

House of Representatives

Supplementary Order Paper

UNIVERSITY OF OTAGO
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Injury Prevention, Rehabilitation, and Compensation Bill

Proposed amendments

Hon Lianne Dalziel, in Committee, to move the following amendments:

Clause 2

To insert, after subclause (1) (after line 9 on page 10), the following subclause:

- (1A) **Clauses 62(5) and 70(2) of Schedule 1** come into force on **1 April 2003**.

Clause 6(1)

To add to the definition of the term **decision** or **Corporation's decision** (after line 28 on page 14) the following paragraph:

- (g) a decision made under the Code about a claimant's complaint

To omit from line 14 on page 15 the expression "**13**", and substitute the expression "**13A**".

To omit from the definition of the term **practicable** the words "includes a consideration of all or any of the following" (in lines 31 and 32 on page 22), and substitute the words "means practicable after considering and balancing the following".

To omit from lines 17 and 18 on page 25 the words "suffered in the circumstances described in **section 21**".

Clause 10(2)

To omit from line 1 on page 28 the expression "**13**", and substitute the expression "**13A**".

Clause 11(4)

To omit from line 24 on page 28 the word "premiums", and substitute the word "levies".

Clause 13A

To omit this clause (which appears on page 30), and substitute the following clause:

13A Earnings of private domestic workers

The Corporation must decide whether to treat the earnings of a private domestic worker as earnings as an employee or as earnings as a self-employed person.

Clause 20(1)(b)

To insert, after the expression “(c)” (in line 2 on page 36), the expression, “or (e)”.

Clause 22(1)(b)

To insert in line 36 on page 37, after the expression “(c)”, the expression “or (e)”.

Clause 26(4)(b)

To insert, after the word “teeth” in both places where it occurs (in lines 29 and 30 on page 41), the words “or dentures”.

Clause 30(2)(c)

To omit subparagraph (ii) (lines 10 to 12 on page 45), and substitute the following subparagraph:

- (ii) is significantly greater for persons who are employed in that type of environment than for persons who are not.

Clause 31(6)(a)

To omit from line 20 on page 47 the word “the”, and substitute the word “a”.

Clause 36(5)

To omit from line 1 on page 53 the expression “61(1)(b)”, and substitute the expression “61(2)”.

Clause 37(3)

To omit from line 15 on page 53 the expression “61(1)(c)”, and substitute the expression “61(3)”.

Clause 38(1)

To add, after paragraph (a) (after line 8 on page 54), the following paragraph:

- (aa) providing for the procedure for lodging and dealing with complaints about breaches of the Code by the Corporation; and

To add to paragraph (b) (in line 20 on page 54) the expression “; and”.

To add (after line 20 on page 54) the following paragraph:

- (c) explaining a claimant’s right to a review, under **Part 5**, of a decision made under the Code about a claimant’s complaint.

Clause 72B

To omit subclause (1) (lines 22 to 24 on page 70), and substitute the following subclauses:

- (1) Before an individual rehabilitation plan for the claimant is agreed, the Corporation is liable to provide the claimant with—
 - (a) social rehabilitation that the Corporation considers suitable for the claimant and necessary in the circumstances, having regard to the purpose in **section 72E**; and
 - (b) vocational rehabilitation that the Corporation considers suitable for the claimant and appropriate in the circumstances, having regard to the purpose in **section 72F**.
- (1A) The Corporation may provide rehabilitation under **subsection (1)** before—
 - (a) any assessment of the claimant is undertaken or completed for the purposes of this Part; or
 - (b) starting or concluding its consideration of the matters specified in **section 72M(1)**.
- (1AA) To avoid doubt, **subsections (1) and (1A)** do not prevent the provision of treatment before an individual rehabilitation plan is agreed.

Clause 72C(3)

To omit from paragraph (a) the words “**sections 72I and**” (in line 19 on page 71), and substitute the word “**section**”.

To omit from paragraph (b) the expression “**72Q**” (in line 21 on page 71), and substitute the expression “**72U**”.

New clause 72SA

To insert, after *clause 72S* (after line 36 on page 79), the following clause:

72SA Assessments when medical assessor unavailable

- (1) A registered medical practitioner who does not qualify under **section 72S** may undertake a medical assessment if the Corporation is satisfied that—
 - (a) the circumstances in **subsection (2)** exist; and
 - (b) the registered medical practitioner’s qualifications and experience are broadly comparable with the qualifications and experience specified in **section 72S**.
- (2) The circumstances are that—
 - (a) a registered medical practitioner who does qualify under **section 72S** is not available to undertake a medical assessment without unreasonable delay or unreasonable inconvenience to the claimant; and
 - (b) the delay or inconvenience would have an adverse effect on providing vocational rehabilitation to the claimant.
- (3) **Sections 72T and 72U** apply to a registered medical practitioner who qualifies under this section to undertake a medical assessment.

Clause 77(2)

To omit the expression “87” (in line 18 on page 83), and substitute the expression “83C”.

Clause 99(2)

To omit the word “worked” (in line 6 on page 97), and substitute the words “was employed”.

Clause 112(1)

To omit the words “and **section 104(2)(b)**” (in line 2 on page 104), and substitute the words “, **section 104(2)(b), and clause 72A of Schedule 1**”.

Clause 115(1)

To add (after line 31 on page 105) the following paragraph:

- (c) any of its decisions under the Code on a complaint by the claimant.

Clause 116(2)(f)

To add to subparagraph (ii) (in line 33 on page 106) the expression “; or”.

To add the following subparagraph (after line 33 on page 106):

- (iii) in the case of a decision under the Code, the date on which the claimant is notified of the decision:

Clause 126(2)

To omit from lines 14 and 17 on page 112 the expression “57”, and substitute in each case the expression “52”.

Clause 130

To insert, after subclause (2) (after line 26 on page 114), the following subclause:

- (2A) However, neither a claimant nor the Corporation may appeal to the District Court against a review decision on a decision by the Corporation under the Code on a complaint by the claimant.

Clause 158B

To omit this clause (which appears on pages 130 and 131), and substitute the following clause:

158B Process for Corporation to decide whether to require audit

- (1) The process in this section is initiated by the Corporation giving the employer a notice stating—
 - (a) that the Corporation is satisfied of the matter specified in **section 158A(1)**; and
 - (b) the Corporation’s reasons for its statement under **paragraph (a)**; and
 - (c) that the purpose of the process is to decide whether or not the employer’s safety management practices should be audited under **section 158C**; and

- (d) that the Corporation and employer are required to enter into a dialogue about the standard of the employer's safety management practices; and
 - (e) that failure to reach the standard required by the audit or to allow the audit to take place may result in an upwards adjustment of the employer's levies.
- (2) After the notice is given, the Corporation and employer must enter into a dialogue about the standard of the employer's safety management practices.
 - (3) As part of the dialogue, consideration must be given to whether—
 - (a) the employer should initiate a self-audit of its safety management practices;
 - (b) the Corporation should assist in such an audit;
 - (c) the Corporation should assist the employer to understand the need to improve, and the ways to improve, the employer's safety management practices.
 - (4) As part of the dialogue, the Corporation must give the employer a reasonable opportunity to explain and comment on the health and safety situation in the employer's workplace.
 - (5) When the Corporation and the employer have concluded the dialogue, the Corporation must—
 - (a) decide, on the basis of information it has gathered, whether the employer's safety management practices should be audited under **section 158C**; and
 - (b) notify the employer of the decision.

Clause 158C

To omit subclause (5) (lines 30 to 33 on page 131).

Clause 160

To insert, after the word "employers" (in line 30 on page 132), the words "(after consulting their employees or their employees' representatives, including any union registered under the Employment Relations Act 2000 that their employees belong to)".

Clause 167(3)

To omit from line 20 on page 137 the word "treatment", and substitute the word "rehabilitation".

Clause 206

To add to subclause (1) (in line 29 on page 167) the words "or who continues the business as a self-employed person without employing any other person". To insert in subclause (2) (in line 32 on page 167), after the word "business", the words "or continues the business as a self-employed person without employing any other person".

To insert in subclause (2)(a) (in line 34 on page 167), after the word "business", the words "or of continuing the business as a self-employed person without employing any other person".

To omit from subclause (3)(a) (in lines 9 and 10 on page 168) the words “or of ceasing to employ any person”, and substituting the words “or of continuing the business as a self-employed person without employing any other person”.

Clause 220

To insert in subclause (4) (in line 9 on page 176), after the word “employee,”, the words “or as earnings as a shareholder-employee to whom section OB 2(2) of the Income Tax Act 1994 applies,”.

To omit subclause (7) (lines 17 and 18 on page 176), and substitute the following subclause:

- (7) If a determination of a levy payable to the Corporation is based on information received from the Commissioner under this section, and the notice of the determination given to the individual concerned specifies the particular information received from the Commissioner, and that notice advises the individual of a right to show why that information should not be used as the Corporation is using it in the determination, then that notice satisfies the requirements of section 103 of the Privacy Act 1993.

Clause 224

To add the following subclause (after line 9 on page 179):

- (10) References in this section to a levy under a former Act include a premium under a former Act.

Clause 269(2)

To omit from line 2 on page 210 the word “worked”, and substitute the words “was employed”.

New heading and clause 275A

To insert, after *clause 275* (after line 37 on page 212), the following heading and clause:

Joint purchasing arrangements

275A Joint purchasing arrangements for emergency transport services

- (1) The Corporation may enter into a contract, arrangement, or understanding with the Ministry of Health or a district health board to jointly purchase emergency transport services for the purposes of **clause 3 of Schedule 1**.
- (2) Nothing in Part II of the Commerce Act 1986, other than sections 36 and 36A, applies to—
 - (a) a contract, arrangement, or understanding under this section; or
 - (b) any act, matter, or thing done by any person for the purposes of entering into such a contract, arrangement, or understanding; or
 - (c) any act, matter, or thing done by any person to give effect to such a contract, arrangement, or understanding.

- (3) Nothing in **section 274** prevents a contract, arrangement, or understanding under this section.

Clause 295(3)(b)

To omit from lines 7 and 8 on page 230 the words “**subsection (1)** applies”, and substitute the words “and to what extent ancillary services that facilitate rehabilitation should be provided”.

Clause 296

To omit subclause (1A) (lines 29 to 32 on page 230).

To insert, after subclause (2) (after line 28 on page 231), the following subclause:

- (2A) The Minister must not make any recommendation under **subsection (1) or subsection (2)** without first consulting the persons or organisations that the Minister considers appropriate, having regard to the subject matter of the proposed regulations.

Clause 299(m)

To omit from line 11 on page 234 the word “or”, and substitute the word “of”.

Clause 314

To insert, after subclause (1) (after line 27 on page 241), the following subclauses:

- (1A) A direction under **subsection (1)** is a policy direction for the purposes of **section 244**.
- (1B) The effect of a direction under **subsection (1)** is that the Corporation assumes the role of the Regulator in all respects in relation to the Non-Compliers Fund and the Regulator has no further responsibilities in relation to the Fund.

Clause 333

To omit subclauses (3A) and (3B) (lines 9 to 24 on page 250).

Clause 336

To omit from subclause (1) the expression “**94**” (in line 16 on page 253), and substitute the expression “**86**”.

To omit from subclause (2) the words “capacity for work” (in line 21 on page 253), and substitute the words “vocational independence”.

Clause 340

To omit the words “**clause 35(2) of Schedule 1**” (in line 10 on page 255), and substitute the expression “**section 72M(2)**”.

Clause 345

To add (after line 18 on page 257) the following subclause:

- (3) Despite **section 308**, for the purposes of this section, section 403 of the Accident Insurance Act 1998 continues to apply as if subsection (2) were repealed, and the following subsection were substituted:
- “(2) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations for the purposes of clauses 60 and 61 of Schedule 1 that—

- “(a) refer to, or incorporate by reference, in whole or in part, the American Medical Association Guides to the Evaluation of Permanent Impairment;
- “(b) refer to, or incorporate by reference, guides, frameworks, or other standards;
- “(c) prescribe an assessment tool that in itself may refer to, or incorporate by reference, in whole or in part, anything referred to in **paragraph (a) or paragraph (b)**;
- “(d) do any of a combination of things referred to in **paragraph (a) or paragraph (b) or paragraph (c)**.”

Clause 368

To add, as subclause (2) (after line 7 on page 269), the following subclause:

- (2) Unless the context otherwise requires, all references in any enactment or document to levies paid or payable under this Act must be read as including a reference to premiums or levies paid or payable under any former Act.

Schedule 1

Clause 3(1)(e)

To omit the word “provider” (in line 7 on page 274), and substitute the word “professional”.

Clause 9(7)

To omit the expression “**72E**” (in line 19 on page 278), and substitute the expression “**72G**”.

Clause 10(4)

To omit the expression “**72B(2)(d)**” (in line 32 on page 278), and substitute the expression “**72C(2)(d)**”.

Clause 12

To omit the expression “**8**” (in line 13 on page 279), and substitute the expression “**9**”.

Clause 23

To omit subclause (4) (lines 13 to 17 on page 289), and substitute the following subclause:

- (4) The Corporation is not liable to pay for child care to the extent that child care continues to be provided after a claimant’s personal injury by a person—
 - (a) who lives in the claimant’s home or lived in the claimant’s home immediately before the claimant suffered his or her personal injury; and
 - (b) who provided child care before the claimant suffered his or her personal injury.

Clause 27(1)(a)

To omit the expression “**16**” (in line 4 on page 293), and substitute the expression “**72E**”.

Clause 61

To omit from subclause (2)(a) the word “worked” (in line 34 on page 325), and substitute the words “was employed”.

To omit from subclause (4) the word “under” (in line 15 on page 326), and substitute the words “because of”.

Clause 71(1)

To omit from paragraph (a) the expression “\$4,563.16” (in line 1 on page 331), and substitute the expression “\$4,702.79”.

To omit from paragraph (b) the expression “\$2,281.58” (in line 5 on page 331), and substitute the expression “\$2,351.40”.

To omit from paragraph (c) the expression “\$2,281.58” (in line 6 on page 331), and substitute the expression “\$2,351.40”.

Schedule 7

Income Tax Act 1994

To insert, before the word “levies” (in line 37 on page 380), the words “premiums or”.

To omit (from line 3 on page 381) the word “Residual”.

To insert, after the word “or” (in line 4 on page 381), the words “Earners’ Account Residual levy under”.

To insert (after line 6 on page 381) the following amendment:

Add to section ED 1A(2)(ba) the words “or levies to fund the Self-Employed Work Account under **section 176 of the Injury Prevention, Rehabilitation, and Compensation Act 2001.**”

To insert (after line 11 on page 381) the following amendment:

Add to section ED 1B(4) the words “or levy to fund the Employers’ Account under **section 149 of the Injury Prevention, Rehabilitation, and Compensation Act 2001.**”

To insert (after line 15 on page 381) the following amendment:

Insert in section GC 18, after the word “deduction” (in the second place where it occurs), the words “or combined tax and earner levy deduction”.

To insert (after line 4 on page 382) the following amendments:

Insert in section NC 16, after the word “deduction” (in the second place where it occurs), the words “or combined tax and earner levy deduction”.

Insert in section NC 16(b), after the word “deductions” (in the second place where it occurs), the words “or combined tax and earner levy deductions”.

Insert in section NC 19, after the word “deduction (in the second place where it occurs), the words “or combined tax and earner levy deduction”.

To insert, after the word “or” (in line 10 on page 382), the words “an earner’s levy payable under”.

To insert (after line 12 on page 382) the following amendment:

Insert in section NC 20(2), after the word “deductions” (in the first place where it occurs), the words “or combined tax and earner’s levy deductions”.

To insert (after line 16 on page 382) the following amendment:

Insert in section NC 20(3)(a), after the word “deduction” (in the first place where it occurs), the words “or combined tax and earner levy deduction”.

To insert (after line 20 on page 382) the following amendments:

Insert in section NC 20(3)(a)(ii), after the word “premium”, the words “or earner’s levy”.

Insert in the definition of **combined tax and earner premium deduction** in section OB 1, after the word “deduction”, the words “or combined tax and earner levy deduction”.

To insert (after line 25 on page 382) the following amendment:

Insert in paragraph (b) of the definition of **combined tax and earner premium deduction** in section OB 1, after the words “earner’s premium”, the words “or earner’s levy”.

Tax Administration Act 1994

To insert (after line 17 on page 384) the following amendment:

Insert in the definition of **combined tax and earner premium deduction** in section 3(1), after the word “deduction”, the words “or combined tax and earner levy deduction”.

To omit the amendment relating to section 4A(3)(a) (in lines 23 to 27 on page 384), and substitute the following amendments:

Insert in section 4A(3), after paragraph (a), the following paragraph:

“(aa) deductions of levies under the **Injury Prevention, Rehabilitation, and Compensation Act 2001** or a regulation made under that Act; or”.

Insert in section 33A(1)(b)(iii), after the word “premium”, the words “or earner levy”.

Insert in section 80E(2)(d), after the word “premium”, the words “or earner levy”.

To insert (after line 10 on page 385) the following amendment:

Insert in section 82(1)(c), after the word “premium” in both places where it occurs, the words “or levy”.

To insert (after line 20 on page 387) the following amendment:

To add to section 143A(5)(b) the words “or a combined tax and earner levy deduction”.

To insert (after line 27 on page 387) the following amendment:

Insert in paragraph (b) of the definition of **income tax** in section 157(10), after the word “deduction” in the second place where it occurs, the words “or combined tax and earner levy deduction”.

To insert (after line 31 on page 387) the following amendments:

Insert in section 167(1), after the word “deduction” in the second place where it occurs, the words “or combined tax and earner levy deduction”.

Insert in section 167(1), after the words “Accident Insurance Act 1998”, the words “or **section 194 of the Injury Prevention, Rehabilitation, and Compensation Act 2001**”.

Insert in section 167(2), after the word “deduction” in the second place where it occurs, the words “or combined tax and earner levy deduction”.

To insert (after line 35 on page 387) the following amendment:

Insert in the definition of **tax deduction, or combined tax and earner deduction** in section 167(4), after the word “**deduction**” in the second place where it occurs, the words “or **combined tax and earner levy deduction**”.

Insert in section 168(1), after the word “deduction” in the second place where it occurs, the words “or combined tax and earner levy deduction”.

To insert (after line 39 on page 387) the following amendment:

Insert in section 169(1), after the word “deduction” in the second place where it occurs, the words “or combined tax and earner levy deduction”.

Explanatory note

The great majority of the amendments in this Supplementary Order Paper are of a technical or drafting nature.

The substantive amendments are as follows:

- *clause 220* is amended to include a suggestion made by the Privacy Commissioner:
- a *new clause 275A* is inserted to provide that—
 - the Accident Compensation Corporation is authorised to jointly purchase emergency transport services in conjunction with the Ministry of Health or a district health board. *Clause 3 of Schedule 1* of the Bill requires the Corporation to provide ancillary services, which include emergency transport. These joint purchasing arrangements will enable more efficient and effective provision of emergency transport services:

- these arrangements and incidental actions are exempted from the provisions of Part II of the Commerce Act 1986 other than sections 36 and 36A (which relate to the use of a dominant position in the market to restrict entry, prevent or deter competition, or to eliminate other persons from the market):
 - the amounts in *clause 71 of Schedule 1*, relating to the grant to the surviving spouse and dependants of a deceased claimant, are increased. The increased amounts are in line with the current amounts prescribed under the Accident Insurance Act 1998.
-