



Minute of Decision

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Injury Prevention, Rehabilitation, and Compensation Act 2001: Changes

Portfolio: ACC

On 17 August 2009, following reference from the Cabinet Social Policy Committee, Cabinet:

Summary

- 1 noted that amendments are proposed to the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the IPRC Act) comprising:
 - 1.1 amendments improving flexibility;
 - 1.2 amendments repealing some unfunded changes to the IPRC Act made by the previous government that offer cost containment opportunities;
 - 1.3 amendments to achieve other cost containment opportunities;
 - 1.4 amendments facilitating ACC to work more closely with other agencies;
 - 1.5 an amendment requiring improved financial reporting and accountability;
- 2 noted the supplementary information provided by the Minister for ACC attached to CAB (09) 440A on proposed ACC levy rates for 2010/11 that the ACC Board intends to consult on; a summary of changes to ACC legislation since 1999; and further advice on the issue of collaborative purchasing between ACC and the health sector;

Amendments improving flexibility

- 3 agreed to amend the IPRC Act to:
 - 3.1 fold the Residual Claims Account into the Work Account and remove the ring-fence around residual claims in the Earners' and Motor Vehicle Accounts;
 - 3.2 require that a final valuation of the residual liabilities, as at 30 June 2009, be conducted, which would become the total amount to be paid by residual levy payers;

- 3.3 set a final date of 31 March 2019 by which the estimated outstanding claim liability associated with residual claims must be paid off;
- 3.4 require the Minister for ACC to set in regulations each year, the portion of the levies to be allocated to the residual portion for the relevant Accounts;
- 4 **agreed** to a consequential amendment to the Health and Safety in Employment Act 1992 for the same purpose;
- 5 **agreed** to amend the IPRC Act to allow both the licence fee and the motor spirit levy to be used as sources of funding for the Motor Vehicle Account Residual levy;
- 6 **agreed** to introduce into the IPRC Act a broad provision relating to the Work Account that will:
 - 6.1 enable the establishment by regulations of experience rating and risk sharing for levy payers in relation to levy rates, which could include no-claim bonuses, higher or lower levies, and claim thresholds;
 - 6.2 allow all of the current ACC workplace programmes to be retained (with some modifications) alongside any new process for experience rating and risk sharing;
- 7 **agreed** to enable the establishment by regulations of risk rating in the Motor Vehicle Account, for:
 - 7.1 motor vehicles;
 - 7.2 registered owners of motor vehicles;
 - 7.3 persons who hold trade licences under section 34(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986;
- 8 **agreed** to enable ACC to enter into an agreement to supply an agreed level of weekly compensation to shareholder employees who cannot demonstrate taxable earnings as a shareholder employee;

Amendments repealing some unfunded changes to the IPRC Act made by the previous government that offer cost containment opportunities

- 9 **agreed** to remove cover for work-related mental injury (mental injury that has been caused by direct exposure to a sudden and traumatic event during the course of a person's employment);
- 10 **agreed** to reinstate the pre-2008 calculations in the IPRC Act for long-term (after 4 weeks) weekly compensation for non-permanent employees;
- 11 **agreed** to change the Vocational Independence threshold from capacity to work for 35 hours per week to capacity to work for 30 hours per week;
- 12 **agreed** to return the eligibility for payment of the minimum weekly compensation amount to after the fifth week of incapacity instead of after the second week of incapacity;
- 13 **agreed** to reduce weekly compensation for loss of potential earnings (LoPE) claimants from 100 per cent to 80 per cent of the minimum weekly earnings;

- 14 **agreed** to repeal changes made in 2008 in the IPRC Act to the test for causation for workplace gradual process, disease, or infection;
- 15 **agreed** to reintroduce disentitlement, except for treatment, for wilfully self-inflicted injuries and suicide, except where the claimant is already covered for mental injury arising from a physical injury or for injuries caused by certain criminal acts;
- 16 **agreed** to return to the provision that claimants' leave entitlements, after their employment ends, are considered as part of weekly earnings when calculating weekly compensation;
- 17 **agreed** to make it optional for occupational assessors to consider pre-injury earnings when undertaking initial and vocational independence assessments;
- 18 **agreed** to remove the requirement to have the Ministerial Advisory Panel on Work-related Gradual Process, Disease, or Infection;
- 19 **agreed** to remove the requirement to have the Injury Surveillance Ministerial Advisory Panel;

Amendments to achieve other cost containment opportunities

- 20 **agreed** to automatic disentitlement, except for treatment and elective and cosmetic surgery required to restore physical function to enable a return to work only, for persons who suffer an injury covered by ACC while committing a crime punishable by a maximum of two years or more who are imprisoned for that crime, with the discretion of the Minister for ACC to allow entitlements in exceptional cases;
- 21 **agreed** to set a threshold of six per cent hearing loss before a claimant receives cover for injury-related hearing loss;
- 22 **noted** that ACC should pay in entitlements (hearing aids) only for the proportion of a claimant's hearing loss that is injury-related injury, and
- 23 **noted** that the approach referred to in paragraph 22 may result in regulations for this purpose;

Amendments facilitating ACC to work more closely with other agencies

**WITHHELD UNDER S 9(2)(g)(i) OF THE OFFICIAL INFORMATION ACT 1982
TO MAINTAIN FREE AND FRANK EXPRESSION OF OPINION**

25 **noted that:**

25.1 Inland Revenue has provided information to ACC upon request, and has carried out regular information matching since 1 April 2002. The information provided has related to:

25.1.1 the agent's name and contact details, if the taxpayer has a tax agent;

25.1.2 the date of death and the address of the estate administrator, for a deceased taxpayer;

25.2 recent legal advice indicates that Inland Revenue cannot include the information referred to in paragraphs 25.1.1 and 25.1.2 in any information matching with ACC;

26 **agreed** to validate with retrospective effect, ongoing information sharing between the Inland Revenue Department and ACC to ensure efficient customer services, in relation to the following information:

26.1 the agent's name and contact details, if the taxpayer has a tax agent,

26.2 the taxpayer's date of death and the address of estate administrator, for a deceased taxpayer,

27 **agreed** to a consequential amendment to the Tax Administration Act 1994 for the same purpose;

28 **agreed** that, where there is a government policy decision that ACC may provide non-ACC related additional government services or entitlements in relation to ACC claimants, ACC can do so without having to provide the service through one of its subsidiaries and without having to do so on a commercial basis and, where appropriate, for the funding of these services or entitlements to be accounted for separately rather than through the Accounts;

Amendment requiring improved financial reporting and accountability

29 **agreed** that a provision be included in the Bill to require ACC to table their actuarial report or financial statement annually in the House, with details to be decided by the Minister of Finance and the Minister for ACC under the authorisation set out in paragraph 33 below;

Financial implications

30 **approved** the following changes to appropriations as a result of the proposed legislative changes to be included in the IPRC Amendment Bill, with a corresponding impact on the operating balance:

Vote ACC Minister of ACC	Sm – increase/(decrease)			
	2010/11	2011/12	2012/13	2013/14 & outyears
Benefits and unrequited expenses: Other compensation	(3,760)	(3,960)	(3,970)	(4,240)

31 noted that, due to uncertainty around the timing of when the amendments would come into force, the 2009/10 year has not been included in the above table, however savings for this year can be estimated based on a pro-rata of the above figures, that is, savings would be approximately \$300,000 per month, and if all provisions came into effect on 31 March 2010 savings of \$900,000 would be expected;

Next steps

Legislation

32 noted that:

32.1 the Bill amending the Injury Prevention, Rehabilitation, and Compensation Act 2001 is listed in the 2009 Legislation Programme as category 3 priority (to be passed if possible in 2009);

32.2 it is anticipated that the Bill will be ready for introduction by September 2009;

33 authorised the Minister for ACC and the Minister of Finance to take any decisions on any transitional or consequential matters that fall out of the above significant policy changes and for any further matters of a minor nature;

34 noted that Cabinet approval will be sought for any further significant policy changes that are required;

35 invited the Minister for ACC to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;

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Secretary of the Cabinet

Reference: CAB (09) 440; CAB (09) 440A; SOC Min (09) 17/3