



**ACCIDENT INSURANCE (REVIEW COSTS AND APPEALS)
REGULATIONS 1999**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 31st day of May 1999

Present:

THE RIGHT HON JENNY SHIPLEY PRESIDING IN COUNCIL

PURSUANT to section 405 of the Accident Insurance Act 1998, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

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| <ol style="list-style-type: none"> 1. Title and commencement 2. Interpretation <li style="padding-left: 20px;"><i>Scale of Costs and Expenses on Review</i> 3. Awards of costs and expenses on review <li style="padding-left: 20px;"><i>Rules for the Conduct of Appeals</i> 4. Part IX of District Court Rules 1992 excluded 5. Notice of appeal 6. Cross-appeals 7. Registrar of originating court to give copy of notice to central Registrar 8. Registrar of originating court to give documents or copy of documents to central Registrar | <ol style="list-style-type: none"> 9. Registrar of originating court to consult central Registrar on time and place for hearing 10. Hearing of appeal by court may be fixed at place other than location of court 11. Period within which insurer must make record available 12. Judge may fix time and place for directions hearing in relation to appeal 13. Directions related to hearing of appeal 14. Registrar to give notice of decision on appeal <li style="padding-left: 20px;"><i>Revocations</i> 15. Revocations <hr style="width: 10%; margin-left: auto; margin-right: 0;"/> |
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SCHEDULES
Schedule 1
Scale of Costs and Expenses on Review

Schedule 2
Notice of Appeal

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Insurance (Review Costs and Appeals) Regulations 1999.

(2) These regulations come into force on 1 July 1999.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Accident Insurance Act 1998:

“Appeal” means an appeal under section 152 of the Act:

“Central Registrar” means the Registrar or a Deputy Registrar of the Wellington District Court:

“Originating court” means a District Court (other than the Wellington District Court) in which a notice of an appeal is filed under section 154 of the Act.

(2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the same meanings as in the Act.

Scale of Costs and Expenses on Review

3. Awards of costs and expenses on review—(1) A reviewer’s award under section 151 of the Act to an applicant for review or another person must be—

(a) Only for costs and expenses of an item described in column 1 of Schedule 1; and

(b) The only award to the applicant for review or other person for those costs and expenses.

(2) The amount of the reviewer’s award for costs and expenses of an item described in column 1 of Schedule 1 must—

(a) Not exceed the amount specified (opposite the description) in column 2 of the Schedule; and

(b) Be calculated in accordance with the rate (if any) specified (opposite the description) in column 3 of the Schedule.

(3) Amounts and rates specified in Schedule 1 are inclusive of goods and services tax (if any).

Rules for the Conduct of Appeals

4. Part IX of District Court Rules 1992 excluded—Part IX of the District Courts Rules 1992 (appeals to District Courts) does not apply to an appeal.

5. Notice of appeal—(1) A notice of appeal must—

(a) Be in the form set out in Schedule 2; and

(b) Have attached to it a copy of the decision appealed against.

(2) An appellant who has filed in a District Court a notice of appeal may, with the leave of the court, amend the grounds of appeal stated in the notice.

6. Cross-appeals—If a notice of appeal is filed in a District Court and a person (other than the appellant) intends to submit at the hearing of the

appeal that the decision appealed against should be modified or quashed,—

- (a) The person must, either within 30 working days after the day on which the notice of appeal was served or within any longer time allowed by the court, file in the court a notice of cross-appeal in the form set out in Schedule 2; and
- (b) Part 6 of the Act and these regulations apply accordingly with any necessary modifications.

7. Registrar of originating court to give copy of notice to central Registrar—If a notice of appeal is filed in an originating court, the Registrar of the originating court must give a copy of the notice to the central Registrar as soon as practicable but no later than 5 working days after the filing of the notice.

8. Registrar of originating court to give documents or copy of documents to central Registrar—(1) This regulation applies if—

- (a) A notice of appeal is filed in an originating court; and
- (b) A party to the appeal provides or forwards documents relating to the appeal to the Registrar of the originating court.

(2) If this regulation applies, the Registrar of the originating court must, as soon as practicable but no later than 5 working days after receiving the documents, give either the documents or, if the Registrar of the originating court thinks fit, a copy of the documents, to the central Registrar.

(3) On the determination of an appeal under section 164 of the Act, the central Registrar must return to the Registrar of the originating court any documents given to the central Registrar under this regulation.

9. Registrar of originating court to consult central Registrar on time and place for hearing—If a notice of appeal is filed in an originating court, the Registrar of the originating court must consult the central Registrar on the time and place to be fixed under section 156 (1) of the Act for the hearing of the appeal.

10. Hearing of appeal by court may be fixed at place other than location of court—(1) If a notice of appeal is filed in a court and the Registrar of the court is satisfied that the appeal can be more conveniently or fairly heard by the court at a place other than the place where the court is located, the Registrar may from time to time under section 156 (1) of the Act fix that other place as the place for the court to hear the appeal.

- (2) This regulation is subject to regulation 9.

11. Period within which insurer must make record available—If, under section 157 (1) of the Act, an insurer is required to provide an item to the Registrar of a court, the insurer must provide the item to the Registrar of the court within 20 working days after receiving the copy of the notice of appeal.

12. Judge may fix time and place for directions hearing in relation to appeal—If a notice of appeal is filed in a court, a Judge may fix a time and place for a directions hearing in relation to the appeal proceedings.

13. Directions related to hearing of appeal—(1) At a directions hearing, a Judge may make any directions that appear best adapted to secure the just, expeditious, and economical disposal of the appeal proceedings.

(2) Without limiting the generality of subclause (1), the Judge may—

- (a) Consult the parties as to the necessity for or desirability of the appointment of medical or other assessors for the purposes of the appeal;
- (b) Obtain estimates of time for the duration of the hearing of the appeal;
- (c) Define the issues to be determined on the hearing of the appeal;
- (d) Make any orders that the Judge considers necessary or appropriate under sections 162 and 163 of the Act.

14. Registrar to give notice of decision on appeal—(1) On the determination of an appeal under section 164 of the Act, the Registrar of the court must give a copy of the court's decision to—

- (a) The appellant; and
- (b) Each person who, in accordance with section 158 (1) of the Act, was entitled to appear at the hearing of the appeal.

(2) After the time for lodging an appeal against the court's decision has expired, the Registrar of the court must give to the insurer any documents forwarded to the Registrar under section 157 (1) of the Act.

Revocations

15. Revocations—(1) The following regulations are revoked:

- (a) The Accident Rehabilitation and Compensation Insurance (Appeals) Regulations 1992*;
 - (b) The Accident Rehabilitation and Compensation Insurance (Review Costs) Regulations 1992†;
 - (c) The Accident Rehabilitation and Compensation Insurance (Review Costs) Regulations 1992, Amendment No. 1‡;
 - (d) The Accident Rehabilitation and Compensation Insurance (Review Costs) Regulations 1992, Amendment No. 2§.
- (2) This regulation is subject to section 453 (2) of the Act.

*S.R. 1992/275

†S.R. 1992/276

‡S.R. 1993/245

§S.R. 1996/304

SCHEDULES

Reg. 3

SCHEDULE 1

SCALE OF COSTS AND EXPENSES ON REVIEW
(Accident Insurance Act 1998, Section 151)

<i>Item</i>	<i>Maximum Award (\$)</i>	<i>Rate (\$)</i>
Applicant's or another person's representation*—		
Preparation and lodging of application for review under section 136	75	—
Other preparation of case for review ...	145	—
Appearance at hearing on behalf of applicant or another person—	300	—
1st hour of hearing	—	95
2nd hour of hearing	—	65
later hours of hearing	—	30
All relevant and reasonably necessary reports for applicant or another person by any registered specialists**	700	—
Applicant's or another person's travelling expenses for each kilometre in excess of 10 kilometres of a return journey by any means by shortest route between home and place where review hearing held ...	65	.50
Appearance at hearing of all persons who gave evidence for applicant or another person	220	—
Other expenses reasonably incurred by applicant or another person associated with a hearing (for example, a person providing whanau support to an applicant or other person at the hearing)	165	—

*Awards for items under this heading are to be made in respect of 1 representative only.

**“Registered specialist” means a registered medical practitioner who holds vocational registration in at least 1 of the following branches or sub-branches of medicine: (a) Anaesthetics: (b) Dermatology: (c) Diagnostic Radiology: (d) Emergency Medicine: (e) Internal Medicine: (f) Internal Medicine—Occupational Medicine: (g) Internal Medicine—Rehabilitational Medicine: (h) Obstetrics and Gynaecology: (i) Ophthalmology: (j) Orthopaedic Surgery: (k) Otolaryngology: (l) Paediatrics: (m) Pathology: (n) Psychological Medicine or Psychiatry: (o) Public Health Medicine: (p) Radiotherapy: (q) Surgery: (r) Surgery—Cardiothoracic Surgery: (s) Surgery—General Surgery: (t) Surgery—Neurosurgery: (u) Surgery—Paediatric Surgery: (v) Surgery—Plastic Surgery: (w) Surgery—Urology: (x) Venereology.

SCHEDULE 2
NOTICE OF APPEAL

Regs. 5 (1), 6 (a)

IN THE DISTRICT COURT
AT

No. /

UNDER the Accident Insurance Act 1998
IN THE MATTER of an appeal against [either a review decision under section 148 or 149 or a decision as to an award of costs and expenses under section 151]
BY [full name] of [address]
Appellant

NOTICE OF APPEAL TO DISTRICT COURT
(*Accident Insurance Act 1998, section 154*)

TAKE NOTICE that the appellant appeals against a decision made under section [either 148 or 149 or 151] of the Accident Insurance Act 1998 on an application for review.

Part 1—Decision appealed against

The review was heard at [location] on [day/month/year] by [reviewer].

[The review decision under section 148 or 149 or the decision as to an award of costs and expenses under section 151] was given by the reviewer on [day/month/year].

The appellant appeals against the following aspects of the decision:

.....
.....
.....
.....

Part 2—Grounds

The appellant bases this appeal on the following grounds:
[for example: *That the decision appealed against includes the following mistakes of fact or law:*]

.....
.....
.....

SCHEDULE 2—continued

NOTICE OF APPEAL—continued

Part 3—Relief sought

The appellant seeks the following orders:

[for example: *That the review decision be modified in the following respects: or That the review decision be quashed and either—*

- (a) *the insurer’s decision endorsed: or*
- (b) *the insurer be required to take the following action: or*
- (c) *another review be conducted in accordance with the following directions: or*

That the decision as to an award of costs and expenses be either—

- (a) *modified in the following respects: or*
- (b) *quashed with the following effects:]*

.....
.....
.....

A copy of the decision appealed against is attached to this notice of appeal as required by regulation 5 (1) (b) of the Accident Insurance (Review Costs and Appeals) Regulations 1999.

Appellant’s signature:.....

Dated: [day/month/year].

Appellant’s address for service:

Appellant’s telephone number:

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 1999 and are made under the Accident Insurance Act 1998,—

(a) Prescribe a scale of costs and expenses on a review for the purposes of section 151 of the Act (see *regulation 3* and *Schedule 1*); and

(b) Prescribe rules for the conduct of appeals under section 152 of the Act.

Part IX of the District Courts Rules 1992 (appeals to District Courts) does not apply to appeals under section 152 of the Act.

A notice of appeal must be in the form set out in *Schedule 2*. Under the Act a notice of appeal may be filed in any District Court.

These regulations include a number of requirements intended to facilitate centralised case management of appeals filed in a court (“an originating court”) other than the Wellington District Court. An example is that an originating court or the Registrar of an originating court must, on certain matters, consult the Registrar or a Deputy Registrar of the Wellington District Court (“the central Registrar”).

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 3 June 1999.

These regulations are administered in the Department of Labour.