A) of this section the Corporation may exercise the discretions and powers conferred on it by subsections (2), (3) and (4) of this section and by subsection (3) of section 104A as if references to the time of the accident and to the date of the accident in those subsections were references respectively to the time of the commencement of a period of incapacity for work and to the date of commencement of a period of incapacity for work.” 10 15

(5) Section 2 (1) of the principal Act is hereby consequentially amended by repealing the definitions of the expressions “general wage order”, “Industrial Commission”, and “relevant general wage order” (as inserted by section 2 (4) of the Accident Compensation Amendment Act 1975). 20

(6) Section 15 (2) of the principal Act (as added by section 3 (2) of the Accident Compensation Amendment Act 1975) is hereby consequentially amended by omitting the expression “subsection (8)”, and substituting the expression “subsection (7)”. 25

(7) The proviso to section 117 (2) (a) of the principal Act is hereby consequentially amended by omitting the words “subsection (8) of section 104 of this Act, the provisions of subsections (7) and (8) of the said section 104”, and substituting the words “subsection (7) of section 104 of this Act, the provisions of that subsection”. 30

(8) The Accident Compensation Amendment Act 1975 is hereby consequentially amended by repealing section 2 (4).

(9) This section shall apply in respect of any period of incapacity for work which commences on or after the commencement of this Act. 35

13. New sections inserted—(1) The principal Act is hereby further amended by repealing sections 107, 108, and 109, and substituting the following sections:

“107. Conveyance for immediate medical attention—

(1) Subject to any regulations made under this Act, this section shall apply where a person suffers personal injury by accident in respect of which he has cover under this Act and
5 the injury necessitates his immediate removal for medical attention to a hospital, or to a medical practitioner and then to a hospital or his residence, or to his residence (medical attention away from his residence not being required).

10 “(2) Where the accident happens to an employee in the course of his employment—

“**(a)** The employer shall forthwith at his own expense provide or arrange the necessary conveyance for the employee’s removal for medical attention as mentioned in this section and, subject to this section,
15 shall pay all reasonable expenses for meals and lodging incurred by or on behalf of the employee during the course of such removal:

“**(b)** Where any employee has been removed in accordance with this section, his removal shall be deemed to have been necessitated for the purpose of obtaining medical attention:

“**(c)** Any employer who, without reasonable cause fails to comply with paragraph (a) of this subsection commits an offence against this Act:

25 “**(d)** If the accident happens in New Zealand, the Corporation shall reimburse the employer for all reasonable expenses he incurs under paragraph (a) of this subsection, or, to the extent that they have not been met by the employer, shall pay them:

30 “**(e)** If the accident happens outside New Zealand, the Corporation may, at its discretion, reimburse the employer for any reasonable expenses incurred by him under paragraph (a) of this subsection, or so much thereof as it thinks fit, having regard to the provisions of any statute, award, agreement, or terms and conditions of employment by which the employer is or may be required to provide or arrange transport, accommodation, or any other form of benefit or care for an employee injured by
35
40 accident outside New Zealand.

“(3) Where the accident happens in New Zealand to a person (otherwise than as an employee in the course of his employment), and the injury necessitates his immediate removal for medical attention as mentioned in this section, the Corporation shall compensate the injured person by paying 5 him, in any case where a charge for the removal is payable, an amount equal to the cost that would reasonably be involved in removing him for such medical attention.

“(4) Where the accident happens outside New Zealand to a person (otherwise than an employee in the course of his 10 employment), and the injury necessitates his immediate removal for medical attention as mentioned in this section, the Corporation may on such terms and conditions as it thinks fit compensate the injured person by paying him, in any case 15 where a charge for the removal is payable, an amount equal to the cost that by New Zealand standards would reasonably be involved in removing him for such medical treatment.

“108. **Conveyance for subsequent medical attention—**

(1) Subject to any regulations made under this Act, this section shall apply where a person suffers personal injury by 20 accident in respect of which he has cover under this Act and a registered medical practitioner certifies that he is attending the injured person or has examined him, and that either the injured person should receive medical or surgical treatment in respect of the injury which is not available at the place 25 where the medical practitioner attends or examines the injured person or the injured person is required to travel to receive that treatment.

“(2) Where the injured person is in New Zealand and the medical or surgical treatment is to be given in New Zealand, 30 the Corporation, on each occasion on which it is necessary for him to travel to receive that treatment, shall compensate the injured person by paying him the reasonable travelling expenses he incurs (including the cost for meals and lodging necessarily obtained by him): 35

“Provided that—

“(a) Except where the Corporation otherwise approves or a registered medical practitioner certifies that no available public passenger transport service is suitable, the transport expenses so payable shall be calculated at the lowest rate at which the person can 40 be transported to and from that place by any available public passenger transport service:

5 “(b) No such expenses for transport, meals, or lodging shall be payable by the Corporation if the distance from the injured person’s place of residence, or his place of employment (if any), or any hospital or other place where he is temporarily accommodated, whichever in the circumstances is the most appropriate point of departure, to the place at which the medical or surgical treatment is to be given is less than 8 kilometres, unless and to the extent that the Corporation, having regard to the age and condition of the injured person and any other circumstances which it may consider relevant, decides that the expenses or some part thereof should be paid under this subsection.

15 “(3) Where the injured person is not in New Zealand, or where the medical or surgical treatment is to be given outside New Zealand, the Corporation may, and upon such terms and conditions as it thinks fit, compensate the injured person by paying him the reasonable travelling expenses (including the cost for meals and lodging necessarily obtained by him) he incurs to receive such treatment, and in determining what amount (if any) it should pay to the injured person under this subsection the Corporation may have regard to the provisions of any statute, award, agreement, or terms and conditions of employment by which the injured person’s employer is or may be required to meet such expenses and costs.

30 “109. **Compensation for loss of earnings by reason of medical attention**—Where a person suffers personal injury by accident, in respect of which he has cover under this Act, and after the expiration of 13 days from the date of the accident he has resumed or resumes work but still requires medical or surgical treatment and suffers a loss of earnings by reason of requiring to be away from his work for that treatment, the Corporation shall pay him earnings related compensation in respect of that loss in accordance with this Part of this Act.”

40 (2) Section 2 (1) of the principal Act is hereby consequentially amended by omitting from the definition of the expression “earnings related compensation” the expression “109 (2)”, and substituting the expression “109”.

(3) Section 64 (3) of the principal Act (as substituted by section 23 of the Accident Compensation Amendment Act (No. 2) 1973) is hereby consequentially amended by omitting the expression “108, 109 (1)”, and substituting the expression “107, 108”.

(4) Section 109A of the principal Act (as inserted by section 10 (1) of the Accident Compensation Amendment Act 1978) is hereby consequentially amended by omitting the words “sections 107 to 109”, and substituting the words “sections 107 and 108”. 5

(5) Section 181 (1) of the principal Act is hereby consequentially amended by adding, after paragraph (j), the following paragraph: 10

“(ja) Prescribing the circumstances in which, the extent to which, and the method by which the Corporation shall, in accordance with sections 107 and 108 of this Act, pay the costs of conveyance for medical treatment:”. 15

(6) The Accident Compensation Amendment Act 1975 is hereby consequentially amended by repealing section 14.

(7) This section shall apply in relation to any accident occurring on or after the commencement of this Act. 20

14. Medical treatment—(1) Section 111 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The injured person is not required to pay that cost or a contribution towards that cost under subsection (3A) of this section; and”. 25

(2) Section 111 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsection: 30

“(3A) In any case where treatment in respect of the injury is given by a general medical practitioner who would be entitled to charge a fee for the treatment in excess of any benefit under Part II of the Social Security Act 1964, the person requiring that treatment shall pay in respect of each of the first 2 treatments given by a general medical practitioner as a contribution to the cost of the treatment an amount of \$5 (or such other amount as may from time to time be prescribed for the purposes of this subsection by the Governor-General by Order in Council) or the amount of the excess, whichever is the smaller: 35 40

“Provided that, where the injury was caused to an employee in the course of his employment, his employer shall forthwith reimburse the employee for any amounts which the employee is required to pay for treatment under this subsection, and
5 where the employer fails to reimburse any such amounts, the same may be recovered by the employee from the employer as a debt.”

(3) Section 2 (1) of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the follow-
10 ing definition:

“‘General medical practitioner’ means a registered medical practitioner who does not practice as a specialist or consultant.”

(4) This section shall apply in relation to any accident
15 occurring on or after the 1st day of April 1982.

15. First 2 weeks—(1) Section 112 (1) of the principal Act is hereby amended—

- (a) By omitting the expression “6”, and substituting the expression “13”:
20 (b) By omitting the words “that working week” in both places where they occur, and substituting in each case the words “those 2 working weeks”.

(2) Section 112 (2) of the principal Act is hereby amended—

- 25 (a) By omitting from paragraph (a) the expression “6”, and substituting the expression “13”:
(b) By omitting from paragraph (a) the words “the full amount”, and substituting the words “80 percent of the amount”:
30 (c) By omitting from the proviso to paragraph (b) the words “the working week” and also the words “that week”, and substituting in each case the words “that time”.

(3) Section 112 (3) of the principal Act is hereby amended
35 by omitting the words “the relevant working week”, and substituting the words “any relevant working week”.

(4) Section 112 (5) of the principal Act is hereby amended by omitting the words “the working week”, and substituting the words “those 2 working weeks”.

40 (5) Section 112 (8) of the principal Act is hereby amended by omitting the expression “6”, and substituting the expression “13”.

(6) Section 115 of the principal Act is hereby consequentially amended—

(a) By omitting the words “the working week”, and substituting the words “the 2 working weeks”:

(b) By omitting the words “that working week”, and substituting the words “those 2 working weeks”. 5

(7) This section shall apply in relation to any accident occurring on or after the 1st day of April 1982.

16. Earnings related compensation after first 2 weeks—

Section 113 (13) of the principal Act (as added by section 10
8 (2) of the Accident Compensation Amendment Act 1978) is hereby amended by omitting the words “(not differing therefrom by more than 20 percent)”. 10

17. Optional compensation for full-time self-employed persons who so elect—The principal Act is hereby further 15
amended by inserting, after section 113, the following section:

“113A. (1) Notwithstanding anything in this Act, in any case where a full-time self-employed person has delivered an election in accordance with section 78A of this Act and thereafter in the period to which that election applies suffers 20
personal injury by accident in respect of which he has cover under this Act, the latest average ordinary time weekly wage disclosed by the quarterly employment survey of salaries and wages conducted by the Department of Labour at the time of the accident shall be his relevant earnings for 25
the purpose of assessing his entitlement to earnings related compensation in accordance with this section.

“(2) Where, as a result of the injury, the full-time self-employed person is incapacitated for work during the period of extended short term incapacity, the Corporation, without 30
being required to make an assessment of his loss of earning capacity in accordance with section 113 (2) of this Act for that period, shall pay him earnings related compensation calculated as follows:

“(a) While he is totally incapacitated, at the rate of 80 35
percent of his relevant earnings ascertained under subsection (1) of this section:

5 “(b) While he is partially incapacitated, at the rate of such lesser percentage of his relevant earnings ascertained under subsection (1) of this section as the Corporation shall fix, having regard to the medical and other available evidence concerning the degree of that partial incapacity and the extent to which it would affect his ability to work.

10 “(3) Where the injured person’s incapacity extends beyond the period of extended short-term incapacity, his entitlement (if any) to earnings related compensation after the period of extended short term incapacity shall be determined in accordance with section 113 of this Act based on his relevant earnings ascertained under subsection (1) of this section.

15 “(4) For the purposes of this section, the period to which that election applies, in relation to any full-time self-employed person, means—

20 “(a) Where the election is delivered on or before the 7th day of November 1981 pursuant to section 78 (1) (a) of this Act, the period commencing on that date and ending with the 6th day of September 1982:

25 “(b) Where the election is delivered on or before the 7th day of September in any year pursuant to section 78 (1) (b) of this Act, the period of 12 months commencing on the said 7th day of September.”

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the expression “period of short-term incapacity”, and substituting the following definitions:

30 “‘Period of extended short term incapacity’, in relation to a full-time self-employed person who suffers personal injury by accident, means the period commencing on the 14th day after the date of the accident and ending with the 105th day of the period, or with
35 the full time self-employed person’s sooner complete recovery from incapacity due to the accident, or with his death:

40 “‘Period of short term incapacity’, in relation to any person who suffers personal injury by accident, means the period commencing on the 14th day after the date of the accident and ending with the 35th day of the period, or with the person’s sooner complete recovery from incapacity due to the accident, or with his death:”.

- (3) The principal Act is hereby consequentially amended—
- (a) By inserting in the definition of the expression “earnings related compensation” in section 2 (1), after the expression “113,” the expression “113A”:
- (b) By inserting in the definition of the expression “relevant earnings” in section 2 (1), before the words “section 117”, the words “section 113A or”.

18. Repeal of provisions relating to assessment of permanent incapacity—(1) The principal Act is hereby amended by repealing section 114. 10

(2) Section 15 of the principal Act is hereby consequentially amended by repealing subsection (2) (e).

(3) Section 104 (9) of the principal Act is hereby consequentially amended by repealing paragraph (b).

(4) Section 113 of the principal Act is hereby consequentially amended by repealing subsection (1) (as substituted by section 43 (1) of the Accident Compensation Amendment Act (No. 2) 1973), and substituting the following subsection: 15

“(1) Where, as a result of incapacity due to personal injury by accident, a person who has cover in respect of the injury suffers any loss of earning capacity as determined under the provisions of this section, during any period after the expiration of the 2 working weeks comprising the day of the accident and the 13 days thereafter, the Corporation, subject to subsection (13) of this section, shall pay him earnings related compensation in accordance with this section in respect of that loss at the rate of 80 percent of the amount of his loss of earning capacity due to the injury from time to time determined by the Corporation.” 20 25

(5) Section 113 of the principal Act is hereby further amended— 30

- (a) By omitting from subsection (2) (as so substituted) the words “of paragraph (a) of subsection (1)”:
- (b) By omitting from subsection (4) (as so substituted) the words “before an assessment has been made under section 114 of this Act”:
- (c) By omitting from the proviso to subsection (4A) (as so inserted) the words “for the purposes of paragraph (a) of subsection (1) of this section”:
- (d) By omitting from subsection (4B) (as so inserted) the words “(whether that period is before or after the time at which an assessment is made under section 114 of this Act)”:

(e) By omitting from both subsections (5) and (6) the words "paragraph (a) of".

(6) Section 113 of the principal Act is hereby further amended by repealing subsections (8), (9), and (10), and
5 substituting the following subsections:

"(8) Subject to any regulations made under this Act, for the purpose of determining a person's loss of earning capacity in connection with ascertaining the amount to be paid to him from time to time under this section, the Corporation may, at
10 such time as it thinks fit, make assessments of his relevant earnings or of his earnings for any period or periods, and may for that purpose accept any relevant evidence, whether or not the evidence would be admissible in a Court of law.

"(9) The Corporation shall give notice in writing in
15 accordance with section 151 (1) of this Act of every decision making any assessment under subsection (8) of this section and that notice shall advise particulars of the assessment."

(7) Section 115 of the principal Act is hereby consequentially amended by repealing paragraph (d).

20 (8) Section 116 of the principal Act is hereby consequentially amended:

(a) By omitting from subsection (2) (b) the words "or section 114":

(b) By repealing subsection (4).

25 (9) Section 117 of the principal Act is hereby consequentially amended by omitting from subsection (2) (a) the words "paragraph (a) or paragraph (b) of subsection (1) of".

30 (10) Section 117 of the principal Act is hereby further amended by repealing the proviso to subsection (2) (a), and substituting the following proviso:

"Provided that, for the purposes mentioned in paragraphs (a) and (c) of section 104 (9) of this Act (as substituted by subsection (11) of the Accident Compensation Amendment Act 1975), but
35 subject to subsection (5) of this section and to any limitation as to the effect of any Order in Council made under section 104 (7) of this Act, the provisions of the said section 104 (7) shall apply to
40 that weekly sum as if that sum were relevant earnings required to be ascertained under the said section 104".

(11) Section 117 of the principal Act is hereby further amended by repealing subsection (3), and substituting the
45 following subsection:

“(3) Where an employee to whom this section applies dies as a result of personal injury by accident, subsection (2) of this section shall apply for the purpose of assessing any earnings related compensation payable under section 123 of this Act to any dependant of the employee as if the employee remained alive at the date of the assessment and at all subsequent material dates.” 5

(12) Section 118 of the principal Act is hereby consequentially amended as follows:

(a) By omitting from subsection (2) the words “or section 10 114”:

(b) By omitting the proviso to subsection (3):

(c) By omitting from subsection (4) the words “until a permanent assessment under section 114 of this Act has been made”. 15

(13) Section 123 of the principal Act is hereby consequentially amended by omitting from paragraph (a) (i), paragraph (b) (i), the proviso to paragraph (c), and subsection (3) in each case the words “paragraph (b) of”.

(14) Section 136 of the principal Act is hereby consequentially amended by omitting the words “before an assessment has been made under section 114 of this Act of the amount to be paid in respect of his permanent loss of earning capacity”. 20

(15) Section 151 (1D) of the principal Act (as inserted by section 53 of the Accident Compensation Amendment Act (No. 2) 1973) is hereby consequentially amended by omitting the expression “114 (4)” (as substituted by section 18 (4) (c) of the Accident Compensation Amendment Act 1975). 25

(16) The Accident Compensation Amendment Act 1975 is hereby consequentially amended by repealing section 18 (4) (c). 30

(17) This section shall apply in relation to any accident occurring on or after the 1st day of October 1981.

19. Compensation for loss of potential earning capacity in certain cases—(1) Section 118 of the principal Act (as substituted by section 45 of the Accident Compensation Amendment Act (No. 2) 1973) is hereby amended by inserting, after subsection (5), the following subsection: 35

“(5A) Subject to subsection (7) of this section, in any case where the injured person is a person to whom subsection (1) (c) (vi) of this section applies and that person had made positive arrangements and preparations to take up work for an average of less than 30 hours a week, the relevant earnings of that injured person shall be deemed to be an amount equal to the aggregate of one-thirtieth of the amount so prescribed for the purposes of this section for each of the average hours so to be taken up:

10 “Provided that, in any case where the injured person is an earner whose relevant earnings ascertained in accordance with section 104 of this Act would be more than the amount determined under this subsection, the Corporation may fix the relevant earnings at such greater amount as it thinks fit (not exceeding the amount so ascertained) if, but only if, the Corporation is satisfied that, were it not for the injury, the person had the capacity to continue to earn throughout a normal working life at a rate not less than that greater amount.”

15 (2) Section 118 (5) of this section is hereby consequentially amended by omitting the words “Subject to subsection 7 of this section” (as substituted by section 8 (1) (e) of the Accident Compensation Amendment Act 1974), and substituting the words “subject to subsections (5A) and (7) of this section”.

20 (3) The Accident Compensation Amendment Act 1974 is hereby consequentially amended by repealing subsection (8) (1) (e).

(4) This section shall apply in relation to any accident occurring on or after the commencement of this Act.

30 **20. Compensation for non-economic loss related to permanent loss or impairment of bodily function or permanent disfigurement—**(1) The principal Act is hereby further amended by repealing section 119 (as amended by section 9 (1) of the Accident Compensation Amendment Act 1974), and substituting the following section:

35 “119. (1) Where a person suffers personal injury by accident in respect of which he has cover under this Act and the injury—

40 “(a) Involves the permanent loss or impairment of any bodily function (including the loss of any part of the body); or

“(b) Causes a permanent disfigurement, not involving the permanent loss or impairment of any bodily function (including the loss of any part of the body),— there shall be paid to him by the Corporation, in addition to all other compensation and rehabilitation assistance to which he is entitled under this Act, but subject to the provisions of this section, compensation in a lump sum or lump sums assessed in accordance with the provisions of this section, but not exceeding in the aggregate \$17,000; and in assessing the extent of the permanent loss or impairment or permanent disfigurement deduction shall be made in respect of any demonstrable, pre-existing, related permanent loss or impairment of that bodily function or permanent disfigurement which can be established by the Corporation.

“(2) In any such case where the injury involves a permanent loss or impairment specified in the Second Schedule to this Act, the aggregate amount of the lump sum or lump sums to be paid under subsection (1) of this section in respect of that loss or impairment shall be the amount representing the appropriate percentage specified in the Schedule of \$17,000.

“(3) In any such case where the injury involves a permanent loss or impairment of the function of a part of the body to which the Second Schedule to this Act relates but no lump sum is payable under subsection (2) of this section in respect of that loss or impairment, the Corporation shall determine, in the light of the medical and other evidence available to it and having regard to the severity of that loss or impairment and to the percentage specified in that Schedule, whether any compensation should be paid under subsection (1) of this section in respect of that loss or impairment; and, if it determines that any compensation should be so paid, it shall assess the percentage of \$17,000 which it considers appropriate for that loss or impairment; and the aggregate amount of the lump sum or lump sums (if any) to be so paid shall be the amount representing that percentage to \$17,000.

“(4) In any such case where the Corporation is satisfied that, as a result of the injury, the person has suffered a permanent loss or impairment of a bodily function (including the loss of any part of the body), but no lump sum is payable under subsection (2) or subsection (3) of this section in

respect of that loss or impairment, the Corporation shall assess and pay to him, having regard to the medical and other evidence available to it, such lump sum or lump sums (if any) as it considers appropriate for a permanent loss or
5 impairment of that nature, but not exceeding \$17,000 in the aggregate.

“(5) In any such case where the Corporation is satisfied that, as a result of the injury, the person has suffered a permanent disfigurement not involving the permanent loss or
10 impairment of any bodily function (including the loss of any part of the body), the Corporation shall assess and pay to him, having regard to the medical and other evidence available to it, such lump sum or lump sums (if any) as it considers appropriate for a permanent disfigurement of that nature,
15 but not exceeding \$17,000 in the aggregate.

“(6) In any case where the person suffers by the same accident more than one of the permanent losses, impairments and disfigurements in respect of which compensation is payable under this section, he shall not be entitled to receive as
20 compensation under this section in respect of those losses, impairments and disfigurements so suffered, more than \$17,000 in the aggregate.

“(7) Notwithstanding the foregoing provisions of this section, no lump sum or lump sums shall be payable under
25 this section if the assessment or, as the case may be, the aggregate assessment of permanent loss, impairment, and disfigurement is less than 15 percent of \$17,000.

“(8) In any case where the Corporation has paid or has declined to pay any sum or sums to any person under this
30 section in respect of any permanent loss or impairment of bodily function or permanent disfigurement, if the person thereafter suffers any loss or further loss or impairment of bodily function or any disfigurement or further disfigurement as a result of the original injury, the Corporation may make a
35 further assessment of the amount payable in respect of the whole of the loss, impairment, or disfigurement and, subject to subsection (7) of this section, may pay to the person such sum or further sum (if any) as becomes payable by reason of that reassessment but not exceeding, together with any payments
40 previously made, \$17,000 in the aggregate.

“(9) In assessing the compensation payable (whether in accordance with the said Second Schedule or otherwise) in respect of the permanent loss of the sight of an eye or the

permanent loss of a paired organ of the body (not including a paired limb) there shall be taken into account any payment by way of compensation which has previously been received by the person under this section (whether in relation to any accident which occurred before or after the 1st day of April 1982) in respect of the permanent loss of the sight of the other eye or, as the case may be, the permanent loss of the other paired organ. 5

“(10) No payment shall be made under this section unless the injured person is living at the expiration of 28 days from the date of the accident, and payment shall not be made under this section after the death of the injured person. 10

“(11) The Corporation shall, before making any payment under this section, require a certificate by a registered medical practitioner of the permanent loss, impairment or disfigurement suffered by the injured person. 15

“(12) No compensation other than that specified in this section shall be payable to any person under this Act in respect of non-economic loss.”

(2) The principal Act is hereby further amended by repealing section 120 (as amended by section 10 of the Accident Compensation Amendment Act 1974). 20

(3) The Second Schedule to the principal Act is hereby amended by omitting the expression “\$7,000” (as substituted by section 9 (1) of the Accident Compensation Amendment Act 1974) wherever it occurs, and substituting in each case the expression “\$17,000”. 25

(4) Section 15 (2) (i) of the principal Act is hereby consequentially amended by omitting the words “sections 119 and 120”, and substituting the words “section 119”. 30

(5) Section 64 (3) of the principal Act is hereby consequentially amended by omitting the expression “120”.

(6) Section 135 of the principal Act is hereby consequentially amended by omitting from subsection (2) and also from subsection (3) in each case the words “or section 120”. 35

(7) Section 150 of the principal Act is hereby consequentially amended by repealing subsections (2) and (3).

(8) Section 151 (1b) of the principal Act (as inserted by section 53 of the Accident Compensation Amendment Act (No. 2) 1973) is hereby consequentially amended by omitting the expression “120 (4)”. 40

(9) Section 174 of the principal Act is hereby consequentially amended by omitting the words “sections 119 and 120”, and substituting the expression “section 119”.

(10) The Accident Compensation Amendment Act 1974 is hereby consequentially amended by repealing sections 9 and 10.

5 (11) This section shall apply in relation to any accident occurring on or after the 1st day of April 1982.

21. Compensation for pecuniary loss not related to earnings—(1) Section 121 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

10 “(a) Any expense or loss in respect of damage to or diminution in value of property (whether real or personal, tangible or intangible, or moveable or immovable) or any estate or interest in such property; or”.

15 (2) Section 121 of the principal Act is hereby further amended by repealing paragraph (a) of subsection (2), and substituting the following paragraph:

20 “(a) Pay to any member of the household of which the injured or deceased person was a member on the date of the accident such weekly compensation as the Corporation thinks fit for any quantifiable loss of service of a domestic or household nature which was previously provided on a regular basis and which is proved to have
25 been suffered by the person to whom the payment is made as a result of the injury or death for such period as the Corporation thinks fit, not being longer than the period for which that member could reasonably have expected to
30 receive the service.”.

(3) This section shall apply in relation to any accident occurring on or after the commencement of this Act.

22. Compensation payable to persons outside New Zealand—(1) The principal Act is hereby amended by
35 repealing section 130, and substituting the following section:

“130. (1) Whenever any person who is in receipt of, or is entitled to receive, earnings related compensation is absent from New Zealand for more than 12 months, the Corporation
40 shall from time to time, while he remains absent from New Zealand, review his circumstances, and may, having regard to such of the matters set out in subsection (2) of this section

as are relevant, in its discretion, upon such terms and conditions and in respect of any period as it thinks fit, continue, commute, reduce, postpone, or cancel payments of earnings related compensation while the person remains absent from New Zealand.

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“(2) In exercising its discretion under subsection (1) of this section, the Corporation may have regard to all or any of the following matters:

- “(a) The nature of the injuries suffered:
- “(b) The nature and extent of the loss of earning capacity: 10
- “(c) Earnings before and after the date of the accident:
- “(d) The person’s work history in New Zealand, the period of his residence in New Zealand before the time of the accident, and any limitation existing at the time of the accident as to his ability to continue to work or reside in New Zealand: 15
- “(e) The reasons for leaving or remaining outside New Zealand:
- “(f) The circumstances in which the person is living outside New Zealand, including the extent to which the person is or may be entitled to any benefit or remedy, apart from this Act, in respect of the injury or, as the case may be, the death, whether in accordance with the law of the country in which he is now residing, or by reason of any indemnity or policy of insurance, or for any other reason: 20 25
- “(g) The ability of the person to work outside New Zealand:
- “(h) The extent to which the spouse or child or other dependant, as the case may be, would from time to time have been dependent on the deceased person if that person had not died as a result of the injury: 30
- “(i) Such other relevant matters as the Corporation thinks fit.” 35

(2) Section 129 (2) of the principal Act is hereby consequentially amended by adding the words “or pursuant to a review under section 130 (1) of this Act”.

(3) Section 133 of the principal Act is hereby amended by adding the following subsection: 40

“(3) Notwithstanding subsection (1) or subsection (2) of this section, the Corporation may in its discretion commute

periodic payments of earnings related compensation payable to a person where circumstances are being reviewed under section 130 (1) of this Act.”

23. Compensation not assignable—(1) Section 135 (4) of the principal Act is hereby amended by omitting the words “payable by him”, and substituting the words “thereon payable by him and compensation overpaid”.

(2) Section 135 (5) of the principal Act is hereby amended by omitting the words “section 101”, and substituting the words “sections 101 and 104”.

24. Personal injury suffered in the course of criminal conduct—(1) The principal Act is hereby amended by inserting, after section 138, the following section:

“138A. (1) Subject to this section, in any case where, in the course of and as a result of committing an offence, being—

“(a) Any offence under section 58 of the Transport Act 1962; or

“(b) Any offence for which the maximum penalty is life imprisonment or a term of imprisonment of 2 years or more,—

any person suffers personal injury by accident and is convicted of the offence concerned and sentenced to a term of imprisonment, cover shall exist but no compensation shall be payable in respect of that injury.

“(2) Where the Corporation has reason to suspect that any injury was suffered during the course of and as a result of committing any such offence to which this section relates, it may refuse to make any payment of compensation until the expiration of 12 months from the date of the accident:

“Provided that if the injured person has been charged but not tried for the offence by the expiration of the 12 months aforesaid, the Corporation may in its discretion extend that period of 12 months for such further period or periods as it thinks fit, having regard to any information it may obtain concerning the date of the trial.”

(2) This section shall apply in relation to any accident occurring on or after the commencement of this Act.

25. Hospital Boards to supply information on accidents to Corporation—The principal Act is hereby further amended by inserting, after section 142, the following section:

“142A. Notwithstanding anything in the Hospitals Act 1957, any Hospital Board may supply to the Corporation in respect of any patient who has suffered personal injury by accident such information as the Corporation may require as to the nature and cause of the injury so suffered and the date, time, and place at which the accident happened and such other information as the Corporation may require for the purposes of this Act.” 5

26. Hearing of applications for review—(1) Section 154 of the principal Act is hereby amended by repealing subsection (14), and substituting the following subsection: 10

“(14) Subject to any regulations made under this Act, where on an application for review a decision is given in favour of the applicant, or where the Corporation or the Hearing Officer considers that the applicant has acted reasonably in applying for a review, the Corporation or, as the case may be, the Hearing Officer may allow the applicant reasonable costs.” 15

(2) Section 181 (1) of the principal Act is hereby consequentially amended by inserting, after paragraph (o), the following paragraph: 20

“(oa) Prescribing the circumstances in which and the extent to which the Corporation or, as the case may be, a Hearing Officer may, in accordance with section 154 (14) of this Act, allow the reasonable costs of an applicant following an application for review.” 25

27. Constitution and functions of Appeal Authority—Section 155 (1) of the principal Act (as substituted by section 3 of the Accident Compensation Amendment Act 1979) is hereby amended, as from its commencement, by omitting the words “this Act”, and substituting the words “this section”. 30

28. Services for Authority—Section 158 of the principal Act is hereby amended by adding, as subclause (2), the following subclause: 35

“(2) The Corporation, from the General Fund, shall pay to the Secretary for Justice, for the credit of the Consolidated Account, the reasonable costs of the Department of Justice in providing the services referred to in subsection (1) of this section.” 40

29. **Costs**—Section 166 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

5 “(2A) Where an application for an adjournment of a fixture for an appeal is made by either the Corporation or the appellant, and the Authority, in the interests of justice, considers that the adjournment should be allowed but is of the opinion that the adjournment will cause inconvenience or expense to any person, including the Authority, the
10 Authority may order the party requesting the adjournment to pay such sum for costs as it considers reasonable.”

30. **Power to recover or write off compensation overpaid and unpaid levies**—The principal Act is hereby further amended by repealing section 171, and substituting the following section:

15 “171. (1) Where the Corporation or any agent of the Corporation pays any amount to any person in response to a claim for rehabilitation assistance or compensation, and it is subsequently shown that the whole or any part of that
20 amount was paid in error or was not properly payable having regard to all the circumstances, so much of that amount as was paid in error or was not properly payable (except so far as it is varied or cancelled on a review or appeal) shall constitute a debt due to the Corporation, which may be recovered
25 by the Corporation either by way of deduction from any compensation thereafter payable to that person or by way of proceedings instituted in that behalf, or partly by one such way and partly by the other such way as the Corporation determines.

30 “(2) If any levy remains unpaid after the last date for payment thereof, the amount for the time being unpaid in respect thereof, and in respect of the amount of the penalty (if any) added thereto under section 81 (2) of this Act and not remitted (except so far as it is varied or cancelled on a
35 review or appeal) shall constitute a debt due to the Corporation and may be recovered by the Corporation either by way of deduction from any compensation thereafter payable to that person or by way of proceedings instituted in that behalf, or partly by one such way and partly by the other
40 such way as the Corporation determines.

“ (3) No statute of limitation shall bar or affect any action or remedy for the recovery of levy.

“(4) Notwithstanding anything in the District Courts Act 1947, any Court constituted under that Act shall have jurisdiction to hear and determine proceedings for the recovery of any amount which may be recovered pursuant to this section, whatever the amount involved. 5

“(5) Sections 401 and 402 of the Income Tax Act 1976 shall, with the necessary modifications, apply to an action for the recovery of any amount which may be recovered by the Corporation pursuant to this section as if every reference therein to tax were a reference to any amount which may be recovered pursuant to this section and every reference therein to the Commissioner were a reference to the Corporation. 10

“(6) The Corporation may write off any amount declared by subsection (1) or subsection (2) of this section to be recoverable (whether or not any steps to recover the same have been taken) if the amount involved does not exceed the sum of \$10 or if, in the opinion of the Corporation, the amount is irrecoverable or cannot without the risk of disproportionate expense be recovered. 15

“(7) Where the Commissioner of Inland Revenue is acting as agent for the Corporation pursuant to section 75 of this Act, he may, without prior reference to the Corporation, exercise the power conferred on the Corporation by subsection (6) of this section with regard to any levy payable to him and the penalty (if any) added thereto if the amount involved does not exceed the sum of \$10.” 20 25

31. First Schedule—(1) The First Schedule to the principal Act is hereby amended—

- (a) By omitting from the item in Part I relating to section 74 of the principal Act the expression “\$15,600”, and substituting the expression “\$19,864”. 30
- (b) By omitting from the item in Part IV relating to section 113 of the principal Act the expression “\$288”, and substituting the expression “\$305”. 35
- (c) By omitting from the item in Part IV relating to section 116 of the principal Act—
 - (i) The expression “\$40”, and substituting the expression “\$80”;
 - (ii) The expression “\$3”, and substituting the expression “\$6”;
 - (iii) The expression “\$1.50”, and substituting the expression “\$3”. 40

(d) By omitting from the item in Part IV relating to section 117 of the principal Act the expression “\$100”, and substituting the expression “\$175”:

5 (e) By omitting from the item in Part IV relating to section 118 of the principal Act the expression “\$50”, and substituting the expression “\$100”.

(2) Subsection (1) (a) of this section shall apply to earnings as an employee paid on or after the 1st day of April 1982 and to earnings as a self-employed person derived
10 during any financial year ending on or after the 1st day of October 1981.

(3) Subsection (1) (b) to (e) of this section shall apply for the purpose of calculating earnings related compensation payable for any period of incapacity which occurs on or after
15 the 1st day of October 1981, whether the accident occurred before, on, or after that date.

(4) The Accident Compensation (Prescribed Amounts) Order 1979 is hereby consequentially revoked.

32. Dissolution of Workers' Compensation Board—

20 (1) All money and investments standing to the credit of the Uninsured Employers' Claims Account and of the Occupational Safety Trust Account (being the Accounts of the same names set up by Part II of the Accident Compensation Amendment Act 1975) shall, as from the commencement of
25 this section, vest in the Corporation, subject to all liabilities and charges affecting that money and those investments.

(2) All money and investments vested in the Corporation pursuant to subsection (1) of this section shall be credited to the General Fund and all liabilities and charges affecting that
30 money and those investments shall be met by the General Fund.

(3) The Accident Compensation Amendment Act 1975 is hereby amended by repealing Part II.