



**THE ACCIDENT REHABILITATION AND COMPENSATION  
INSURANCE (COMPLEX PERSONAL INJURY) INTERIM  
REGULATIONS 1994**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 7th day of June 1994

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to sections 26 and 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.

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Complex Personal Injury) Interim Regulations 1994.

(2) These regulations shall come into force on the 1st day of July 1994.

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

“Act” means the Accident Rehabilitation and Compensation Insurance Act 1992;

“Assessor” means a person appointed under regulation 22 of these regulations;

“Claimant” means a person who has suffered personal injury and who has had a claim in respect of that injury accepted under the Act;

“Complex personal injury” has the meaning given to that term by regulation 5 of these regulations;

“Discharge report”, in relation to a claimant, means a report that—

(a) Is produced by the health care facility responsible for the claimant's in-patient, custodial, or residential care in preparation for the discharge of the claimant; and

(b) Includes a statement of—

(i) The health status of the claimant immediately before the claimant's discharge, and the prognosis for the claimant; and

(ii) The nature and duration of any continuing treatment, care, or support required; and

(iii) The objective of that continuing treatment, care, or support;

“Individual rehabilitation programme” means an individual rehabilitation programme prepared under Part III of the Act;

“Personal care” means attendance to bodily needs and comforts; and includes the activities of eating, dressing, and toileting;

“Social rehabilitation” includes, but is not limited to,—

(a) Provision of, or payment for, attendant care; and

(b) Purchase of, and modifications to, motor vehicles and other means of transport; and

(c) Modifications to residential premises; and

(d) Provision of, or payment for, household help; and

(e) Provision of, or payment for, child care; and

(f) Provision of, or payment for, wheelchairs and any other aids and appliances likely to assist independence in daily living; and

(g) Provision of, or payment for, teacher aides, teacher aide hours, and transport to or from school for a child requiring special assistance as the result of personal injury to enable the child to receive education; and

(h) Provision of, or payment for, training for independent living.

(2) In these regulations, unless the context otherwise requires, expressions defined in or for the purposes of the Act have the meanings so defined.

(3) Every reference in these regulations to personal injury shall, unless the context otherwise requires, be read as a reference to personal injury covered by the Act.

## PART I

### APPLICATION

**3. Purpose**—The purpose of these regulations is to adopt a goal-oriented approach to the social rehabilitation of any claimant whose personal injury is a complex personal injury.

**4. Interim character of regulations**—These regulations, being of an interim character, apply only in relation to claimants who make requests for evaluations under regulation 6 of these regulations in the period beginning on the 1st day of July 1994 and ending with the close of the 31st day of December 1996.

**5. Definition of “complex personal injury”**—For the purposes of these regulations, a personal injury suffered by a claimant is a complex personal injury if—

(a) That personal injury—

(i) Is severe brain injury; or

(ii) Results in tetraplegia; or

(iii) Is an injury the effect of which is considered by the Corporation to be substantially comparable to a kind of personal injury referred to in subparagraph (i) or subparagraph (ii) of this paragraph; and

(b) As a result of that personal injury the claimant—

(i) Is highly dependent upon assistance with personal care and mobility and is likely to remain so either for the rest of his or her life or for the period of at least 24 months beginning with the date of the receipt by the Corporation of a request for an evaluation under regulation 6 of these regulations; or

(ii) Requires constant supervision during his or her waking hours for his or her security and safety and is likely to continue to require that supervision either for the rest of his or her life or for the period of at least 24 months beginning with the date of the receipt by the Corporation of a request for an evaluation under regulation 6 of these regulations.

**6. Evaluation of claimant’s personal injury**—Any claimant or person acting on behalf of a claimant may, in writing, request from the Corporation an evaluation of whether or not the claimant’s personal injury is a complex personal injury.

**7. Discharge report**—(1) Where a request for an evaluation is made under regulation 6 of these regulations in relation to a claimant—

- (a) Who has, within the period of 3 months immediately preceding the date of the receipt of that request by the Corporation, been discharged from a health care facility; or
- (b) Who is likely to be discharged from a health care facility within the period of 3 months beginning with the date of the receipt of that request by the Corporation,—

the Corporation shall obtain a discharge report in respect of that claimant.

(2) The Corporation shall not use a discharge report for the purposes of these regulations if that report—

- (a) Has been prepared more than 3 months before the date of the claimant's discharge from the health care facility; or
- (b) Has been prepared more than 3 months before the date of the receipt by the Corporation of the request for an evaluation under regulation 6 of these regulations.

(3) Where the claimant has requested an evaluation under regulation 6 of these regulations and either—

- (a) No discharge report is available; or
- (b) The use by the Corporation of the discharge report that is available would contravene subclause (2) of this regulation,—

the Corporation may, at its own expense, obtain a report with regard to the claimant's medical status and current living conditions.

(4) Once the Corporation has obtained a report under either subclause (1) or subclause (3) of this regulation, the Corporation shall make an evaluation of whether or not the claimant's personal injury is a complex personal injury.

(5) The claimant shall be notified in writing of the result of that evaluation.

## PART II

### DEVELOPMENT OF SOCIAL REHABILITATION ELEMENT OF INDIVIDUAL REHABILITATION PROGRAMME

**8. Social rehabilitation element of individual rehabilitation programme to comply with this Part**—Where any claimant's personal injury is a complex personal injury, the social rehabilitation element of that claimant's individual rehabilitation programme—

- (a) Shall be prepared in accordance with this Part of these regulations; and
- (b) Shall comprise—
  - (i) A statement of the claimant's social rehabilitation goals; and
  - (ii) A social rehabilitation programme developed to assist in enabling the claimant to achieve those goals.

**9. Cost of preparing and reconsidering social rehabilitation element of individual rehabilitation programme**—The Corporation shall meet, in relation to a claimant who has a complex personal injury, the cost of the preparation of the social rehabilitation element of that claimant's individual rehabilitation programme and the cost of any reconsideration of that element.

**10. Identifying claimant's social rehabilitation goals**—(1) Within 14 days after the Corporation has evaluated a claimant's personal injury as

a complex personal injury, or within such longer period as may be agreed to by that claimant, the Corporation shall arrange for an assessor to work together with the claimant to identify the claimant's social rehabilitation goals.

(2) Where a claimant is not able to participate in identifying his or her social rehabilitation goals because of his or her age or physical or mental condition, the assessor shall identify appropriate goals in consultation with such persons as the assessor considers appropriate, which persons may include—

- (a) A member or members of that claimant's family group or whanau;
- (b) A member or members of any support group acting on behalf of the claimant;
- (c) The claimant's principal caregiver.

(3) The assessor may consult such other persons as may assist in identifying the claimant's social rehabilitation goals or in considering the matters referred to in regulation 11 (2) of these regulations.

(4) Where the claimant is required to travel for the purpose of the identification of the claimant's social rehabilitation goals, the Corporation shall meet the reasonable travel and (where required) accommodation costs incurred by—

- (a) The claimant; and
- (b) One other person, being a member of the claimant's family group, whanau, or support group, or the claimant's caregiver.

#### **11. Considerations with regard to social rehabilitation goals—**

(1) The social rehabilitation goals identified pursuant to these regulations shall be achievable by the claimant concerned.

(2) Without limiting the matters that may be considered in identifying a claimant's social rehabilitation goals, the assessor shall have regard to the definition of social rehabilitation set out in regulation 2 (1) of these regulations and to—

- (a) The discharge report referred to in regulation 7 (1) of these regulations, or the report referred to in regulation 7 (3) of these regulations, as the case may be; and
- (b) The current abilities of the claimant; and
- (c) The living environment of the claimant and any likely future living environment.

**12. Finalising social rehabilitation goals—**(1) The goals identified pursuant to regulations 10 and 11 of these regulations shall be set out in a statement of social rehabilitation goals, in such format as may be specified from time to time by the Corporation.

(2) Subject to subclause (3) of this regulation, the assessor and the claimant shall signify their agreement to the statement of social rehabilitation goals by signing that statement.

(3) Where the claimant is unable to sign the statement of goals, a person acting on behalf of the claimant shall sign the statement.

(4) Once the statement of social rehabilitation goals has been signed by the assessor and the claimant or a person acting on behalf of the claimant, the statement shall be submitted to the Corporation.

**13. Development of social rehabilitation programme—**(1) Once a statement of social rehabilitation goals has been submitted to the

Corporation, the Corporation shall identify from the statement those goals in respect of which the Corporation may provide social rehabilitation to the claimant.

(2) The Corporation shall develop a social rehabilitation programme to assist the claimant to achieve the goals identified by the Corporation under subclause (1) of this regulation.

(3) The social rehabilitation programme shall be developed in conjunction with the claimant or, where the claimant is not able to participate because of his or her age or physical or mental condition, in consultation with such persons as the Corporation considers appropriate, which persons may include—

- (a) A member or members of the claimant's family group or whanau;
- (b) A member or members of any support group acting on behalf of the claimant;
- (c) The claimant's principal caregiver.

(4) Where the claimant is required to travel for the purpose of the development of the claimant's social rehabilitation programme, the Corporation shall meet the reasonable travel and (where required) accommodation costs incurred by—

- (a) The claimant; and
- (b) One other person, being a member of the claimant's family group, whanau, or support group, or the claimant's caregiver.

**14. Considerations with regard to social rehabilitation programme—**(1) The Corporation shall have regard to a claimant's current and likely future living environments in developing a social rehabilitation programme for that claimant.

(2) The social rehabilitation programme may—

- (a) Specify the social rehabilitation services that will be funded by the Corporation to assist in enabling the claimant to achieve the goals identified by the Corporation under regulation 13 (1) of these regulations;
- (b) Describe how it is intended that the social rehabilitation services specified pursuant to paragraph (a) of this subclause will assist in enabling the claimant to achieve the goals identified by the Corporation under regulation 13 (1) of these regulations;
- (c) Identify milestones towards the achievement of the claimant's goals that may be used by the Corporation, the claimant, or a person acting on behalf of the claimant as opportunities to reconsider the claimant's goals or the claimant's social rehabilitation programme;
- (d) Specify the way in which it is proposed that the social rehabilitation programme be monitored to ensure that it is effective in assisting the claimant to achieve the goals identified by the Corporation under regulation 13 (1) of these regulations;
- (e) Specify the manner and timing of the implementation of the social rehabilitation programme;
- (f) Identify social rehabilitation services available to the claimant from agencies other than the Corporation;
- (g) Specify the costs involved in implementing the claimant's social rehabilitation programme and specify the manner in which those costs are to be paid.

**15. Finalising social rehabilitation programme**—(1) Subject to subclause (2) of this regulation, the claimant and the Corporation shall signify their agreement to the social rehabilitation programme by signing the social rehabilitation programme.

(2) Where the claimant is unable to sign the social rehabilitation programme, a person acting on behalf of the claimant shall sign the social rehabilitation programme.

**16. Limits on content of social rehabilitation programme**—A social rehabilitation programme prepared under these regulations shall not provide—

- (a) For the purchase of a motor vehicle or modification to any motor vehicle or residential premises except as permitted by section 26 (5) of the Act;
- (b) For social rehabilitation outside New Zealand.

**17. Effect of agreement to social rehabilitation programme**—Where a social rehabilitation programme for a claimant has, pursuant to these regulations, been agreed to by the Corporation and the claimant,—

- (a) The Corporation shall implement the social rehabilitation programme; and
- (b) The claimant shall be entitled to receive payments provided for in the social rehabilitation programme in respect of expenses actually incurred between the date of the receipt by the Corporation of a request for an evaluation under regulation 6 of these regulations and the date of agreement to the programme; and
- (c) If the claimant is entitled to any social rehabilitation provided or paid for under any other regulations made under the Act, that entitlement shall cease on the date of agreement to the social rehabilitation programme; and
- (d) The Corporation shall not seek to recover any social rehabilitation provided or paid for in respect of a claimant in the period between the date of the receipt by the Corporation of a request for an evaluation under regulation 6 of these regulations and the date of agreement to the programme, under any other regulations made under the Act, but may offset any social rehabilitation so provided or paid for against any social rehabilitation provided or paid for under paragraph (b) of this regulation; and
- (e) The claimant shall not be entitled to any social rehabilitation provided or paid for under any other regulations made under the Act while the social rehabilitation programme is in force.

**18. Reconsideration of claimant's social rehabilitation goals**—

(1) The Corporation may, at any time, arrange for an assessor to reconsider the claimant's social rehabilitation goals (including the dates of any milestones within the claimant's social rehabilitation programme).

(2) Without limiting subclause (1) of this regulation, the Corporation shall arrange for an assessor to reconsider the claimant's social rehabilitation goals—

- (a) At least once every 6 months, in the case of a claimant who has not attained the chronological age of 6 years;

- (b) At least once every 12 months, in the case of a claimant who has attained the chronological age of 6 years but has not attained the chronological age of 17 years;
- (c) At least once every 2 years in any other case.
- (3) Without limiting subclause (1) or subclause (2) of this regulation, the Corporation may arrange for an assessor to reconsider the claimant's social rehabilitation goals if the claimant is admitted for in-patient hospital treatment for 7 days or more and again if the claimant remains admitted for in-patient hospital treatment for 28 days or more.
- (4) A claimant or a person acting on behalf of the claimant may request that all or any of the claimant's social rehabilitation goals be reconsidered at any time, in which case the Corporation shall arrange reconsideration of those goals unless they have been reconsidered within the period of 6 months ending with the date of the request.
- (5) Where the assessor has reconsidered a claimant's social rehabilitation goals and a new statement of those goals has been signed by or on behalf of the claimant, the assessor shall refer the new statement to the Corporation for reconsideration of the claimant's social rehabilitation programme under regulation 19 of these regulations.

**19. Reconsideration of social rehabilitation programme**—Without limiting the power of the Corporation to reconsider a claimant's social rehabilitation programme at any time, the Corporation shall reconsider a claimant's social rehabilitation programme—

- (a) When a new statement is referred to the Corporation by an assessor under regulation 18 (5) of these regulations; and
- (b) In any case, at least once every 12 months.

**20. Social rehabilitation programme ceasing to be in force**—

(1) Where, on the reconsideration under regulation 19 of these regulations of a claimant's social rehabilitation programme, the claimant's level of functioning is found to be such that regulation 5 (b) of these regulations no longer applies in respect of the claimant, the social rehabilitation element of the claimant's individual rehabilitation programme shall cease to be in force.

(2) Where the social rehabilitation element of the claimant's individual rehabilitation programme has, under subclause (1) of this regulation, ceased to be in force, the claimant may make another request for an evaluation under regulation 6 of these regulations.

### PART III

#### MISCELLANEOUS PROVISIONS

**21. Claimants receiving payments under section 149**—(1) Where a claimant who is in receipt of payments continued under section 149 of the Act elects, under subsection (5) of that section, to be assessed for entitlement for compensation for attendant care and household help under regulations made under the Act, he or she shall be deemed also to have made a written request for an evaluation under regulation 6 of these regulations.

(2) Where a claimant who is in receipt of payments continued under section 149 of the Act agrees with the claimant's social rehabilitation programme,—

- (a) Either—



(i) The claimant shall signify that agreement by signing the social rehabilitation programme under regulation 15 (1) of these regulations; or

(ii) A person acting on behalf of the claimant shall sign the claimant's social rehabilitation programme under regulation 15 (2) of these regulations; and

(b) The claimant shall make an election under section 149 (6) of the Act.

(3) Where a claimant who is in receipt of payments continued under section 149 of the Act is a party to a social rehabilitation programme but does not make an election as required by subclause (2) (b) of this regulation, the claimant shall not be entitled to any social rehabilitation under the programme.

(4) Where a claimant who is in receipt of payments continued under section 149 of the Act is a party to a social rehabilitation programme that includes the provision of, or payment for, attendant care or household help,—

(a) Any reference to attendant care in the programme shall be read as a reference to attendant care of the kind described in section 149 (2) (a) of the Act; and

(b) Any reference to household help in the programme shall be read as a reference to household help of the kind described in section 149 (2) (b) of the Act.

**22. Assessors**—The Corporation shall from time to time appoint assessors for the purposes of these regulations upon such conditions as the Corporation thinks fit.

**23. Obligations of exempt employers**—(1) Every reference in these regulations to the Corporation shall, unless the context otherwise requires, be read as a reference to an exempt employer.

(2) For the purposes of subclause (1) of this regulation, an employer is an exempt employer if—

(a) That employer has been approved as an exempt employer pursuant to regulations made under section 105 of the Act; and

(b) A request for an evaluation is made under regulation 6 of these regulations by an employee of the exempt employer during the period for which approval has been given; and

(c) The claimant's injury is a work injury.

MARIE SHROFF,  
Clerk of the Executive Council.

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## 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 1994 and which are interim regulations, prescribe the method by which the Corporation or an exempt employer may provide for the social rehabilitation of a claimant who has suffered a complex personal injury. A personal injury suffered by a claimant is a complex personal injury if—

- (a) That personal injury—
  - (i) Is severe brain injury; or
  - (ii) Results in tetraplegia; or
  - (iii) Is considered by the Corporation to be substantially comparable to (i) or (ii);and
- (b) As a result of that personal injury the claimant—
  - (i) Is highly dependent upon assistance with personal care and mobility and is likely to remain so either for the rest of his or her life or for at least 24 months; or
  - (ii) Requires constant supervision during his or her waking hours for his or her security and safety and is likely to continue to require that supervision either for the rest of his or her life or for at least 24 months.

Under the regulations, assessors work with claimants to identify social rehabilitation goals. The regulations provide for the Corporation or an exempt employer to identify those goals for which social rehabilitation may be provided and to develop a social rehabilitation programme to assist the claimant to achieve those goals.

As interim regulations these regulations apply only in relation to claimants who make requests for evaluations in the period beginning on 1 July 1994 and ending with the close of 31 December 1996.

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