

# **Accident Compensation Amendment Bill**

Government Bill

As reported from the committee of the whole House



**Accident Compensation Amendment Bill**

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**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

text inserted



*Hon Iain Lees-Galloway*

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<b>The Parliament of New Zealand enacts as follows:</b>		
<b>1</b>	<b>Title</b>	
	This Act is the Accident Compensation Amendment Act <b>2018</b> .	
<b>2</b>	<b>Commencement</b>	
(1AA)	The following come into force on <b>1 July 2019</b> :	5
	(a) <b>section 10</b> ; and	
	(b) <b>Part 2</b> (and <b>Schedule 2</b> ).	
(1)	The rest of this Act comes into force on the day after the date of Royal assent.	
<b>3</b>	<b>Principal Act</b>	
	This Act amends the Accident Compensation Act 2001 (the <b>principal Act</b> ).	10

## Part 1

### Amendments to Accident Compensation Act 2001

#### 4 Section 17 amended (Ordinarily resident in New Zealand)

Replace section 17(4) with:

- (4) A person must be treated as having New Zealand as the person's permanent place of residence if— 5
- (a) the person—
    - (i) intends to resume a place of residence in New Zealand; and
    - (ii) is absent from New Zealand primarily in connection with the person's employment duties (the remuneration for which is treated as income derived in New Zealand for New Zealand income tax purposes) or for up to 6 months following the completion of the person's period of employment outside New Zealand; or 10
  - (b) the person—
    - (i) intends to resume (or assume) a place of residence in New Zealand; and 15
    - (ii) is the spouse or partner, child, or other dependant of a person described in **paragraph (a)** and generally accompanies that person; and
    - (iii) is outside New Zealand during the period of employment of the person described in **paragraph (a)** or for up to 6 months following the completion of it. 20

#### 5 Section 324A replaced (Annual review of amounts prescribed by regulations made under section 324)

Replace section 324A with:

##### 324A Biennial review of certain amounts

- (1) The Corporation must conduct a review in 2020, and in every second year after that, of the amounts prescribed by regulations made under section 324 that the Corporation is liable to pay for the entitlement of rehabilitation. 25
- (2) The purpose of the review is to assess whether adjustment to any of the amounts is required to take into account changes in costs of rehabilitation. 30
- (3) The Corporation must, by 1 December of each year in which a review is conducted,—
- (a) provide a report on the results of the review to the Minister; and
  - (b) include in that report any recommendations for change that it may have. 35

**6 Section 329 amended (Regulations relating to levies)**

Replace section 329(1)(a) with:

- (a) specifying, in relation to levies, the maximum amounts or deemed minimum amounts of earnings for levy purposes or methods for calculating any of those amounts:

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**7 Section 391 amended (Review and appeal proceedings for decisions under former Acts)**

After section 391(1), insert:

(1A) Subsection (1) is subject to the following qualifications:

- (a) any appeal to which subsection (1) applies that is commenced on or after the date on which this subsection comes into force must be made to the District Court and not to the Accident Compensation Appeal Authority; and
- (b) to the extent practicable, the procedure for such an appeal is to be the same as the procedure for appeals under Part 5.

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**8 New section 402 and cross-heading inserted**

After section 401, insert:

*Disestablishment of Accident Compensation Appeal Authority*

**402 Disestablishment of Accident Compensation Appeal Authority**

- (1) The Accident Compensation Appeal Authority that was established by section 155 of the Accident Compensation Act 1972 and continued by section 103 of the Accident Compensation Act 1982 is disestablished.
- (2) No member or employee of the Authority before its disestablishment is entitled to any payment or compensation for any loss arising out of the disestablishment.

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**9 Schedule 1AA amended**

- (1) In the Schedule 1AA heading, replace “**Transitional and savings provisions relating to amendments to this Act made by Accident Compensation Amendment Act 2015**” with “**Transitional, savings, and related provisions**”.
- (2) In Schedule 1AA, before clause 1, insert:

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**Part 1**

**Provisions relating to Accident Compensation Amendment Act 2015**

- (3) In Schedule 1AA, insert the Part 2 set out in **Schedule 1** of this Act.

**10 Schedule 1 amended**

(1) In Schedule 1, replace clauses 52 and 53 with:

**52 Relationship between weekly compensation and New Zealand superannuation**

- (1) **Subclause (2)** applies to a claimant who— 5
  - (a) first becomes entitled to weekly compensation before reaching New Zealand superannuation qualification age; and
  - (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The claimant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to a claimant who first becomes entitled to weekly compensation— 10
  - (a) less than 24 months before reaching New Zealand superannuation qualification age; or
  - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The claimant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation. 15
- (5) Nothing in this clause entitles a claimant to weekly compensation if the claimant is not otherwise entitled to it under this Act.

(2) In Schedule 1, repeal clauses 68 and 69.

(3) In Schedule 1, replace clauses 72 and 73 with: 20

**72 Relationship between other dependant’s weekly compensation and New Zealand superannuation**

- (1) **Subclause (2)** applies to any other dependant who— 25
  - (a) is entitled to weekly compensation immediately before reaching New Zealand superannuation qualification age; and
  - (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The dependant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to any other dependant who first becomes entitled to weekly compensation— 30
  - (a) less than 24 months before reaching New Zealand superannuation qualification age; or
  - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The dependant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this clause entitles any other dependant to weekly compensation if the dependant is not otherwise entitled to it under this Act. 35

## Part 2

### Related and consequential amendments

#### Subpart 1—Amendment to New Zealand Superannuation and Retirement Income Act 2001

- 11 Amendment to New Zealand Superannuation and Retirement Income Act 2001** 5
- (1) This section amends the New Zealand Superannuation and Retirement Income Act 2001.
- (2) Replace section 7(2) with:
- (2) However, a person is not entitled to receive New Zealand superannuation in respect of the period for which the person has made an election, as contemplated by any of the following provisions, to be entitled to weekly compensation rather than to New Zealand superannuation: 10
- (a) **clauses 4(3) and 5(3)** of Schedule 1AA of the Accident Compensation Act 2001: 15
- (b) **clause 16(3) or 17(3)** of Schedule 1 of the Veterans' Support Act 2014.

#### Subpart 2—Amendments to Veterans' Support Act 2014

- 12 Amendments to Veterans' Support Act 2014**
- Sections 13 to 16** amend the Veterans' Support Act 2014. 20
- 13 Section 65 replaced (Relationship between weekly income compensation and New Zealand superannuation or veteran's pension)**
- Replace section 65 with:
- 65 Relationship between weekly income compensation and New Zealand superannuation or veteran's pension** 25
- (1) **Subsection (2)** applies to a veteran who—
- (a) first becomes entitled to weekly income compensation before reaching New Zealand superannuation qualification age; and
- (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The veteran loses entitlement to weekly income compensation on reaching that age. 30
- (3) **Subsection (4)** applies to a veteran who first becomes entitled to weekly income compensation—
- (a) less than 24 months before reaching New Zealand superannuation qualification age; or 35

<p>(b) on or after reaching New Zealand superannuation qualification age.</p> <p>(4) The veteran is entitled to weekly income compensation for 24 months from the date of entitlement to the compensation.</p> <p>(5) Nothing in this section entitles a veteran to weekly income compensation if the veteran is not otherwise entitled to it under this Act.</p>	<p>5</p>
<p><b>14 Section 104 replaced (Relationship between weekly compensation and New Zealand superannuation or veteran’s pension)</b></p> <p>Replace section 104 with:</p>	
<p><b>104 Relationship between weekly compensation and New Zealand superannuation or veteran’s pension</b></p> <p>(1) <b>Subsection (2)</b> applies to a veteran who—</p> <p style="padding-left: 20px;">(a) first becomes entitled to weekly compensation before reaching New Zealand superannuation qualification age; and</p> <p style="padding-left: 20px;">(b) has been entitled to it for 24 months or longer before reaching that age.</p> <p>(2) The veteran loses entitlement to weekly compensation on reaching that age.</p> <p>(3) <b>Subsection (4)</b> applies to a veteran who first becomes entitled to weekly compensation—</p> <p style="padding-left: 20px;">(a) less than 24 months before reaching New Zealand superannuation qualification age; or</p> <p style="padding-left: 20px;">(b) on or after reaching New Zealand superannuation qualification age.</p> <p>(4) The veteran is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.</p> <p>(5) Nothing in this section entitles a veteran to weekly compensation if the veteran is not otherwise entitled to it under this Act.</p>	<p>10</p> <p>15</p> <p>20</p>
<p><b>15 Schedule 1 amended</b></p> <p>In Schedule 1, after clause 15, insert the <b>Part 3</b> set out in <b>Schedule 2</b> of this Act.</p>	
<p><b>16 Schedule 2 amended</b></p> <p>(1) In Schedule 2, repeal clauses 56 and 57.</p> <p>(2) In Schedule 2, replace clauses 60 and 61 with:</p>	
<p><b>60 Relationship between other dependant’s weekly compensation and New Zealand superannuation</b></p> <p>(1) <b>Subclause (2)</b> applies to any other dependant who—</p> <p style="padding-left: 20px;">(a) is entitled to weekly compensation immediately before reaching New Zealand superannuation qualification age; and</p> <p style="padding-left: 20px;">(b) has been entitled to it for 24 months or longer before reaching that age.</p>	<p>30</p> <p>35</p>

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- (2) The dependant loses entitlement to weekly compensation on reaching that age.
- (3) **Subclause (4)** applies to any other dependant who first becomes entitled to weekly compensation—
- (a) less than 24 months before reaching New Zealand superannuation qualification age; or
  - (b) on or after reaching New Zealand superannuation qualification age.
- (4) The dependant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this clause entitles any other dependant to weekly compensation if the dependant is not otherwise entitled to it under this Act.

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**Schedule 1**  
**New Part 2 inserted into Schedule 1AA of Accident Compensation Act 2001**

**s 9(3)**

<b>Part 2</b>	5
<b>Provisions relating to Accident Compensation Amendment Act 2018</b>	
<b>3AA Interpretation</b>	
In this Part, <b>2018 Act</b> means the Accident Compensation Amendment Act <b>2018</b> .	
<b>3 Retrospective application of amended section 17(4)</b>	10
<b>Section 17(4)</b> (as amended by the <b>2018 Act</b> ) applies between 1 July 1999 and the commencement of this clause as if it were in force during that time.	
<b>4 Certain claimants may elect rules of former scheme</b>	
(1AA) This clause applies on and after the commencement of <b>section 10</b> of the <b>2018 Act</b> .	15
(1) In this clause, <b>former provisions</b> means clauses 52(6) to (9) and 53 of Schedule 1 as they read immediately before the commencement of <b>section 10</b> of the <b>2018 Act</b> .	
(2) This clause applies to a claimant who first became entitled to weekly compensation—	20
(a) under the former provisions; and	
(b) while the claimant was 64 years of age or older but not yet 65 years of age.	
(3) The claimant may make an election under clause 52(8) of the former provisions in accordance with clause 53 of the former provisions, and, if the claimant does so, the former provisions continue to apply to the claimant.	25
<b>5 Certain other dependants may elect rules of former scheme</b>	
(1AA) This clause applies on and after the commencement of <b>section 10</b> of the <b>2018 Act</b> .	
(1) In this clause, <b>former provisions</b> means clauses 72(6) to (9) and 73 of Schedule 1 as they read immediately before the commencement of <b>section 10</b> of the <b>2018 Act</b> .	30
(2) This clause applies to any other dependant who first became entitled to weekly compensation—	
(a) under the former provisions; and	35

- (b) while the other dependant was 64 years of age or older but not yet 65 years of age.
- (3) The other dependant may make an election under clause 72(8) of the former provisions in accordance with clause 73 of the former provisions, and, if the other dependant does so, the former provisions continue to apply to the other dependant. 5
- 6 Completion of matters-in-process by Accident Compensation Appeal Authority**
- (1) In this clause, **matter-in-process** means a matter before the Accident Compensation Appeal Authority immediately before the commencement of this clause and includes— 10
- (a) an appeal that had been lodged with the Authority but not finally determined by it; and
- (b) an application to the Authority for leave to appeal to the High Court, including any made under— 15
- (i) section 168 of the Accident Compensation Act 1972; or
- (ii) section 111 of the Accident Compensation Act 1982.
- (2) The Authority must complete any matter-in-process.
- (3) For the limited purpose of completing all matters-in-process, the Authority is deemed to continue, and the Authority's powers and capacities continue in effect for that purpose. 20
- (4) A member of the Authority is entitled to be paid reasonable remuneration, fees, or salary for the member's work in completing a matter-in-process, and any related allowances and expenses.
- (5) The Ministry of Justice must continue to provide support services to the Authority to the extent that those services are required to complete the matters-in-process. 25

**Schedule 2**

**New Part 3 inserted into Schedule 1 of Veterans’ Support Act 2014**

**s 15**

**Part 3**

**Provisions relating to Accident Compensation Amendment Act 2018** 5

- 16 Certain veterans may elect rules of former scheme: weekly income compensation**
- (1) In this clause, **former provisions** means subsections (6) to (11) of section 65 of this Act as they read immediately before the commencement of this clause.
  - (2) This clause applies to a veteran who first became entitled to weekly income compensation—
    - (a) under the former provisions; and
    - (b) while the veteran was 64 years of age or older but not yet 65 years of age.
  - (3) The veteran may make an election under subsection (8) of the former provisions in accordance with subsection (10) of the former provisions, and, if the veteran does so, the former provisions continue to apply to the veteran. 15
- 17 Certain veterans may elect rules of former scheme: weekly compensation**
- (1) In this clause, **former provisions** means subsections (6) to (11) of section 104 of this Act as they read immediately before the commencement of this clause. 20
  - (2) This clause applies to a veteran who first became entitled to weekly compensation—
    - (a) under the former provisions; and
    - (b) while the veteran was 64 years of age or older but not yet 65 years of age. 25
  - (3) The veteran may make an election under subsection (8) of the former provisions in accordance with subsection (10) of the former provisions, and, if the veteran does so, the former provisions continue to apply to the veteran.
- 18 Certain other dependants may elect rules of former scheme**
- (1) In this clause, **former provisions** means clauses 60(6) to (9) and 61 of Schedule 2 as they read immediately before the commencement of this clause. 30
  - (2) This clause applies to any other dependant who first became entitled to weekly compensation—
    - (a) under the former provisions; and
    - (b) while the other dependant was 64 years of age or older but not yet 65 years of age. 35

- (3) The other dependant may make an election under clause 60(8) of the former provisions in accordance with clause 61 of the former provisions, and, if the other dependant does so, the former provisions continue to apply to the other dependant.

### Legislative history

12 April 2018

9 May 2018

9 November 2018

11 December 2018

13 March 2019

Introduction (Bill 49–1)

First reading and referral to Education and Workforce Committee

Reported from Education and Workforce Committee (Bill 49–2)

Second reading

Committee of the whole House (Bill 49–3)

Third reading