



**THE ACCIDENT REHABILITATION AND COMPENSATION
INSURANCE (SOCIAL REHABILITATION—MODIFICATIONS TO
RESIDENTIAL PREMISES) REGULATIONS 1992**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 21st day of September 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL 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 (Social Rehabilitation-Modifications to Residential Premises) Regulations 1992.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

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

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

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

“Individual rehabilitation programme” means an individual rehabilitation programme required to be prepared pursuant to Part III of the Act:

“Modifications” means alterations to residential premises to remove structural barriers or to add features which will assist a claimant to live as independently as possible having regard to the claimant’s disability:

“Occupational therapist” means any person who holds a current annual practising certificate issued by the Occupational Therapy Board:

“Residential premises” means a place in New Zealand which the claimant owns, leases, rents, or otherwise occupies, or proposes to own, lease, rent, or otherwise occupy, as the claimant’s home, or a place in New Zealand owned, leased, or rented, or proposed to be owned, leased, or rented, by a parent, guardian, or spouse of the claimant and which is or will be the claimant’s home:

“Spouse”, in relation to a claimant, means a person—

(a) To whom the claimant is legally married; or

(b) Of the opposite sex with whom that person is in a relationship in the nature of marriage.

(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. Application—(1) Subject to these regulations, these regulations shall apply—

(a) To any application received on or after the 1st day of July 1992 from a claimant for payment for modifications to residential premises; and

(b) To any proposal for adapting or assisting with adapting a home pursuant to section 37 (3) (e) of the Accident Compensation Act 1982 where the Corporation has not approved the expenditure on or before the 30th day of June 1992.

4. Assessment of entitlement—(1) Upon receipt of a written application from a claimant for payment for modifications to residential premises, the Corporation or exempt employer shall arrange, at the expense of the Corporation or exempt employer, for an assessment of the modifications necessary for the claimant to achieve independence in daily living, the assessment to be commenced within 14 days of the date of

receipt of the application or within such longer period as may be agreed to by the claimant.

(2) For the purposes of subclause (1) of this regulation, the Corporation or exempt employer shall engage an occupational therapist to undertake the assessment.

(3) The occupational therapist engaged by the Corporation or exempt employer under subclause (2) of this regulation shall undertake the assessment in consultation with the claimant or a person acting on behalf of the claimant where the claimant is not competent to participate.

5. Approval of modifications—(1) On receipt of an assessment undertaken pursuant to regulation 4 of these regulations, the Corporation or exempt employer shall give approval in principle to the modifications recommended in the assessment, to the extent that the Corporation or exempt employer considers the modifications are both necessary and cost-effective in order for the claimant to achieve independence in daily living.

(2) Following approval in principle under subclause (1) of this regulation, the Corporation or exempt employer shall arrange, at the expense of the Corporation or exempt employer, for any drawings, plans, or specifications necessary to obtain quotations and, if required, any local authority approval.

(3) For the purposes of obtaining the final approval of the Corporation or exempt employer, the claimant shall, at the expense of the claimant, obtain—

(a) In the case of modifications expected to cost not more than \$5,000, at least 1 binding written quotation in respect of the cost of the proposed modifications:

(b) In the case of modifications expected to cost in excess of \$5,000, at least 3 binding written quotations in respect of the cost of the proposed modifications.

(4) Before seeking final approval by the Corporation or exempt employer the claimant shall obtain written consent to the modifications from—

(a) The owner of the residential premises, where the claimant is not the owner of the residential premises:

(b) The co-owner of the residential premises, where the claimant is not the sole owner of the residential premises:

(c) The lessor and any co-tenants of the residential premises, where the claimant has leased or rented the residential premises:

(d) The mortgagee, where the residential premises have been mortgaged,—

and supply such consent or consents to the Corporation or exempt employer.

(5) Subject to subclause (6) of this regulation and regulation 6 of these regulations and without otherwise limiting the scope of modifications that may be approved, modifications may include modifications of a kind specified in the First Schedule to these regulations.

(6) The Corporation shall not, and an exempt employer shall not be obliged to, approve any modification or item of a kind described in the Second Schedule to these regulations.

(7) Notwithstanding this regulation, the Corporation or exempt employer may approve, on the recommendation of the person who undertook the assessment,—

- (a) The purchase and installation of equipment and appliances, where such purchase and installation is a cost-effective alternative to a modification of a kind described in the First Schedule to these regulations; and
- (b) Payment of real estate fees, legal fees, and removal costs and any modifications incurred in the relocation to alternative residential premises where relocation to alternative residential premises is a cost-effective alternative to modification of the residential premises occupied by the claimant before the personal injury.

6. Limitations relating to modifications—(1) The Corporation shall not, and an exempt employer shall not be required to, approve modifications which the Corporation or exempt employer considers are not necessary for the claimant to achieve independence in daily living or are not required as a direct result of the personal injury to the claimant.

(2) No approval shall be given by the Corporation, or be required to be given by an exempt employer, after the expiry of 13 weeks from the date of the personal injury unless the provision of the modifications forms part of an individual rehabilitation programme approved under section 20 (4) of the Act.

(3) Notwithstanding section 19 (2) of the Act, no approval shall be given by the Corporation, or shall be required to be given by an exempt employer, for modifications which cost in excess of \$1,000 within 13 weeks from the date of the personal injury unless the modifications form part of an individual rehabilitation programme approved under section 20 (4) of the Act.

(4) Subject to subclause (5) of this regulation and in accordance with section 26 (5) of the Act, no approval for modifications to residential premises shall be given by the Corporation, or shall be required to be given by an exempt employer, where the Corporation or exempt employer (pursuant to these regulations), or the Accident Compensation Corporation (pursuant to the Accident Compensation Act 1982), has contributed towards the cost of modifications to those residential premises within 5 years of the date of the application for payment for modifications under these regulations.

(5) The Corporation or exempt employer may give approval in respect of modifications to residential premises within 5 years of modifications in respect of which the Corporation or exempt employer or the Accident Compensation Corporation has contributed, where the Corporation or exempt employer is satisfied that the modifications are necessary to enable the claimant to obtain or maintain employment, and the modifications are expected to be cost-effective for the Corporation or exempt employer.

(6) For the purposes of subclauses (4) and (5) of this regulation and section 26 (5) (a) of the Act, each interval of 5 years shall commence on the day after the date on which the previous modifications were completed.

7. Advice of decision—The Corporation or exempt employer shall, within 1 month of receiving the quotations referred to in regulation 5 (3) of these regulations, advise the claimant of its final decision in respect of the application for modifications.

8. Additional modifications—Additional modifications not included in the initial approval may be approved on written application within 12 months of the initial approval so long as—

- (a) The modifications have been recommended by an assessor engaged under regulation 4 (2) of these regulations; and
- (b) The need for additional modifications became apparent during the carrying out of the modifications initially approved or during the use by the claimant of the modified residential premises; and
- (c) The cost of such additional modifications and any prior modifications approved does not exceed the maximum amount payable under regulation 11 of these regulations; and
- (d) Such additional modifications are otherwise subject to the requirements contained in these regulations.

9. Corporation not to be a party to any contract for modifications—(1) The Corporation shall not be, and an exempt employer shall not be required to be, a contracting party at any stage of the modifications.

(2) Neither the Corporation nor the exempt employer shall be liable to the claimant or any other person for any liability arising from the carrying out of the modifications, other than for payment for approved modifications.

10. Timing of modifications—The modifications may, with the prior approval of the Corporation or exempt employer, take place in stages so long as the time taken to complete all of the approved modifications does not exceed 12 months from the date of approval of the modifications, unless the failure to complete the modifications within that 12-month period is beyond the reasonable control of the claimant.

11. Maximum amounts payable—(1) Subject to subclause (2) of this regulation, the Corporation shall not, and an exempt employer shall not be required to, meet the cost for the total modifications to any residential premises in excess of \$10,000 within the period referred to in regulation 6 (4) or regulation 6 (5) of these regulations, as the case may be.

(2) In the case of a claimant who is receiving or likely to receive the maximum weekly entitlement to attendant care under the Accident Rehabilitation and Compensation Insurance (Social Rehabilitation-Attendant Care) Regulations 1992 (S.R. 1992/259) or is likely to require permanently the use of a wheelchair for mobility, the Corporation shall not, and an exempt employer shall not be required to, meet any costs of modifications in excess of \$40,000 for the total modifications to any residential premises within the period referred to in regulation 6 (4) or regulation 6 (5) of these regulations.

12. Payment for modifications—(1) The Corporation shall not, and an exempt employer shall not be obliged to, meet the cost of any modifications unless the modifications have been approved under regulation 7 of these regulations.

(2) Any payments for modifications shall be made to the claimant or, if requested in writing by the claimant, to the person who undertook the modifications, and shall be by way of an outright grant.

(3) Subject to subclause (4) of this regulation, the Corporation shall not, and an exempt employer shall not be required to, make any payments for modifications until all modifications have been completed to a satisfactory standard and the Corporation or exempt employer is in receipt of any consents required under regulation 5 (4) of these regulations.

(4) The Corporation or exempt employer may, during the course of modifications approved by the Corporation or exempt employer, make payments of up to 80 percent of the costs of the completed work in respect of those modifications.

(5) In accordance with section 74 (1) of the Act, no payment shall be made by the Corporation, or be required to be made by an exempt employer, in advance of any modifications being undertaken.

(6) No payment shall be made by the Corporation, or be required to be made by an exempt employer, in excess of the amount or amounts approved by it under these regulations.

(7) Neither the Corporation nor an exempt employer shall have any liability to ensure that the claimant pays the person who undertakes the modifications, nor shall the Corporation or exempt employer be liable to that person to pay that person directly.

(8) Neither the Corporation nor the exempt employer shall have any right to recover any payment made under these regulations in the event that the modifications are removed or no longer required, or the claimant no longer occupies the residential premises to which the modifications were made.

13. Restoration costs and loss of value—(1) Neither the Corporation nor the exempt employer shall be liable for the cost of removing any modifications no longer required, or returning any residential premises to their former state if the claimant no longer occupies them.

(2) Neither the Corporation nor the exempt employer shall be liable for any loss of value of any residential premises resulting from any modifications to those residential premises.

14. Exempt employers—(1) Subject to subclause (2) of this regulation, the obligations imposed on an exempt employer by these regulations shall apply only in respect of modifications approved by the exempt employer within the period for which the exempt employer is liable to make payments by virtue of section 106 of the Act.

(2) The exempt employer shall, after the period for which the exempt employer is liable to make payments by virtue of section 106 of the Act, remain liable under these regulations for any modifications approved during that period by the exempt employer under regulation 7 of these regulations.

(3) The Corporation shall not be liable for any modifications approved by an exempt employer, whether or not the Corporation subsequently becomes responsible for the cost of the personal injury.

15. Payments by Department of Social Welfare or area health boards—(1) Where any payment has been made by the Department of Social Welfare or an area health board in respect of modifications to residential premises in respect of a period for which a claimant subsequently establishes an entitlement under these regulations, the Corporation shall pay the Department of Social Welfare or area health

board the amount paid by those organisations in respect of the period of entitlement, but such amount shall not exceed the maximum permitted under these regulations.

(2) Subject to subclause (3) of this regulation, where—

(a) Subclause (1) of this regulation applies; and

(b) The claimant has paid or incurred a liability to pay for modifications for which the claimant is entitled to payment under these regulations; and

(c) The amount so paid or incurred is in excess of the amount paid by the Corporation or exempt employer under subclause (1) of this regulation—

then the Corporation or exempt employer shall pay that excess to the claimant.

(3) The combined amounts paid by the Corporation or exempt employer under subclause (1) and subclause (2) of this regulation shall not, in any case, exceed the entitlement of the claimant under these regulations.

(4) Where any payment has been made by the Department of Social Welfare or an area health board in respect of the modification to residential premises then, for the purposes of this regulation, any requirement under these regulations for the prior approval of the Corporation or exempt employer to the modifications to residential premises shall not apply.

(5) No payment under this regulation shall be made to an area health board where the personal injury of the claimant is a work injury or motor vehicle injury.

16. Goods and services tax—All amounts specified or referred to in these regulations are inclusive of goods and services tax.

SCHEDULES

FIRST SCHEDULE

Reg. 5 (5), (7) (a)

MODIFICATIONS OF A KIND IN RESPECT OF WHICH PAYMENTS MAY BE MADE

1. Access ramps or lifts.
2. Path widening, concreting, or sealing.
3. Doorway modifications, including enlargement, alterations to doors, and the provision of sliding doors.
4. Enlarging a bedroom, toilet, bathroom, kitchen, or laundry for wheelchair access and to enable use of other necessary equipment.
5. Adjustments to levels and other features of toilets, sinks, basins, and stoves, and modifications to taps, controls, and access.
6. Modifications to showers and baths.
7. Safety rails.
8. Garage modifications necessary to enable proper use of a vehicle modified or to be modified under the Accident Rehabilitation and Compensation Insurance (Social Rehabilitation-Purchase and Modification of Vehicles) Regulations 1992 (S.R. 1992/00) or modified under section 37 (3) (g) of the Accident Compensation Act 1982.
9. Modification of electrical fittings and controls.
10. Modification of heating controls.
11. Modification of household appliances.
12. Modification of wardrobes and storage units.
13. Repairs to flooring and walls required as a result of modifications, but not replacement of floor or wall coverings unless repair is not feasible.
14. Smoke detectors.
15. Locks and security systems.

SECOND SCHEDULE

Reg. 5 (6)

MODIFICATIONS IN RESPECT OF WHICH PAYMENTS NOT PERMITTED BY THE CORPORATION OR REQUIRED TO BE MADE BY AN EXEMPT EMPLOYER

1. Air conditioning.
2. Electrical or gas appliances.
3. Furniture.
4. Real estate fees, legal fees, and removal costs.
5. Recreational or exercise rooms or equipment.
6. Maintenance of lifts or other equipment.
7. Property insurance.
8. Replacement of heating systems.

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 assessment of eligibility of claimants for assistance in modifications to residential premises and prescribe the maximum amounts payable.

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

Date of notification in *Gazette*: 24 September 1992.

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