



**ACCIDENT INSURANCE (INTERIM INDEXATION)
REGULATIONS 1999**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 11th day of October 1999

Present:

THE RIGHT HON JENNY SHIPLEY PRESIDING IN COUNCIL

PURSUANT to sections 404, 412, and 460 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.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Insurance (Interim Indexation) Regulations 1999.

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

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

“The Act” means the Accident Insurance Act 1998:

“Consumers Price Index”, or “CPI”, means the *Consumers Price Index—All Groups Long Term Linked Series* published by Statistics New Zealand:

“Date of indexation” means 1 November 1999:

“Former Act” means the Accident Rehabilitation and Compensation Insurance Act 1992:

“Labour Cost Index” means the *Labour Cost Index All (Industry or Occupation) Groups Combined, All Sectors Combined, Total Wage and Salary Rates* published by Statistics New Zealand:

“Minimum amounts” means—

(a) The dollar amounts specified under clauses 13 (a), 15 (3) (a) and (b), 18 (1) (b) and (2) (a) and (b), and 22 (3) (a) and (b) of Schedule 1 of the Act; or

(b) The equivalent amounts specified under the former Act:

“Weekly earnings” has the same meaning as in section 13 of the Act; and includes—

(a) Relevant earnings as calculated under the Accident Compensation Act 1972 or the Accident Compensation Act 1982 that formed the basis of earnings related compensation for the purposes of section 138 of the former Act:

(b) Weekly earnings of an earner that were determined in accordance with sections 40 to 43 of the former Act:

(2) In these regulations, unless the context otherwise requires, terms defined in the Act have the meanings so defined.

3. Object of these regulations—The object of these regulations is to provide for interim indexation as at 1 November 1999 of weekly compensation and of certain minimum and other amounts under the Act pending the adoption of a new indexation date of 1 July in each year; and in particular to—

(a) Index various minimum and other amounts affecting compensation that have not been increased since 1 November 1998 (whether by or under the Act, the former Act, or otherwise), and any weekly compensation based on those amounts; and

(b) Index various minimum and other amounts specified under the former Accident Rehabilitation and Compensation Insurance Act 1992 and any weekly compensation based on those amounts in respect of injuries occurring before 1 July 1999, and also allow for the indexed amounts to be brought to the same levels as the equivalent amounts under the Accident Insurance Act 1998; and

(c) Subject to normal eligibility criteria relating to the period for which compensation has been payable, index all weekly compensation that is not based on the various minimum and other amounts specified in the Act or the former Act.

4. General indexation of weekly compensation—(1) This regulation applies to require adjustments to all weekly compensation, other than weekly compensation based on minimum amounts.

(2) This regulation is subject to regulation 6 in relation to weekly compensation that is subject to abatement.

(3) Subject to subclause (4), weekly compensation based on weekly earnings that is paid or payable under the Act on the date of indexation, being weekly compensation to which this regulation applies, must be adjusted in accordance with the following formula:

$$a \times \frac{b}{c}$$

where—

- a is the amount of weekly compensation paid or payable in respect of a person at the date of indexation, before that amount is adjusted;
- b is the Labour Cost Index for the June quarter that immediately preceded the date of indexation;
- c is the Labour Cost Index for the June quarter preceding that referred to in item b.

(4) Weekly compensation for personal injury is to be adjusted under this regulation only if weekly compensation for that personal injury was paid or payable—

- (a) For the period commencing on 1 May before the date of indexation and ending with the day before the date of indexation; or
- (b) For not less than 26 weeks or part-weeks of the 52-week period preceding the date of indexation.

(5) An adjustment under this regulation—

- (a) Is to be made to any payment of weekly compensation paid or payable on or after the date of indexation; but
- (b) Does not apply to any payment of weekly compensation in respect of—
 - (i) Any period of incapacity; or
 - (ii) Any period during which a person is entitled to compensation under clauses 67, 70, or 71 of Schedule 1 of the Act,—
 that occurs before the date which is 6 days earlier than the date of indexation.

5. Indexation of weekly compensation based on minimum amounts—(1) Weekly compensation that is based on the following minimum amounts must be adjusted in accordance with this regulation:

- (a) The minimum amounts for persons aged under 20 years specified in clauses 15 (3) (b), 18 (1) (b) (ii), and 18 (2) (b) (i) of Schedule 1 of the Act;
- (b) The equivalents under the former Act of any minimum amount specified in the Act.

(2) Any such weekly compensation is to be adjusted in accordance with regulation 4 as if it were weekly compensation to which that regulation applied, except that—

- (a) Regulation 4 (4) does not apply to require the weekly compensation to have been paid or payable for a minimum period before it may be adjusted; and
- (b) In the case of weekly compensation based on the equivalent amounts under the former Act referred to in subclause (1) (b) (other than the equivalent to the amount specified in clause 22 (3) (b) (i) of Schedule 1 of the Act), the formula in regulation 4 (3) is to apply

as if the amount of item a were multiplied by such percentage (whether greater than or equal to 100%) as would cause the application of the formula to result in an amount equal to the weekly compensation payable immediately after that date of indexation to a person receiving weekly compensation based on the equivalent minimum amount specified under the Accident Insurance Act 1998.

(3) This regulation is subject to regulation 6 in relation to weekly compensation that is subject to abatement.

6. Adjustments where weekly compensation subject to abatement—(1) The adjustment from the date of indexation of weekly compensation subject to abatement under clause 24 of Schedule 1 of the Act is to be determined by—

- (a) Adjusting the appropriate unabated amount of weekly compensation in accordance with subclause (2); and
- (b) Adjusting the following amounts in accordance with subclause (3) (as required by clause 23 (4) and (5) of Schedule 1 of the Act):
 - (i) The amount of the weekly earnings referred to in item b of the formula in clause 23 (4) of Schedule 1 of the Act;
 - (ii) The amount of the person's earnings (including weekly compensation) immediately before his or her incapacity commenced, as referred to in clause 24 (2) of Schedule 1 of the Act; and
- (c) Applying the provisions of clause 24 of Schedule 1 of the Act (with the weekly amounts specified under that clause appropriately adjusted in accordance with regulation 7) to those adjusted amounts.

(2) The amount of weekly compensation to which a person would be entitled but for any abatement under clause 24 of Schedule 1 of the Act (or the equivalent abatement under the former Act) is first to be adjusted as at the date of indexation in accordance with regulation 4 or, where appropriate, regulation 5.

(3) The amounts referred to in subclause (1) (b) are also to be adjusted as at the date of indexation in accordance with the formula in regulation 4 (and subject to regulation 4 (4), where appropriate, if the person's weekly compensation is not compensation based on minimum amounts), as if item a of the formula referred to those earnings rather than to weekly compensation.

(4) Clause 24 of Schedule 1 of the Act (with the weekly amounts referred to in that clause appropriately adjusted as at the date of indexation in accordance with regulation 7) then applies on the basis of those adjusted amounts of weekly compensation and earnings.

(5) For the avoidance of doubt, in the case of a person with abated earnings who has a subsequent injury,—

- (a) The “80% of his or her earnings at the time of the subsequent injury” referred to in clause 24 (4) (b) of Schedule 1 of the Act is itself weekly compensation that may be subject to adjustment under regulation 4 or, where appropriate, regulation 5; and
- (b) For the purposes of the application (if any) of regulation 4 (4), that weekly compensation is to be treated as separate from the weekly compensation for the previous personal injury.

7. Indexation of related amounts—(1) Subject to subclause (3), the following amounts must be adjusted on the date of indexation in accordance with the formula in subclause (2):

- (a) The minimum amounts for persons aged under 20 years specified in clauses 15 (3) (b), 18 (1) (b) (ii), and 18 (2) (b) (i) of Schedule 1 of the Act:
 - (b) The weekly amounts specified in clause 24 (1) of Schedule 1 of the Act:
 - (c) The equivalents in the former Act of the following amounts:
 - (i) The annual amount specified in paragraph (b) of the definition of the term “other dependant” in section 13 of the Act:
 - (ii) The weekly amounts specified in paragraph (e) of the definition of “potential earner” in section 13 of the Act:
 - (iii) The minimum amounts specified in Schedule 1 of the Act and the annual amount specified in clause 71 (4) of that schedule.
- (2) The formula is as follows:

$$d \times \frac{b}{c}$$

where—

- d is the relevant amount at the date of indexation, before that amount is adjusted:
- b is the Labour Cost Index for the June quarter that immediately preceded the date of indexation:
- c is the Labour Cost Index for the June quarter preceding that referred to in item b.

(3) In the case of the equivalent amounts under the former Act referred to in subclause (1) (c) (other than the equivalent to the amount specified in clause 22 (3) (b) (i) of Schedule 1 of the Act), the formula in regulation 4 (3) is to apply as if the amount of item d were multiplied by such percentage (whether greater than or equal to 100%) as would cause the application of the formula to result in an amount equal to the equivalent amount specified under the Accident Insurance Act 1998 immediately after the date of indexation.

8. Timing of application of indexed amounts—(1) An adjustment under regulation 7 to the equivalent under the former Act of the annual amount specified in paragraph (b) of the definition of “other dependant” in section 13 of the Act applies in respect of any death occurring on or after the date of indexation.

(2) Subject to regulation 4 (5),—

- (a) An adjustment under regulation 7 to the minimum amount for persons aged under 20 years specified in clause 15 (3) (b) of Schedule 1 of the Act, or to the equivalents under the former Act of any of the weekly amounts specified in clauses 15 and 24 (1) of Schedule 1 of the Act, applies in respect of any period of incapacity occurring on or after the date of indexation:
- (b) An adjustment under regulation 7 to the minimum amounts for persons aged under 20 years specified in clause 18 (1) (b) (ii) and (2) (b) (i) of Schedule 1 of the Act, or to the equivalents under the

former Act of any of the weekly amounts specified in clause 18 of Schedule 1 of the Act,—

- (i) For the purposes of section 317 (4) of the Act (which relates to advances of weekly compensation), applies to any payments made under that section on or after the date of indexation:
- (ii) For any other purpose, applies in respect of any period of incapacity occurring on or after the date of indexation:
- (c) An adjustment under regulation 7 to the equivalents under the former Act of any of the weekly amounts specified in clause 22 of Schedule 1 of the Act applies in respect of any period of entitlement that occurs on or after the date of indexation:
- (d) An adjustment under regulation 7 to the equivalent under the former Act of the annual amount specified in clause 71 of Schedule 1 of the Act applies on and after the date of indexation.

9. Indexation of independence allowance—(1) The amount of the independence allowance provided for in clause 62 of Schedule 1 of the Act (and the equivalent amount under the former Act, including any independence allowance referred to in section 441 (3) (b) of the Act) must be adjusted in accordance with the following formula:

$$a \times \frac{b}{c}$$

where—

- a is the amount of the independence allowance payable at the date of indexation before that amount is adjusted:
- b is the CPI figure for the June quarter that immediately preceded the date of indexation:
- c is the CPI figure for the June quarter preceding that referred to in item b.

(2) Subject to subclause (3), the adjusted amount applies to all payments of independence allowance paid on or after the date of indexation.

(3) An adjustment under this regulation does not apply to any payment of independence allowance in respect of any period of impairment occurring before the date which is 6 days earlier than the date of indexation.

10. Indexation of funeral grant and survivor's grants—(1) The amounts of the funeral grant provided for in clause 65 (1) (b) of Schedule 1 of the Act and the survivor's grants provided for in clause 66 of that schedule (and the equivalent amounts under the former Act) must be adjusted in accordance with the following formula:

$$d \times \frac{b}{c}$$

where—

- d is the amount of the funeral grant or survivor's grant (as the case may be) payable at the date of indexation before that amount is adjusted:
- b is the CPI figure for the June quarter that immediately preceded the date of indexation:
- c is the CPI figure for the June quarter preceding that referred to in item b.

(2) The adjusted amount applies only in respect of any amount payable on or after the date of indexation in respect of a person whose death occurs on or after that date.

11. No adjustment for small variations—(1) Despite anything in these regulations (other than subclause (3) of this regulation), if the movement in the Labour Cost Index or CPI figures used in the formulas set out in regulation 4 or regulation 7, expressed as a percentage, results in a figure between minus 0.5 and plus 0.5, then no indexation adjustment is to be made under the relevant regulation.

(2) Subclause (1) does not apply to prevent any adjustment of the kinds referred to in regulations 5 (2) (b) and 7 (3).

12. Rounding of amounts—The result of any adjustment arising from a calculation under these regulations is to be rounded to the nearest cent as follows:

(a) An amount of less than 0.5 cents is to be rounded down:

(b) An amount of 0.5 cents or more than 0.5 cents is to be rounded up.

13. Revocations—The following regulations are revoked:

(a) The Accident Rehabilitation and Compensation Insurance (Indexation) Regulations 1992 (S.R. 1992/277):

(b) The Accident Rehabilitation and Compensation Insurance (Indexation) Regulations 1992, Amendment No. 1 (S.R. 1993/311).

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 provide for the indexation, as at 1 November 1999, of weekly compensation and various minimum and other amounts under the Accident Insurance Act 1998.

They also provide for indexation of compensation and amounts under the former Accident Rehabilitation and Compensation Insurance Act 1992 in respect of injuries occurring before 1 July 1999.

It should be noted that—

- (a) This indexation is an interim measure only, pending the adoption of an annual indexation date of 1 July as from 1 July 2000; and
- (b) Certain minimum amounts and compensation based on those minimum amounts will not be indexed as at 1 November 1999, since the 1998 Act increased these amounts on 1 July 1999 to a level that would exceed any indexation adjustment over the last year. Equivalent amounts under the the Accident Rehabilitation and Compensation Insurance Act 1992 are however increased to meet these new levels.

Apart from the above matters, the regulations are generally similar to the previous indexation regulations under the former Accident Rehabilitation and Compensation Insurance Act 1992. Regulation 6 does however reflect the different treatment of the abatement of weekly compensation under the new Accident Insurance Act 1998.

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

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These regulations are administered in the Department of Labour.