



**THE ACCIDENT REHABILITATION AND COMPENSATION  
INSURANCE (MEDICAL MISADVENTURE) REGULATIONS  
1992, AMENDMENT NO. 1**

---

CATHERINE A. TIZARD, Governor-General

**ORDER IN COUNCIL**

At Wellington this 27th day of March 1995

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 167 of the Accident Rehabilitation and Compensation Insurance Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

---

**REGULATIONS**

**1. Title and commencement**—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Medical Misadventure) Regulations 1992, Amendment No. 1, and shall be read together with and deemed part of the Accident Rehabilitation and Compensation Insurance (Medical Misadventure) Regulations 1992\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of May 1995.

**2. Reference of matters to committee for independent advice**—The principal regulations are hereby amended by repealing regulation 4, and substituting the following regulation:

“4. (1) Where the Corporation is required, under section 5 of the Act, to make any decision in relation to a claim for cover under the Act that is claimed to be based on medical misadventure, the Corporation—

“(a) Shall, where the claim is claimed to be based on personal injury resulting from medical error, refer the matter to a committee for independent advice in respect of that matter; and

“(b) May, where the claim is claimed to be based on personal injury resulting from medical mishap, refer the matter to a committee for independent advice in respect of that matter.

“(2) The Corporation shall make available to the committee all documents and other items it holds relating to the matter that are relevant to the committee’s function.

“(3) Where a committee advises the Corporation that it considers that medical misadventure has occurred, it shall advise the Corporation whether or not it considers that the medical misadventure may be attributable to negligence or an inappropriate action on the part of a registered health professional.

“(4) The advice of a committee to the Corporation under these regulations should be the consensus opinion of the committee but, if in exceptional circumstances consensus cannot be reached, the advice shall record the differing opinions of the members of the committee.

“(5) All advice from a committee to the Corporation shall be in writing.”

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 May 1995, amend the Accident Rehabilitation and Compensation Insurance (Medical Misadventure) Regulations 1992.

Section 2 of the Accident Rehabilitation and Compensation Insurance Amendment Act 1995, which comes into force on 1 May 1995, does away with the requirement to refer all medical misadventure claims to a Medical Misadventure Advisory Committee for independent advice.

That requirement is replaced by a provision that—

- (a) Maintains the mandatory requirement for independent advice in respect of medical misadventure claims involving medical error; but
- (b) Gives the Corporation a discretion to refer for independent advice medical misadventure claims involving medical mishap.

The amendment made by these regulations is consequential on the amendment made by section 2 of that Act.

---

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

Date of notification in *Gazette*: 30 March 1995.

These regulations are administered in the Accident Rehabilitation and Compensation Insurance Corporation.