

Injury Prevention, Rehabilitation, and Compensation Amendment Bill

Government Bill

Explanatory note

General policy statement

Overview

The primary purpose of this Bill is to improve flexibility in the Accident Compensation Scheme (**ACC Scheme**), facilitate cost containment, provide for closer working relationships between government agencies and the Accident Compensation Corporation (**ACC**), and improve financial reporting and accountability. The primary amendment will extend the date for fully funding residual claims liabilities from 2014 to 2019, set a final valuation of all residual claims liabilities as valued at 30 June 2009, and fold the residual liabilities into the main accounts.

Amendments include changes to—

- cover for work-related injuries and injury-related hearing loss; and
- weekly compensation eligibility and entitlement; and
- definitions and processes around vocational independence.

The Bill also allows for experience rating and risk sharing in relation to levy rates in the Work Account, as well as risk rating in the Motor

Vehicle Account. The Bill includes some operational improvements and technical changes to improve flexibility.

Summary of key changes

Amendments to improve flexibility

Full funding of residual claims liabilities

The Injury Prevention, Rehabilitation, and Compensation Act 2001 (**IPRC Act**) requires levies to be calculated to achieve full funding of residual liabilities by 30 June 2014 in the Residual Claims, Motor Vehicle, and Earners' Accounts, but not the Non-Earners' Account. The 2014 date was originally set in 1998, but the residual accounts are still some way from being fully funded. Volatility in levy rates is likely to increase as 2014 approaches. There is also a need to deal with over- or under-funding of the residual claims liability that would occur after 2014. The amendments will set a final date for fully funding the residual claims liabilities of 31 March 2019 for the Work and Earners' Accounts and 30 June 2019 for the Motor Vehicle Account. The residual claims liabilities will be set as at 30 June 2009 in order to reduce volatility as the fully funded date approaches. The residual claims liabilities will be merged into the main accounts.

Enable experience rating and risk sharing in Work Account

The IPRC Act allows an individual employer's levy to be adjusted downward based on satisfactory safety audits, or upward based on an unsatisfactory safety audit that is triggered by the number and severity of work-related injuries experienced by the employer. The Bill allows regulations to be made for experience rating and risk sharing of levy payers in relation to Work Account levy rates, which could include no-claim bonuses, higher or lower levies, and claim thresholds; and allows all of the current ACC workplace programmes to be retained (with some modifications) alongside any new process for experience rating and risk sharing.

Enable risk rating in Motor Vehicle Account for both vehicles and vehicle owners

The Bill will allow regulations to be made for risk rating in relation to Motor Vehicle Account levy rates. Risk rating regulations

for motor vehicles, registered owners of motor vehicles, and persons who hold trade licences under section 34(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 will link safety behaviour to levy payments, for example potentially offering no-claims bonuses for vehicle owners, or allowing discounts for vehicles with high safety ratings. These categories are consistent with section 216 of the IPRC Act.

Technical amendment improving access to Cover-Plus Extra for shareholder employees

Cover-Plus Extra allows self-employed people, and people with earnings as a shareholder employee, to purchase an agreed level of weekly compensation from ACC. Although all self-employed people are eligible to apply for Cover-Plus Extra, shareholder employees are only able to apply if they have a record of earnings as a shareholder employee. There is a lack of clarity in the current legislation with regard to access to Cover-Plus Extra for people with an expectation of earnings as a shareholder employee. This especially applies to people with new businesses. The Bill makes a technical amendment to enable ACC to enter into an agreement to supply an agreed level of weekly compensation to shareholder employees who are not able to demonstrate taxable earnings as a shareholder employee.

Cost-containment amendments

Cover and entitlements in the ACC Scheme have been expanded in recent years. The Bill includes amendments that will assist with cost savings in the ACC Scheme. These amendments include reversing changes made in 2008 to cover for work-related gradual process, disease, or infection, and changes to weekly compensation entitlements, vocational independence requirements, and disentitlement provisions. New proposals are also included, such as a threshold for cover for hearing loss.

Cover

Repeal changes made in 2008 to test for causation for workplace gradual process, disease, or infection

The Bill reinstates the 3-part test for workplace gradual process, disease, or infection (**WRGPDI**) for claims that are not covered under

Schedule 2 that applied before the 2008 amendment. The pre-2008 test is easier for ACC to apply, whereas the current part of the test adds to ACC's costs and potentially to the number of people receiving cover. This proposal removes some of the onus on ACC to prove that a claimant does not have cover.

Hearing loss claims: cover

The Bill requires that a person's injury-related hearing loss must reach a 6% threshold before the person can be considered for cover.

Weekly compensation

Weekly compensation is paid to eligible claimants regardless of whether a worker's injury occurs at work or elsewhere. It is paid at 80% of pre-incapacity earnings, and is intended to provide "real compensation" so that claimants can meet their everyday expenses and focus on recovery.

Reinstate former calculations for long-term (after 4 weeks) weekly compensation for non-permanent employees

The pre-2008 calculation divided the previous 52 weeks of earnings by 52 to derive a weekly earnings figure. Returning to this would ensure that weekly compensation for non-permanent employees would be averaged to reflect the fact that, had it not been for the injury, they would have expected periods of earnings and non-earnings over a 12-month period.

Return increasing weekly compensation to minimum weekly earnings rate from after fifth week of incapacity, instead of from second week

Currently, low-income employees are entitled to have their weekly compensation increased to the minimum weekly earnings rate from the second week of incapacity if they were in full-time employment or self-employed immediately before their incapacity. The Bill increases weekly compensation to the minimum weekly earnings rate from after the fifth week of incapacity, as occurred before 2008. This change excludes people who are on weekly compensation for 5 weeks or less from obtaining minimum weekly compensation if their

weekly compensation is below this rate and they were in full-time employment or self-employed immediately before their incapacity.

Abatement of holiday pay: return to provision that claimants' leave entitlements after their employment ends are considered as part of weekly earnings when calculating weekly compensation

If a claimant receives holiday pay on the termination of employment while receiving weekly compensation, the Bill provides that this holiday pay is treated as earnings for a period equivalent to the amount of leave paid and is liable to abatement.

Reduce Loss of Potential Earnings (LoPE) compensation for young people back to 80% of minimum weekly earnings

ACC pays compensation for loss of potential earnings (**LoPE**) to people who have not had the opportunity to earn and are incapacitated either before turning 18, or while in continuous full-time study from the age of 18. The payment is made from the time the claimant turns 18 if the claimant has been incapacitated for 6 months or more and is not in full-time study or training. The Bill reduces the LoPE rate from 100% to 80% of adult minimum weekly earnings, which is the same rate as for other low-income claimants. At 80% of the minimum wage the payment would be \$400 per 40 hour week, pre-tax. This calculation is based on the minimum weekly wage as at 1 July of the relevant year (as required by the IPRC Act).

Vocational independence and rehabilitation

The ACC Scheme entitles injured claimants to vocational rehabilitation in order to restore the claimant to employment or employability as far as is practicable.

Replace vocational independence threshold of capacity to work for 35 hours per week with capacity to work for 30 hours per week

The provision for vocational independence was enacted in 2001 as the claimant's capacity to engage in work for which he or she is suited by reason of experience, education, or training, or any combination of those things, and for 35 hours per week. The Bill changes the 35 hours-per-week requirement to 30 hours per week, making the definition of full-time work consistent with that used by Statistics

New Zealand, the Ministry of Social Development, and the Inland Revenue Department.

Make it optional for occupational assessors to consider pre-incapacity earnings when undertaking initial and vocational independence assessments

The Bill amends section 91 and clause 25 of Schedule 1 to say that “the occupational assessor *may* take into account, among other things, the claimant’s earnings before the claimant’s incapacity”. This will continue to help inform the occupational assessment process but the provision will not be mandatory.

Disentitlement

Wilfully self-inflicted injury and suicide

Claimants who cause injury to themselves or commit suicide are covered by ACC and receive full entitlements. Before 2001, such claimants had ACC cover, but were disentitled (except for treatment) unless they had a mental injury caused by a physical injury or a mental injury caused by certain criminal acts (sensitive claims). A change made in 2001 meant that all claimants in this category with any mental injury (a clinically significant behavioural, cognitive, or psychological dysfunction) were eligible for all entitlements. The disentitlement provision remained in the IPRC Act for those who did not have any mental injury. This provision was repealed in 2008. The Bill largely reinstates the pre-2001 provision to disentitle claimants for wilfully self-inflicted personal injuries or suicide. Except for treatment, claimants with wilfully self-inflicted personal injuries will only receive entitlements other than treatment if their injuries result from a mental injury as a result of a physical injury, or from a mental injury as a result of certain criminal acts (sensitive claims), or from a work-related mental injury. However, the reinstatement of disentitlement for wilfully self-inflicted personal injuries and suicide will not affect claimants who are currently receiving entitlements for these injuries.

Strengthening disentitlement provision for claimants for whom it would be repugnant to justice to provide entitlements

ACC can apply to the District Court to deny entitlements wholly or in part to previously imprisoned offenders who suffered personal injury in the course of committing the offence for which they were imprisoned, where it would be “repugnant to justice” for the claimant to receive the entitlements. The Bill replaces the existing provision with a provision that sets specific criteria which, if met, would automatically disentitle the person from ACC cover. However, the Minister for ACC could exercise his or her discretion in cases where exceptional circumstances apply. Claimants in this group would be entitled only to treatment, and their entitlement to surgery would be limited to that which is necessary to restore function to allow a claimant to return to work.

Ministerial Advisory Panels

Remove the requirement to have Ministerial Advisory Panel on Work-related Gradual Process, Disease, or Infection and Injury Surveillance Ministerial Advisory Panel

The IPRC Act provides for 2 Ministerial advisory panels to advise on WRGPDI issues and on use and collection of injury statistics. The Bill removes the requirement for these panels. The task for which the WRGPDI Panel was established has largely been completed. If further work is required in this area the Minister is able to set up a panel at any time. The Injury Surveillance Ministerial Advisory Panel will be removed as there is no longer a need for it, as the Injury Surveillance Officials Group now undertakes a similar role.

Amendments facilitating ACC to work more closely with other agencies

Enable ongoing information sharing between IRD and ACC to ensure good customer service

The Bill amends the IPRC Act to allow the Inland Revenue Department to provide limited information to ACC upon request, and these amendments apply on and from 1 April 2002. A consequential amendment to the Tax Administration Act 1994 will be required.

Enable ACC to provide non-ACC-related government services or entitlements to ACC claimants

ACC is presently unable to undertake any service not specified in the IPRC Act unless it is done on a commercial basis via one of its subsidiaries. The Bill amends the legislation to enable ACC to provide non-ACC-related government-directed services or entitlements to ACC claimants.

Require ACC to table annually financial conditions report in Parliament

The Bill provides for a clause that requires ACC to provide a financial condition report annually to the Minister for ACC. The Minister for ACC will be required to table the report in the House.

The purpose of ACC's financial condition report is to provide impartial advice in relation to ACC's operations, financial condition, and liabilities, discussing the implications of material risks identified; and where these implications are adverse, set out operational and management responses to address these risks. The report will provide greater financial transparency of ACC operations and is consistent with existing fiscal responsibility legislation and the findings of the Ministerial Inquiry into Disclosure of Funding Shortfall in ACC Non-Earners' Account.

Clause by clause analysis

Clause 1 relates to the Bill's Title.

Clause 2 provides for certain provisions of the Bill to come into force on **1 July 2010**. The remainder of the Bill is to come into force on the day after the date on which it receives the Royal assent. The provisions that are to come into force on the day after the date of Royal assent relate mainly to the amendments providing for the amalgamation of the Residual Claims Account into the Work Account and the amalgamation of the Motor Vehicle Account Residual levy and Earners' Account Residual levy into their respective Accounts.

Clause 3 provides that the Bill amends the Injury Prevention, Rehabilitation, and Compensation Act 2001.

Part 1

Amendments to principal Act

Clause 4 amends section 6, which is the interpretation section. The amendments, with 1 exception, are largely consequential on the other changes made by the Bill. The exception relates to the amendment to the definition of vocational independence. Under the amendment, the term is defined to mean a claimant's capacity to engage in work for which he or she is suited and for a specified minimum number of hours a week. Currently, the definition sets that minimum number at 35 hours but the proposed amendment will change that to 30 hours.

Clause 5 makes consequential amendments to section 12 as a result of the amendments in *clause 19*.

Clause 6 amends section 26, which defines personal injury. The amendment provides that personal injury does not include any degree of hearing loss that is less than 6% of binaural hearing loss.

Clause 7 amends section 30, which relates to personal injury caused by a work-related gradual process, disease, or infection. The amendments repeal the changes to section 30 that were made by the Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008. The effect of the amendments is to reinstate the previous test for causation for work-related gradual process, disease, or infection.

Clause 8 repeals section 31, which relates to the Ministerial advisory panel on work-related gradual process, disease, or infection. The effect of the amendment is to discontinue the role and operation of the panel.

Clause 9 amends section 91, which relates to the conduct of an initial occupational assessment. The amendment removes the requirement for the occupational assessor, when considering the types of work that are available and suitable for a claimant, to take into account the claimant's earnings before the claimant's incapacity. Under the amendment, the occupational assessor is given the discretion whether to take that factor into account. A similar amendment is made to a related provision in clause 25(1A) of Schedule 1 of the principal Act by *clause 44*.

Clause 10 inserts a new section 119. The new section 119 will disentitle claimants from receiving any entitlements under Schedule 1 of the principal Act (except for treatment) in relation to wilfully self-inflicted personal injuries, deaths from those injuries, and suicides.

However, the disentitlement does not apply if the personal injury or death was the result of a mental injury because of a physical injury suffered by the claimant for which he or she had cover, or was the result of a mental injury suffered by the claimant because of certain criminal acts, or was the result of a work-related mental injury. The *new section 119* largely re-enacts section 120 of the Accident Insurance Act 1998.

Clause 11 repeals section 122 and substitutes *new sections 122 and 122A*. The *new section 122* will automatically disentitle certain imprisoned offenders from receiving any entitlements under Schedule 1 of the principal Act (except for treatment) if they suffered personal injuries in the course of committing an offence that is punishable by a maximum term of imprisonment of 2 years or more. Currently, an offender who suffers a personal injury in the course of committing an offence may be disentitled from receiving any entitlements if a District Court, on the application of the Accident Compensation Corporation, determines that the Corporation must not provide 1 or more specified entitlements to the offender because it would be repugnant to justice for the offender to receive any entitlements.

The *new section 122A* enables the Minister to exempt a claimant from *new section 122(1)* if the Minister is satisfied that there are exceptional circumstances relating to the claimant. The *new section 122A* makes it clear that nothing in that section gives a claimant the right to apply to the Minister for the exemption.

Clause 12 makes a consequential amendment to section 166 as a result of the repeal of sections 192 to 200 by *clause 19*.

Clause 13 repeals section 167 and substitutes a *new section 167*. The *new section 167* provides for the Residual Claims Account to be amalgamated into the Work Account by carrying over, with adjustments, the provisions that are currently in section 192 relating to the purpose of the Residual Claims Account. The *new section 167*—

- sets out the purpose of the Work Account; and
- specifies how the funds for the Work Account are to be derived; and
- specifies how the funds in the Work Account must be applied; and
- provides that regulations may prescribe, in relation to a prescribed period, what portion of the levies payable under sec-

tions 168, 168A, 168B, and 211 is necessary to achieve the purpose specified in *new section 169AA(1)(a)* (which relates to the levies having to be derived to completely pay off or fund the residual amount (as defined in that new section) by **31 March 2019**).

Clause 14 amends section 169, which relates to the rates of levies under sections 168, 168A, and 168B. The amendment repeals section 169(2) (which is relocated, with adjustments, in *new section 169AA*) and substitutes *new subsections (2) and (3)*. *New subsections (2) and (3)* provide for regulations to establish a system or systems for the experience rating of employers, private domestic workers, or self-employed persons and for risk sharing between employers, private domestic workers, or self-employed persons, on the one hand, and the Accident Compensation Corporation on the other. They also provide for regulations to adjust the levies under sections 168, 168A, 168B, and 211 on the basis of that system or those systems (which may include no-claims bonuses, higher or lower levies, and claim thresholds). Similar provisions for experience ratings were previously included in the Accident Insurance Act 1998.

Clause 15 inserts *new section 169AA*. The *new section 169AA* provides that the extent of funds to be derived from levies under sections 168, 168A, and 168B is to be calculated to achieve 2 purposes. The first purpose is that the residual amount is to be completely paid off or funded by **31 March 2019**. The second purpose is that the cost of all claims under the Work Account is fully funded.

Residual amount is defined to mean an amount equal to the sum of 2 things. The first thing is the total value of the outstanding claims liability for the Residual Claims Account as at 30 June 2009 that is set out in the Accident Compensation Corporation's annual report for the financial year ending on that date. The second thing is the best estimate of the Corporation's potential liability as at 30 June 2009 for future claims for cover for work-related gradual process, disease, or infection made by persons who, before 1 July 1999, may have been exposed to the cause or contributing cause of the personal injury but who, by 1 July 2009, have not suffered the personal injury.

Therefore, under *new section 169AA*, the date for full funding of the outstanding claims liability for the Residual Claims Account is extended from 30 June 2014 to **31 March 2019** and the Accident Compensation Corporation is required to fix the total value of that liability

as at 30 June 2009 (as set out in the Corporation's annual report for the financial year ending on 30 June 2009).

Clause 16 amends section 170, which requires the Accident Compensation Corporation to classify employers and self-employed persons in industries or risk classes set out in regulations, for the purposes of setting levies under sections 168, 168B, and 211. The amendments extend the purposes of the classification to include the setting of those levies to include a portion that is necessary to achieve the purpose specified in *new section 169AA(1)(a)* (which relates to the levies having to be derived to completely pay off or fund the residual amount (as defined in that new section) by **31 March 2019**).

Clause 17 makes a technical amendment to section 190(1), which enables a shareholder-employee to purchase weekly compensation from the Accident Compensation Corporation for loss of earnings as a shareholder-employee for any personal injury for which he or she has cover under the principal Act. The effect of the amendment is to clarify that a shareholder-employee may purchase weekly compensation even though he or she has no taxable earnings but has the potential for future earnings. The amendment will bring the position of shareholder-employees into line with the position of self-employed persons in this regard. *Clause 17* also makes a minor consequential amendment to section 190(2).

Clause 18 makes a consequential amendment to section 191(2) as a result of the amalgamation of the Residual Claims Account into the Work Account.

Clause 19 repeals the heading above section 192 and sections 192 to 200. The effect of the amendment is to do away with the operation of a separate Residual Claims Account, which is to be amalgamated into the Work Account as a result of the amendments in *clause 13*.

Clause 20 makes a consequential amendment to section 212 as a result of the amalgamation of the Earners' Account Residual levy into the levy required to fund the Earners' Account.

Clause 21 amends section 213, which deals with the application of, and source of funds for, the Motor Vehicle Account. The amendments remove the requirement for a separate Motor Vehicle Residual levy to be prescribed to fund the cost of claims that would have been provided from the Motor Vehicle Account under the Accident Rehabilitation and Compensation Insurance Act 1992. Under the

amendments, those residual claims are to be funded from the same component of the Motor Vehicle Account that is used to fund the cost of current claims in respect of motor vehicle injuries. One effect of the amendments is that the cost of residual claims can be funded by the levy payable on fuel or motor spirits.

The amendments to section 213 also provide that regulations may prescribe, in relation to a prescribed period, what portion of the levies payable to the Motor Vehicle Account is necessary to achieve the purpose specified in *new section 215(1)(a)* (which relates to the levies having to be derived to completely pay off or fund the residual amount (as defined in that new section) by **30 June 2019**).

Clause 22 makes a consequential amendment to section 214, which relates to the rate of the levies for the Motor Vehicle Account. The amendment is consequential on the removal of the requirement for a separate Motor Vehicle Account Residual levy by the amendments in *clause 21*.

Clause 23 repeals section 215 and substitutes a *new section 215*. The *new section 215* provides that the extent of funds to be derived under the Motor Vehicle Account is to be calculated to achieve 2 purposes. The first purpose is that the residual amount is to be completely paid off or funded by **30 June 2019**. The second purpose is that the cost of all claims under the Motor Vehicle Account is fully funded.

Residual amount is defined to mean the amount of the total value of the outstanding claims liability for the Motor Vehicle Account as at 30 June 1999 that is set out in the Accident Compensation Corporation's annual report for the financial year ending on 30 June 2009.

Therefore, under *new section 215*, the date for full funding of the outstanding claims liability for the Motor Vehicle Account is extended from 30 June 2014 to **30 June 2019** and the Accident Compensation Corporation is required to fix the total value of that liability as at 30 June 1999 (as set out in the Corporation's annual report for the financial year ending on 30 June 2009).

Clause 24 amends section 216, which provides for regulations to establish a system of differential levies in relation to motor vehicles, registered owners of motor vehicles, holders of trade licences under section 34(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986, and fuel. The amendments will allow the regulations to extend that system of differential levies by classifying

motor vehicles, registered owners of motor vehicles, and holders of trade licences under section 34(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 into classes that most accurately describe their risk rating. The regulations may also impose levies at different rates in relation to those classes.

Clause 25 makes a consequential amendment to section 217 as a result of the amendments in *clause 21*.

Clause 26 amends section 218, which deals with the application of, and source of funds for, the Earners' Account. As with the amendments described in the note for *clause 21*, the amendments to section 218 remove the requirement for a separate Earners' Account Residual levy to fund the cost of the outstanding claims liability for the Earners' Account.

The amendments to section 218 also provide for regulations to prescribe, in relation to a prescribed period, what portion of the levies payable to the Earners' Account is necessary to achieve the purpose specified in *new section 220A(1)(a)* (which relates to the levies having to be derived to completely pay off or fund the residual amount (as defined in that new section) by **31 March 2019**).

Clause 27 makes a consequential amendment to section 219 as a result of the amendments in *clause 26*. The amendment removes the requirement for an earner to pay the prescribed Earners' Account Residual levy.

Clause 28 makes a consequential amendment to section 220 as a result of the amendments described in *clause 26*. The amendment repeals subsection (2), which is relocated, with adjustments, in *new section 220A* (as inserted by *clause 29*).

Clause 29 inserts a *new section 220A*. The *new section 220A* provides that the extent of funds to be derived under the Earners' Account is to be calculated to achieve 2 purposes. The first purpose is that the residual amount is to be completely paid off or funded by **31 March 2019**. The second purpose is that the cost of all claims under the Earners' Account is to be fully funded.

Residual amount is defined to mean the amount of the total value of the outstanding claims liability for the Earners' Account as at 30 June 1999 that is set out in the Accident Compensation Corporation's annual report for the financial year ending on 30 June 2009.

Therefore, under *new section 220A*, the date for full funding of the outstanding claims liability for the Earners' Account is extended from 30 June 2014 to **31 March 2019** and the Accident Compensation Corporation is required to fix the total value of that liability as at 30 June 1999 (as set out in the Corporation's annual report for the financial year ending on 30 June 2009).

Clause 30 makes a minor consequential amendment to section 221 as a result of the amendments in *clause 26*.

Clause 31 makes a minor consequential amendment to the heading to section 222.

Clause 32 makes a minor consequential amendment to section 223(3)(c)(i) as a result of the amendment to clause 34 of Schedule 1 of the principal Act by *clause 44*.

Clause 33 makes consequential amendments to section 231 as a result of the amendments in *clause 26*.

Clause 34 makes consequential amendments to section 232 as a result of the amendments in *clause 13*.

Clause 35 repeals section 233 and substitutes a *new section 233*. The *new section 233* incorporates amendments that are consequential on the amendments in *clauses 13 and 26*.

Clause 36 repeals section 235, which relates to the collection of levies from self-employed persons and employers. The repeal is consequential on the amendments in *clauses 13 and 26*.

Clause 37 consequentially amends section 239 as a result of the amendments in *clause 13*.

Clause 38 amends section 246, which relates to the disclosure of specified tax information to the Accident Compensation Corporation for levy purposes. The amendment clarifies that 2 additional items of tax information may be requested by, and disclosed to, the Corporation under section 246. Those items relate to information on whether the taxpayer has a tax agent and, if so, the tax agent's name and contact details, as well as information on whether the taxpayer is deceased and, if so, the date of death and the name and contact details of the administrator or executor of the taxpayer's estate.

Clause 39 repeals section 265 and substitutes a *new section 265*. The *new section 265* extends the scope of the ancillary services that the Accident Compensation Corporation may provide in addition to the services it is required to provide under the principal Act. Currently,

the Corporation may provide, on a commercial basis, services that are outside its statutory functions if, among other things, the services are consistent with the purposes of the principal Act and are provided by its subsidiary, and the provision of the services is a viable commercial proposition to the subsidiary. The *new section 265* will also enable the Corporation to provide, on a non-commercial basis, government-funded services or payments that are outside its statutory functions if the services are consistent with the purposes of the principal Act.

Clause 40 makes a consequential amendment to section 274 as a result of the amendments in *clause 13*.

Clause 41 inserts a *new section 278A*. The *new section 278A* requires the Accident Compensation Corporation to prepare an annual report on its financial condition as soon as practicable after the end of each financial year and to provide the report to the Minister. The purpose of the report is to provide impartial advice about the Corporation's operations, financial condition, and liabilities, discuss the implications of any identified material risks, and set out appropriate operational and management responses to address adverse risks. The Minister is required to provide a copy of the report to the Minister of Finance and to present it to the House of Representatives within 5 working days after receiving it or, if Parliament is not in session, as soon as possible after the next session of Parliament resumes.

Clause 42 repeals section 291, which relates to the Ministerial advisory panel comprising stakeholder representatives in the injury sector. The effect of the amendment is to discontinue the role and operation of the panel.

Clause 43 amends section 329, which empowers the Governor-General to make regulations relating to levies. The amendments omit a number of cross references that are no longer needed as a result of the repeal of other provisions by the Bill.

In addition, the amendments provide for regulations to—

- prescribe the terms and conditions of systems of experience rating or risk sharing referred to in section 169 (as amended by *clause 14*);
- set, in relation to a prescribed period, what portion of the Work Account, the Motor Vehicle Account, or the Earners' Account is necessary to achieve the purposes specified in *new sections 169AA(1)(a), 215(1)(a), and 220A(1)(a)* respectively.

The amendments also provide that regulations relating to experience rating or risk sharing may—

- specify the types of claims to which the systems of experience rating or of risk sharing apply;
- make different provision for different classes of levy payers or in respect of different industries or levies.

Clause 44 and Schedule 1 amend Schedules 1 and 4 of the principal Act. The amendments to Schedule 1 of the principal Act include—

- the repeal of the changes made to clauses 33 and 34 by the Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 and the reinstatement of those clauses as they read before the 2008 amendments. *Clauses 35 and 36* of Schedule 1 of the principal Act, which were repealed by the 2008 amendment, are also re-enacted. The effect of these changes is to restore the provisions in the principal Act for calculating weekly earnings that were in place before the 2008 amendment, which provide for different calculations for permanent and non-permanent employment;
- the amendment to clause 47(4), which removes a change made by the Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 to the calculation of the weekly compensation payable to a claimant who was a potential earner immediately before his or her incapacity commenced and who is 18 years or over. Under the 2008 amendment, the claimant's weekly earnings are deemed to be the amount of weekly earnings determined under clause 42(3) multiplied by 125%. The amendment under the Bill will restore the wording of clause 47(4) as it read before the 2008 amendment so that it provides that the claimant's weekly earnings are deemed to be the amount of weekly earnings determined under clause 42(3).

Part 2

Miscellaneous provisions

Validation

Clause 45 relates to the 2 additional items of tax information described in the note for *clause 38* that are, under that clause, to be specified in section 246 as information that may be requested by, and disclosed to, the Accident Compensation Corporation. *Clause*

45 provides that every disclosure of that information by the Commissioner of Inland Revenue to the Accident Compensation Corporation that was made before the commencement of the clause must be taken to be, and always to have been, lawful.

Consequential amendments

Clause 46 and Schedule 2 make consequential amendments to other Acts.

Transitional provisions for levies

Clause 47 provides that all assets and liabilities held in the Residual Claims Account immediately before the commencement of the clause must, on that commencement, be transferred to the Work Account.

Clause 48 provides that sections 330 and 331 (which deal with consultation requirements in relation to regulations) do not apply to the making of regulations in relation to the Work Account for the 2010–11 tax year.

Clause 49 specifies that amounts of levy that were, or will become, payable to the Residual Claims Account, the Motor Vehicle Account, or the Earners' Account as they were immediately before the commencement of the clause will continue to be due and payable and must be paid into the respective Account.

Transitional provisions for other matters

Clauses 50 and 51 deal with transitional arrangements for the disentanglements relating to wilfully self-inflicted personal injuries and suicides and to certain imprisoned offenders. *Clauses 50 and 51* make it clear that the disentanglements apply only to personal injuries that were suffered or, as the case may be, deaths that occurred on or after the commencement of the clauses.

Clauses 52 to 54 deal with transitional arrangements for, respectively, claims for personal injury including hearing loss, claims for work-related gradual process, disease, or infection, and assessments of vocational independence that were lodged or commenced, but not determined or completed, before the commencement of those clauses. *Clauses 52 to 54* provide that, on or after their commencement, the

claims or assessments must be determined or completed as if the Bill had not been enacted.

Clause 55 is intended to avoid any doubt that the Bill applies to calculations of weekly earnings in respect of any periods of incapacity that commence only on or after the commencement of the clause.

Clause 56 is also intended to avoid any doubt that clause 47(4) of Schedule 1 of the principal Act (as amended by the Bill) applies to the calculation of weekly compensation for loss of potential earning capacity in respect of a claimant whose incapacity commences only on or after the commencement of the clause.

Clause 57 sets out a special transitional arrangement for a claimant who is already entitled to receive weekly compensation for loss of potential earning capacity before the commencement of the clause. *Clause 57(2)* provides that the weekly compensation payable to the claimant is the amount of weekly compensation to which the claimant was entitled immediately before the commencement of the clause. However, if the calculation of weekly compensation for loss of potential earning capacity in respect of the claimant is, but for that subclause and *clause 56*, more favourable to the claimant under clause 47(4) of Schedule 1 of the principal Act (as amended by the Bill), then clause 47(4) will apply despite that subclause and *clause 56*. The intention of *clause 57* is to preserve the position of a claimant who is already receiving weekly compensation for loss of potential earning capacity before the commencement of the clause so that the amount of weekly compensation he or she received does not change until the effect of the Bill is more favourable to him or her, then the Bill will apply to him or her.

Clause 58 is also intended to avoid any doubt that the Bill applies to the abatement of a claimant's weekly compensation in accordance with clauses 49 and 51 of Schedule 1 of the principal Act in respect of a period of incapacity that commences only on or after the commencement of the clause.

Clause 59 provides that a member of the ministerial advisory panel referred to in section 31 or 291 of the principal Act is not entitled to any compensation as a result of the repeal of those sections and the removal of those panels.

Regulatory impact statement

Executive summary

The costs of the Accident Compensation Scheme (**ACC Scheme**) have been rising above the rate of inflation (the Labour Cost Index) for some years.

Some of these additional costs are due to legislated increases in cover and entitlements over time. The Government has asked for amendments to the Injury Prevention, Rehabilitation, and Compensation Act 2001 (**IPRC Act**) to help reduce costs. This is only the first phase of legislation. The Government will be undertaking a stock-take of all ACC Accounts, the results of which are likely to lead to further legislation in 2010. In addition, a review is planned of cover and entitlements under the ACC Scheme, the results of which may also require future legislative change

The current amendments cover a range of proposals that trim some entitlements and cover, rescind some amendments made late last year, change the date for fully funding the Residual Claims Account, allow different sources of funding for collection of the levy for the Motor Vehicle Account, and enable experience rating in the Work Account.

Most proposals will reduce levies and Crown costs but will affect some entitlements and cover. Some costs are likely to be transferred to the Health and Social Welfare budgets. Disentitlement of claimants with wilfully self-inflicted injuries including suicide is likely to affect the families of those claimants.

Changing the final date for fully funding residual claims will reduce levies but extend the payment time further into the future to levy payers who did not incur the residual claims. Allowing experience rating will provide an additional way of individual risk rating in the Work Account, which should encourage safer workplace practices and reduce subsidisation of employers who have high claims costs by employers with low claims costs.

Quantification of all cost and benefit impacts has not been possible. Figures are provided wherever relevant data exists. Qualitative assessment of costs and benefits has, however, been made.

Adequacy statement

The Treasury Regulatory Impact Analysis (RIA) Team has reviewed this regulatory impact statement (RIS) and considers that it does not meet the RIS requirements. The RIS does not contain the required information and the analysis is incomplete in a number of key areas. For example, some of the proposals to remove ACC entitlements will shift costs onto other government agencies or onto individuals but the RIS does not quantify these costs. The proposal to introduce experience rating and risk sharing in the Work Account will increase administrative and compliance costs for business and for the ACC Scheme, but these costs have not yet been investigated. In addition, the RIS consultation requirements have not been met.

Status quo and problem

The ACC Scheme provides, instead of the right to sue, cover and entitlements including compensation to all people currently in New Zealand. The Scheme is funded by levies paid by employers (**Work Account**), workers (**Earners' Account**), and motor vehicle owners (**Motor Vehicle Account**) as well as some Crown funding for people who are not working (**Non-Earners' Account**). The Treatment Injury Account is jointly funded by the Non-Earners' and the Earners' Accounts.

Claims received before 1 July 1999 are paid for from residual claims accounts linked to the Work, Earners', and Motor Vehicle Accounts. The residual claims elements of the Accounts were funded by a pay-as-you-go system before 1999 and are required by the IPRC Act to be fully funded by 2014.

Levies are charged to ensure that the current claims on the Accounts are fully funded. Levies are influenced by factors such as returns ACC makes on investments, interest rates, and discount factors, as well as numbers of claims, rehabilitation rates, and cover and entitlements. Cover and most entitlements are set by the IPRC Act and can only be changed by legislative amendment. Some entitlements are made at the discretion of ACC. ACC has responsibility for administering the Scheme. The way ACC administers the Scheme also has a significant impact on Scheme costs.

The costs of the ACC Scheme are rising rapidly above the rate of inflation (**Labour Cost Index**). Some of the increased costs are due to

expanded cover and entitlements available under the Scheme. New claims have increased around 16.7% since 2003/04. This compares with a population increase of approximately 7.4% over the same period. The cash cost (does not include the long-term liabilities and therefore has only a partial effect on levies) of entitlements and services increased by 12% in the 2007/08 financial year. Rehabilitation rates for weekly compensation claims have been gradually decreasing since 2004/05 from a 93% 12-month rehabilitation rate to a 91% rate in 2007/08. The number of weekly compensation claims with duration of more than 1 year has increased from 13 890 at 30 June 2004 to 19 999 at 31 March 2009. Long-term liabilities have risen because of these factors but also because of decreased investment returns and a decreased discount rate, which means more funding is required to pay off liabilities. Liabilities have risen from \$12,714 million at 30 June 2006 to \$21,875 million (as estimated in December 2008) at 30 June 2009.

Changes made in 2008 and previously to the IPRC Act expanded cover and entitlements, thereby increasing Scheme costs and liabilities. Other existing legislative provisions, such as the requirement to fully fund residual claims by 2014, are also increasing pressure on the Scheme. Still other existing provisions, such as the inability to use the petrol levy to help fund residual claims, are inflexible. Costs are also rising for wilfully self-inflicted injuries, hearing loss, and rehabilitation.

The Government has asked that all aspects of the Scheme are looked at, to reduce costs, by—

- reviewing ACC administration, claims handling, and purchasing;
- reviewing ACC legislation;
- undertaking a stocktake of ACC Accounts.

The ACC Board is undertaking a value-for-money exercise and reviewing all of ACC's administrative procedures, purchasing and claims handling to identify areas where costs could be reduced.

The stocktake of Accounts will examine, among other things, the underlying cost drivers of each Account and strategies to address them. The stocktake will also examine where ACC's interpretation of the IPRC Act has affected costs. Alongside this work will be analysis of the IPRC Act to identify areas where cover and entitlements

have changed over time and caused cost increases. Recommendations coming out of the stocktake will be addressed either administratively through the ACC Board or through further legislative changes in 2010/11.

Objectives

The first objective of the Injury Prevention, Rehabilitation, and Compensation Amendment Bill is to reduce levy fluctuation and increases as a result of the existing requirement to fully fund the residual claims accounts by 2014.

The second objective of the Bill is to contain immediate and downstream costs to the ACC Scheme.

The third objective is to ensure sufficient flexibility in the levy-setting mechanisms to allocate costs fairly, enable the costs of the Scheme to be allocated in a way that matches the sources of risk, and avoid excessive fluctuation in levies.

A fourth objective is to reduce duplication of effort, improve efficiency, and facilitate co-operation between agencies.

Alternative options

Status quo

To retain the status quo would result in large ACC levy fluctuations, restrict the ability of ACC to restrain costs caused by extension of legislated entitlements, and would not achieve the Government policy to improve individual risk sharing.

Other options

Other cost-reduction measures are occurring at the same time, namely a review of ACC administration, claims handling, and purchasing costs. An example of one result of this review is the renegotiation of high-cost contracts with physiotherapists. ACC is also looking at regulating some payment rates that have previously been made under contract or paid on an ad hoc basis. ACC is also focused on improving its rehabilitation rates, particularly concentrating on long-term claimants.

Preferred option

There is no alternative to repealing or amending the current legislation for the proposals in the Bill revoking the 2008 amendments and making other changes to reduce costs and enhance collaboration across the health sector. These proposals collectively are estimated to generate savings of at least \$65 million each year across levy accounts and the (Crown-funded) Non-Earners' Account.

The proposal to extend the date by which the Scheme must fully fund residual claims from 2014 to 2019 will improve affordability in the immediate term by spreading the costs over a longer time. This proposal can be effected by only legislative amendment.

Other proposed amendments are not about cost containment per se. These include the disestablishment of ministerial advisory committees that are no longer needed, and enabling provisions to allow Ministers to have flexibility in the way residual claims are funded and to improve application of an ACC levy. These proposals cannot be achieved other than by legislative amendment.

Costs and benefits of the various proposals are set out in a table shown on the Department of Labour's Internet site.

Implementation and review

Implementation

Amendments to the IPRC Act will be implemented gradually, depending on their complexity.

Likely time frames and cost involved with systems changes for the proposed reversal of the 2008 weekly compensation amendments is approximately 4–5 months at a cost of \$285,000 (plus some contingency). In addition, the calculator function in EOS (ACC's claimant management system) would need to be updated at an estimated cost of \$432,000. Other cost-saving mechanisms will be implemented as part of standard operations.

Implementation of the provisions changing collection of the residual Motor Vehicle levy will be simple and can be incorporated into the levy round in 2009 if the Bill is enacted in time.

Implementation of the enabling experience rating provisions will require further consultation with stakeholders, collection of better claims data, development of methods of experience rating, and probably promulgation of regulations. Costs are not yet known.

Review

The key parts of this amendment, namely changes to entitlements and cover, experience rating, and changes to the collection mechanisms for the Motor Vehicle levy, will be reviewed as necessary. It is unlikely that the residual claims funding mechanism will be reviewed as it provides for an ongoing means of dealing with any substantive increases in residual claims by folding the increases into the main accounts.

Consultation

Consultation with external stakeholders on most proposed amendments has not yet occurred.

Consultation on the proposed content of the Bill occurred with ACC, the Treasury, with the Ministries of Health, Economic Development, Transport, and Justice, and with the New Zealand Customs.

The Cabinet policy paper on which decisions on the Bill's content are based has been shared with the above agencies, plus the Ministries of Social Development and Women's Affairs, Te Puni Kōkiri, the State Services Commission, and the Department of the Prime Minister and Cabinet.

Concerns raised have been included in the Cabinet paper, and individual agencies have made separate comments in that paper. The primary concerns raised related to the effect of the potential transfer of costs from ACC to the Health and Social Welfare budgets and the lack of opportunity because of timing constraints for officials to analyse the impact of these flow-on costs.

The only proposal for which flow-on costs have been estimated is the change to the threshold for hearing loss cover. The Ministry of Health estimates it will bear around \$0.5 million per annum in 2009/10 from this proposal, with costs rising as the population ages. This is considerably less than what ACC has been paying.

Other areas where costs to the Health and Social Welfare budgets might occur but have not yet been estimated are in supporting workers who are on low weekly compensation, supporting families of people who commit suicide who may require benefit support and a funeral benefit, and ongoing support of people seriously injured as a result of a wilfully self-inflicted injury (about 4 claimants each year). Te Puni Kōkiri also expressed a view that a number of the

amendments would particularly affect Maori, including those reducing weekly compensation and the “repugnant to justice” amendment.

Hon Dr Nick Smith

Injury Prevention, Rehabilitation, and Compensation Amendment Bill

Government Bill

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Consequential amendments to other Acts

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Injury Prevention, Rehabilitation, and Compensation Amendment Act **2009**.
- 2 Commencement**
- (1) The following provisions come into force on **1 July 2010**: 5
- (a) **section 4(2):**
- (b) **section 6:**
- (c) **section 7:**
- (d) **sections 9 to 11:**
- (e) **section 17:** 10
- (f) **section 32:**
- (g) **section 44(1) and Part 1 of Schedule 1:**
- (h) **sections 50 to 58.**
- (2) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent. 15
- 3 Principal Act amended**
This Act amends the Injury Prevention, Rehabilitation, and Compensation Act 2001.

Part 1
Amendments to principal Act 20

- 4 Interpretation**
- (1) Section 6(1) is amended by repealing the definitions of **Earners' Account Residual levy**, **Motor Vehicle Account Residual levy**, **Residual Claims Account**, and **Residual Claims levy**. 25
- (2) The definition of **vocational independence** in section 6(1) is amended by omitting "35 hours" and substituting "30 hours".

- 5 Earnings as an employee: Work Account levy payable under section 168 and Residual Claims levy payable under section 193**
- (1) The heading to section 12 is amended by omitting “**and Residual Claims levy payable under section 193**”. 5
- (2) Section 12 is amended by omitting “and the Residual Claims levy payable under section 193”.
- 6 Personal injury**
- Section 26 is amended by inserting the following subsection after subsection (4): 10
- “(4A) Personal injury does not include any degree of hearing loss that is less than 6% of binaural hearing loss.”
- 7 Personal injury caused by work-related gradual process, disease, or infection**
- (1) Section 30(1A) is repealed. 15
- (2) Section 30(2)(b) is amended by inserting the following paragraph after paragraph (i):
- “(ii) is not found to any material extent in the non-employment activities or environment of the person; and”. 20
- (3) Section 30(2) is amended by repealing paragraph (c) and substituting the following paragraph:
- “(c) the risk of suffering the personal injury—
- “(i) is significantly greater for persons who perform the employment task than for persons who do not perform it; or 25
- “(ii) is significantly greater for persons who are employed in that type of environment than for persons who are not.”
- (4) Section 30(2A) is repealed. 30
- 8 Section 31 repealed**
- Section 31 is repealed.

- 9 Conduct of initial occupational assessment**
Section 91(1A) is amended by omitting “must” and substituting “may”.
- 10 New section 119 inserted**
The following section is inserted after section 118: 5
- “119 Disentitlement for wilfully self-inflicted personal injuries and suicide**
- “(1) The Corporation must not provide any entitlements under Schedule 1 for any of the following:
- “(a) a personal injury that a claimant wilfully inflicts on himself or herself, or, with intent to injure himself or herself, causes to be inflicted upon himself or herself: 10
 - “(b) the death of a claimant due to an injury inflicted in the circumstances described in **paragraph (a)**:
 - “(c) the death of a claimant due to suicide. 15
- “(2) However, **subsection (1)** does not excuse the Corporation from liability to provide the claimant with entitlements for treatment.
- “(3) **Subsection (1)** does not apply if the personal injury or death was the result of— 20
- “(a) mental injury suffered because of physical injuries suffered by the claimant for which he or she had cover; or
 - “(b) mental injury suffered by the claimant in the circumstances described in section 21 or 21B.”
- 11 New sections 122 and 122A substituted** 25
Section 122 is repealed and the following sections are substituted:
- “122 Disentitlement for certain imprisoned offenders**
- “(1) The Corporation must not provide any entitlements under Schedule 1 to a claimant if— 30
- “(a) the claimant suffers a personal injury in the course of committing an offence; and
 - “(b) the offence is punishable by a maximum term of imprisonment of 2 years or more; and
 - “(c) the claimant is sentenced to imprisonment for committing the offence; and 35

- “(d) the Corporation would, but for this section, be liable to provide entitlements to the claimant for the personal injury.
- “(2) However, **subsection (1)** does not excuse the Corporation from liability to provide the claimant with entitlements for treatment. 5
- “(3) Despite **subsection (2)**, the Corporation must not provide any entitlement for surgery unless the surgery is required to restore the claimant’s function to enable him or her to return to work.
- “**122A Exemption from section 122(1)** 10
- “(1) The Minister may exempt a claimant from **section 122(1)** if the Minister is satisfied that there are exceptional circumstances relating to the claimant.
- “(2) Nothing in this section gives a claimant the right to apply for an exemption from **section 122(1)**.” 15
- 12 Separate Accounts**
Section 166(1)(b) is repealed.
- 13 New section 167 substituted**
Section 167 is repealed and the following section substituted:
- “**167 Application and source of funds** 20
- “(1) The purpose of the Work Account is to—
- “(a) finance entitlements provided under this Act by the Corporation to employees, private domestic workers, and self-employed persons for work-related personal injuries; and 25
- “(b) finance the following entitlements that are required to be provided in respect of persons whose entitlements would have been provided from the Employers’ Account under the Accident Rehabilitation and Compensation Insurance Act 1992: 30
- “(i) entitlements for work injuries (as defined in the Accident Rehabilitation and Compensation Insurance Act 1992) suffered before 1 July 1999; and
- “(ii) entitlements for non-work injuries to earners suffered before 1 July 1992. 35

- “(2) The funds for the Work Account are to be derived from—
- “(a) levies payable under sections 168, 168A, 168B, and 211 by employers, private domestic workers, and self-employed persons; and
 - “(b) payments made to the Corporation in respect of obligations taken on by the Corporation under section 7 of the Accident Insurance (Transitional Provisions) Act 2000 in relation to the accident insurance contracts of employers and private domestic workers, and for self-employed persons; and 5 10
 - “(c) premiums continued by or payable under Part 11.
- “(3) The funds in the Work Account must be applied to meet the costs of—
- “(a) entitlements in respect of employees, private domestic workers, and self-employed persons for work-related personal injuries; and 15
 - “(b) entitlements in respect of obligations, under accident insurance contracts of employers and private domestic workers, and for self-employed persons, taken on by the Corporation under section 7 of the Accident Insurance (Transitional Provisions) Act 2000; and 20
 - “(c) entitlements that are required to be provided in accordance with Part 11 in respect of persons whose entitlements would have been provided from the Self-Employed Work Account under the Accident Insurance Act 1998; and 25
 - “(d) entitlements in respect of employers, private domestic workers, and self-employed persons that, immediately before 1 April 2007, would have been funded from the Self-Employed Work Account or the Employers’ Account; and 30
 - “(e) entitlements that, immediately before **1 July 2010**, would have been funded from the Residual Claims Account as it was immediately before that date; and
 - “(f) administering the Account; and 35
 - “(g) audits and assessments referred to in section 175; and
 - “(h) any other expenditure authorised by this Act.
- “(4) Regulations made under this Act may prescribe, in relation to a prescribed period, what portion of the levies payable under

sections 168, 168A, 168B, and 211 is necessary to achieve the purpose specified in **section 169AA(1)(a)**.”

14 Rates of levies

Section 169 is amended by repealing subsection (2) and substituting the following subsections: 5

- “(2) Regulations made under this Act may—
- “(a) establish a system or systems for either or both of the following:
 - “(i) the experience rating of employers, private domestic workers, or self-employed persons: 10
 - “(ii) risk sharing between employers, private domestic workers, or self-employed persons, on the one hand, and the Corporation on the other; and
 - “(b) adjust the levies under sections 168, 168A, 168B, and 211 in relation to a particular employer, private domestic worker, or self-employed person on the basis of that system or those systems. 15
- “(3) The systems referred to in **subsection (2)** may include no-claims bonuses, higher or lower levies, and claim thresholds.” 20

15 New section 169AA inserted

The following section is inserted after section 169:

“169AA Basis on which funds to be calculated

- “(1) The extent of funds to be derived from levies under sections 168, 168A, and 168B is to be calculated to achieve the following purposes: 25
- “(a) the residual amount is to be completely paid off or funded no later than **31 March 2019**;
 - “(b) the cost of all claims under the Work Account is fully funded. 30
- “(2) In this section, **residual amount** means an amount equal to the sum of—
- “(a) the total value of the outstanding claims liability for the Residual Claims Account as at 30 June 2009 that is set out in the Corporation’s annual report for the financial year ending on that date; and 35

- “(b) the best estimate of the Corporation’s potential liability as at 30 June 2009 (as notified by the Corporation in a notice published in the *Gazette*) in respect of future claims for cover for personal injury caused by work-related gradual process, disease, or infection by persons who,— 5
- “(i) before 1 July 1999, may have been exposed to a particular property or characteristic of their employment tasks or environment that causes, or contributes to the cause of, the personal injury; 10
but
- “(ii) by 1 July 2009, have not suffered the personal injury.”
- 16 Classification of industries or risks**
- (1) Section 170 is amended by repealing subsection (1) and substituting the following subsection: 15
- “(1) The Corporation must classify an employer and a self-employed person in an industry or risk class that most accurately describes their activity, being an industry or risk class set out in regulations made under this Act for the following purposes: 20
- “(a) setting levies payable under sections 168, 168B, and 211:
- “(b) setting those levies to include a portion that is necessary to achieve the purpose specified in **section 169AA(1)(a)**.” 25
- (2) Section 170(4A) is amended by inserting “that relate to an industry or risk class defined under **subsection (1)(a)**” after “subsection (4)”.
- 17 Purchase of weekly compensation by shareholder-employees** 30
- (1) Section 190(1) is amended by—
- (a) omitting “person with earnings as a shareholder-employee” and substituting “shareholder-employee”; and
- (b) omitting “the person” and substituting “the shareholder-employee”. 35

-
- (2) Section 190(2) is amended by omitting “person with earnings as a shareholder-employee” and substituting “shareholder-employee”.
- 18 Effect on Work Account levy**
Section 191(2) is amended by omitting “Residual Claims levy” and substituting “the portion of the Work Account levy referred to in **section 167(4)** that is payable” 5
- 19 Heading above section 192 and sections 192 to 200 repealed**
The heading above section 192 and sections 192 to 200 are repealed. 10
- 20 Earner levies for self-employed persons who purchase weekly compensation**
Section 212 is amended by omitting “and the Earners’ Account Residual levy required by section 219(2)”. 15
- 21 Application and source of funds**
- (1) Section 213(2)(d) is repealed.
- (2) Section 213(5) is amended by inserting the following paragraph after paragraph (b):
“(ba) claims that would have been provided from the Motor Vehicle Account under the Accident Rehabilitation and Compensation Insurance Act 1992; and” 20
- (3) Section 213 is amended by repealing subsection (6) and substituting the following subsection:
“(6) Regulations made under this Act may prescribe, in relation to a prescribed period, what portion of the levies is necessary to achieve the purpose specified in **section 215(1)(a)**.” 25
- 22 Rate of levies**
Section 214(3) is repealed.
- 23 New section 215 substituted** 30
Section 215 is repealed and the following section substituted:

- “215 Basis on which funds to be calculated**
- “(1) The extent of funds to be derived under section 213(2) is to be calculated to achieve the following purposes:
- “(a) the residual amount is to be completely paid off or funded no later than **30 June 2019**: 5
- “(b) the cost of all claims under the Motor Vehicle Account is to be fully funded.
- “(2) In this section, **residual amount** means the amount of the total value of the outstanding claims liability for the Motor Vehicle Account as at 30 June 1999 that is set out in the Corporation’s annual report for the financial year ending on 30 June 2009.” 10
- 24 Levy categories**
- Section 216 is amended by adding the following subsections as subsections (2) and (3):
- “(2) The regulations may also classify all or any of the following, or categories of the following, into classes that most accurately describe their risk rating and may impose levies at different rates in relation to those classes in accordance with the system of differential levies referred to in subsection (1): 15
- “(a) motor vehicles: 20
- “(b) registered owners of motor vehicles:
- “(c) persons who hold trade licences under section 34(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.
- “(3) **Subsection (2)** does not limit subsection (1).” 25
- 25 Collection of levies**
- Section 217(3) is repealed.
- 26 Application and source of funds**
- (1) Section 218(3)(b) is repealed.
- (2) Section 218(4) is amended by inserting the following paragraph after paragraph (e): 30
- “(ea) claims that would have been provided from the Earners’ Account under the Accident Rehabilitation and Compensation Insurance Act 1992; and”.

- (3) Section 218 is amended by repealing subsection (5) and substituting the following subsection:
- “(5) Regulations made under this Act may prescribe, in relation to a prescribed period, what portion of the levies is necessary to achieve the purpose specified in **section 220A(1)(a)**.” 5
- 27 Earners to pay levies**
Section 219(2) is repealed.
- 28 Rate of levies**
Section 220(2) is repealed.
- 29 New section 220A inserted** 10
The following section is inserted after section 220:
“220A Basis on which funds to be calculated
“(1) The extent of funds to be derived from levies under section 219 is to be calculated to achieve the following purposes:
“(a) the residual amount is to be completely paid off or 15
funded no later than **31 March 2019**:
“(b) the cost of all claims under the Earners’ Account is to be fully funded by levies.
“(2) In this section, **residual amount** means the amount of the total value of the outstanding claims liability for the Earners’ Account as at 30 June 1999 that is set out in the Corporation’s annual report for the financial year ending on 30 June 2009.” 20
- 30 Collection of levies by deduction from employee earnings**
Section 221(1) is amended by omitting “(including the Earners’ Account Residual levy)”. 25
- 31 Payment of Earners’ Account levy and Earners’ Account Residual levy by self-employed persons**
The heading to section 222 is amended by omitting “and Earners’ Account Residual levy”.
- 32 Persons eligible to purchase weekly compensation** 30
Section 223(3)(c)(i) is amended by inserting “permanent” after “in”.

- 33 Mixed earnings as employee and self-employed person**
Section 231(4) and (5) are repealed.
- 34 Residual Claims levy and Work Account levy payable by employers on disposal or cessation of business or when ceasing to employ** 5
- (1) The heading to section 232 is amended by omitting “**Residual Claims levy and**”.
- (2) Section 232(1) is amended by omitting “a Residual Claims levy or”.
- (3) Section 232 is amended by repealing subsection (2) and substituting the following subsection: 10
- “(2) An employer must comply with subsection (3) by the 15th day of the second month after the month in which the employer disposes of or ceases carrying on the business or continues the business as a self-employed person without employing any other person.” 15
- 35 New section 233 substituted**
Section 233 is repealed and the following section substituted:
- “233 Levies payable to Corporation by self-employed person who ceases to derive earnings as such** 20
- “(1) Every self-employed person who, during a tax year, ceases to derive earnings as a self-employed person must—
- “(a) deliver to the Commissioner a statement of the person’s earnings as a self-employed person for the tax year concerned, within the applicable time within which a return for that tax year is required to be furnished to the Commissioner under the Tax Administration Act 1994; and 25
- “(b) pay to the Corporation, on or before the due date,—
- “(i) the Work Account levy, at the rate prescribed, to the extent that it applied to the person’s earnings as a self-employed person in that tax year; and 30
- “(ii) the earner levy, at the rate prescribed, to the extent that it applied to the person’s earnings as a self-employed person in that tax year.

“(2) The provisions of this section (other than **subsection (1)(b)(ii)**) and sections 239 and **329(1)(b)** apply, with any necessary modifications, to private domestic workers.”

36 Section 235 repealed
Section 235 is repealed.

5

37 Corporation to define risk classification and decide levy if activity not classified by regulations

Section 239(1) is amended by omitting “either, or both, of sections 170 (Work Account levies) and 195 (Residual Claims Account levies)” and substituting “section 170 (Work Account)”.

10

38 Information available to Corporation

Section 246 is amended by inserting the following subsections after subsection (4):

“(4A) The Corporation may also request the Commissioner to provide any of the following information: 15

“(a) whether an employer, self-employed person, private domestic worker, or shareholder-employee to whom section RD 3(2) to (4) of the Income Tax Act 2007 applies has a tax agent and, if so, the tax agent’s name and contact details: 20

“(b) for an employer, self-employed person, private domestic worker, or shareholder-employee to whom section RD 3(2) to (4) of the Income Tax Act 2007 applies who is an individual, whether the individual is deceased and, if so,— 25

“(i) the individual’s date of death; and

“(ii) the name and contact details of the administrator or executor of the individual’s estate.

“(4B) In this section, **tax agent** has the same meaning as in section 3 of the Tax Administration Act 1994.” 30

39 Section 265 substituted

Section 265 is repealed and the following section substituted:

“265 Ancillary powers of Corporation

- “(1) In addition to services required to be provided under this Act, the Corporation may provide services under **subsection (2) or (4)**—
- “(a) that are outside the functions of the Corporation under section 262 (as long as the services are consistent with the purposes of this Act): 5
 - “(b) whether or not the services are provided to a person who would not otherwise have cover under this Act.
- “(2) The Corporation may provide services on a commercial basis, but only if— 10
- “(a) the service is provided by a Crown entity subsidiary of the Corporation; and
 - “(b) the provision of the service is a viable commercial proposition for the Crown entity subsidiary; and 15
 - “(c) the service being provided is one that is consistent with the role and functions of the Corporation under this Act; and
 - “(d) any decision to provide the service, and the provision of the service, is consistent with any relevant policy direction given by the Minister under section 103 of the Crown Entities Act 2004. 20
- “(3) **Subsection (2)** applies despite section 97(a) of the Crown Entities Act 2004.
- “(4) The Corporation may provide government services or payments funded by an appropriation by Parliament, other than on a commercial basis, but only if— 25
- “(a) the service being provided is one that is consistent with the role and functions of the Corporation under this Act; and 30
 - “(b) any decision to provide the service, and the provision of the service, is consistent with any relevant policy direction given by the Minister under section 103 of the Crown Entities Act 2004.
- “(5) All money received by the Corporation from an appropriation by Parliament for the purposes of **subsection (4)**, and the expenditure of that money, must be allocated and managed through the Accounts if it is reasonable and practicable to do 35

so; but otherwise it must be applied, accounted for, and reported on separately from the Accounts.”

- 40 Management of Accounts**
Section 274(3A) is repealed.
- 41 New section 278A inserted** 5
The following section is inserted after section 278:
“278A Annual financial condition report
“(1) The Corporation must—
 “(a) prepare an annual report on its financial condition as soon as practicable after the end of each financial year; 10
 and
 “(b) provide the report to the Minister.
“(2) The purpose of the report is to—
 “(a) provide impartial advice in relation to the Corporation’s operations, financial condition, and liabilities; and 15
 “(b) discuss the implications of any material risks to the Corporation that have been identified in the report; and
 “(c) if the implications of those material risks are adverse, set out operational and management responses to address those risks. 20
“(3) The report must—
 “(a) be prepared in accordance with generally accepted practice within the insurance sector in New Zealand; and
 “(b) contain the information required to achieve the purpose in **subsection (2)**. 25
“(4) The Minister must—
 “(a) provide a copy of the report to the Minister of Finance; and
 “(b) after complying with **paragraph (a)** but within 5 working days after receiving the report from the Corporation 30
 or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament, present the report to the House of Representatives.”
- 42 Section 291 repealed** 35
Section 291 is repealed.

43 Regulations relating to levies

- (1) Section 329(b)(ii) is amended by omitting “sections 169(1) and 193” and substituting “section 169(1)”.
- (2) Section 329 is amended by inserting the following paragraph after paragraph (c): 5
 “(ca) prescribing the terms and conditions of the system or systems of experience rating or of risk sharing referred to in **section 169(2)**.”
- (3) Section 329(g) is amended by omitting “sections 170 and 195” and substituting “section 170”. 10
- (4) Section 329(h) is amended by omitting “sections 170 and 195” and substituting “section 170”
- (5) Section 329(l) is amended by omitting “section 216” and substituting “**section 216(1) or (2)**”.
- (6) Section 329 is amended by repealing paragraph (m) and substituting the following paragraph: 15
 “(m) setting, in relation to a prescribed period, what portion of the Work Account, the Motor Vehicle Account, or the Earners’ Account is necessary to achieve,—
 “(i) in the case of the Work Account, the purpose 20
 specified in **section 169AA(1)(a)**; and
 “(ii) in the case of the Motor Vehicle Account, the purpose specified in **section 215(1)(a)**; and
 “(iii) in the case of the Earners’ Account, the purpose specified in **section 220A(1)(a)**.” 25
- (7) Section 329 is amended by adding the following subsection as subsection (2):
 “(2) Regulations made under **subsection (1)(ca)** may—
 “(a) specify the types of claims to which the system or systems of experience rating or of risk sharing referred to 30
 in **section 169(2)** apply; and
 “(b) make different provision for different classes of levy payers or in respect of different industries or levies.”

44 Schedules 1 and 4 amended

- (1) Schedule 1 is amended in the manner set out in **Part 1 of Schedule 1** of this Act. 35

- (2) Schedule 4 is amended in the manner set out in **Part 2 of Schedule 1** of this Act.

Part 2 Miscellaneous provisions

Validation

5

45 **Validation of disclosure of information for assessment of levies**

- (1) Every disclosure of the information specified in **subsection (2)** by the Commissioner of Inland Revenue to the Accident Compensation Corporation under section 85E of the Tax Administration Act 1994 that was made before the commencement of this section must be taken to be, and always to have been, lawful. 10
- (2) The information referred to in **subsection (1)** is as follows:
- (a) whether an employer, self-employed person, private domestic worker, or shareholder-employee to whom section RD 3(2) to (4) of the Income Tax Act 2007 applies has a tax agent and, if so, the tax agent's name and contact details: 15
 - (b) for an employer, self-employed person, private domestic worker, or shareholder-employee to whom section RD 3(2) to (4) of the Income Tax Act 2007 applies who is an individual, whether the individual is deceased and, if so,— 20
 - (i) the individual's date of death; and 25
 - (ii) the name and contact details of the administrator or executor of the individual's estate.
- (3) In this section, **tax agent** has the same meaning as in section 3 of the Tax Administration Act 1994.

Consequential amendments

30

46 **Consequential amendments to other Acts**

The enactments specified in **Schedule 2** of this Act are consequentially amended in the manner indicated in that schedule.

Transitional provisions for levies

- 47 Transfer of assets and liabilities to Work Account**
All assets and liabilities of the Residual Claims Account as it was immediately before the commencement of this section are, on that commencement, transferred to the Work Account. 5
- 48 Sections 330 and 331 of principal Act do not apply to making of regulations for Work Account in 2010–11 tax year**
Sections 330 and 331 of the principal Act do not apply to the making of regulations in relation to the Work Account for the 2010–11 tax year. 10
- 49 Levies continue to be payable**
- (1) This section applies to the amounts of levy that were, or will become, payable to the Residual Claims Account, the Motor Vehicle Account, or the Earners' Account as they were immediately before the commencement of this section. 15
- (2) The amounts to which this section applies—
- (a) continue to be due and payable; and
- (b) must be paid,—
- (i) in the case of the Residual Claims levy, to the Work Account; and 20
- (ii) in the case of the Motor Vehicle Account Residual levy, to the Motor Vehicle Account; and
- (iii) in the case of the Earners' Account Residual levy, to the Earners' Account. 25

Transitional provisions for other matters

- 50 Transitional provision for disentitlement for wilfully self-inflicted personal injuries and suicide**
To avoid doubt, this Act applies to disentitle a claimant for a wilfully self-inflicted personal injury, death, or suicide described in **section 119** of the principal Act (as inserted by this Act) only if the personal injury was suffered or, as the case may be, the death or suicide occurred on or after the commencement of this section. 30

- 51 Transitional provision for disentitlement for certain imprisoned offenders**
- To avoid doubt, this Act applies to disentitle a claimant who suffers a personal injury in the circumstances described in **section 122** of the principal Act (as substituted by this Act) only if the personal injury was suffered on or after the commencement of this section. 5
- 52 Claims for personal injury including hearing loss that have been lodged but not decided**
- (1) This section applies if— 10
- (a) a person has suffered a personal injury that includes any degree of hearing loss that is less than 6% of binaural hearing loss before the commencement of this section; and
 - (b) he or she has lodged a claim with the Accident Compensation Corporation under section 48 of the principal Act in respect of the personal injury before that commencement; and 15
 - (c) the Corporation has not made a decision on the claim before that commencement. 20
- (2) On or after the commencement of this section, the Corporation must make a decision on the claim in all respects as if **section 6** of this Act had not been enacted.
- 53 Claims for work-related gradual process, disease, or infection that have been lodged but not decided** 25
- (1) This section applies if—
- (a) a person has suffered a personal injury caused by a work-related gradual process, disease, or infection before the commencement of this section; and
 - (b) he or she has lodged a claim with the Accident Compensation Corporation under section 48 of the principal Act in respect of the personal injury before that commencement; and 30
 - (c) the Corporation has not made a decision on the claim before that commencement. 35

- (2) On or after the commencement of this section, the Corporation must make a decision on the claim in all respects as if **section 7** of this Act had not been enacted.

54 Assessment of vocational independence

An assessment of a claimant's vocational independence that has been commenced, but not determined, before the commencement of this section must, on or after that commencement, be considered and determined in all respects as if **sections 4(2), 9, and 44** (to the extent that it relates to clause 25 of Schedule 1 of the principal Act) of this Act had not been enacted.

55 Calculations of weekly earnings for weekly compensation

To avoid doubt, sections 223(3)(c)(i) and clauses **33, 34, 35, 36, 38, 39, 41, and 42** of Schedule 1 of the principal Act (as amended by this Act) apply to the calculation of weekly earnings for the purposes of weekly compensation that is payable in respect of a period of incapacity that commences only on or after the commencement of this section.

56 Calculations of weekly compensation for loss of potential earning capacity

To avoid doubt, clause 47 of Schedule 1 of the principal Act (as amended by this Act) applies to the calculation of weekly compensation for loss of potential earning capacity in respect of a claimant whose incapacity commences only on or after the commencement of this section.

57 Special provision for claimant already entitled to receive weekly compensation for loss of potential earning capacity

- (1) This section applies to a claimant who is entitled to weekly compensation for loss of potential earning capacity immediately before the commencement of this section.
- (2) The weekly compensation payable to the claimant is the amount of weekly compensation to which the claimant was entitled immediately before the commencement of this section.

- (3) However, if the calculation of weekly compensation for loss of potential earning capacity in respect of the claimant is, but for **subsection (2) and section 56**, more favourable to the claimant under clause 47(4) of Schedule 1 of the principal Act (as amended by this Act), then clause 47(4) applies despite **subsection (2) and section 56**. 5

58 Abatement of weekly compensation

To avoid doubt, clause 49 of Schedule 1 of the principal Act (as amended by this Act) applies to the abatement of a claimant's weekly compensation in accordance with that clause and clause 51 of Schedule 1 of the principal Act in respect of a period of incapacity that commences only on or after the commencement of this section. 10

59 Members of ministerial advisory panels not entitled to compensation 15

- (1) Nothing in this Act entitles a member of the ministerial advisory panel referred to in section 31 or 291 of the principal Act to any compensation in respect of the repeal of those sections and the removal of the panel, or for any fees or allowances that would otherwise be payable for the remainder of the term of an appointment affected by the repeals. 20
- (2) In this section, **member** includes the chair of the ministerial advisory panel referred to in section 31 or 291 of the principal Act.
-

Schedule 1
Amendments to Schedules 1 and 4
Part 1
Amendments to Schedule 1

s 44

Clause 25	5
Subclause (1A): omit “must” and substitute “may”.	
 Heading above clause 33	
Omit “claimant” and substitute “in permanent employment”.	
 Clause 33	
Repeal and substitute:	10
“33 Weekly earnings if earner had earnings as employee immediately before incapacity commenced: application of clause 34	
“(1) Clause 34 applies to a claimant who—	
“(a) was an earner immediately before his or her incapacity commenced; and	15
“(b) was in permanent employment at that time; and	
“(c) had earnings as an employee from that permanent employment at that time.	
“(2) If the claimant had permanent employment with more than 1 employer at that time, the weekly earnings of the claimant, in respect of each employer he or she had at that time, are as calculated separately under clause 34 and aggregated under clause 41.	20
“(3) For the purposes of this clause and clause 34, the claimant is regarded as having been in permanent employment if, in the opinion of the Corporation, he or she would have continued to receive earnings from that employment for a continuous period of more than 12 months after the date on which his or her incapacity commenced, if he or she had not suffered the personal injury.	25 30
“(4) Subclause (5) applies if—	
“(a) the claimant was in permanent employment (that was full-time employment) as an employee immediately before his or her incapacity commenced; and	35

Part 1—*continued*

Clause 33—*continued*

- “(b) before the employment, the claimant was employed by the same employer for less than 30 hours per week.
- “(5) The weekly earnings of the claimant is the greater of—
- “(a) the claimant’s weekly earnings calculated in accordance with clause 34: 5
- “(b) the claimant’s weekly earnings calculated in accordance with **clause 36**, as if the claimant were not in permanent employment immediately before his or her incapacity commenced.”

Clause 34

10

Heading to clause 34: insert “**in permanent employment**” after “**employee**”.

Subclause (1): omit “(from the claimant’s employment immediately before the claimant’s incapacity commenced)” and substitute “(from that permanent employment)”. 15

Subclause (2): omit “(from the claimant’s employment immediately before the claimant’s incapacity commenced)” and substitute “(from employment with that employer)”.

New clauses 35 and 36 inserted

Insert after clause 34:

20

“**35 Weekly earnings if earner had earnings as an employee not in permanent employment immediately before incapacity commenced: application of clause 36**

- “(1) **Clause 36** applies to a claimant who— 25
- “(a) was an earner immediately before his or her incapacity commenced; and
- “(b) had at that time earnings as an employee (from employment that was not permanent employment).

“(2) For the purposes of this clause and **clause 36**, employment is not permanent employment if, in the opinion of the Corporation, the claimant would have not continued to receive earnings from that employment for a continuous period of more 30

Part 1—*continued***New clauses 35 and 36 inserted—*continued***

than 12 months after the date on which his or her incapacity commenced, if he or she had not suffered the personal injury.

“36 Weekly earnings if earner had earnings as an employee not in permanent employment immediately before incapacity commenced: calculations 5

“(1) This subclause applies to each of the 4 weeks after the first week of incapacity. The claimant’s weekly earnings for each of the 4 weeks are calculated using the following formula:

$$\frac{a}{b}$$

where—

- a is the claimant’s earnings as an employee (from all employment that was not permanent employment) in the 4 weeks immediately before his or her incapacity commenced 10
- b is the number of full or part weeks during which the claimant earned those earnings as an employee in the 4 weeks immediately before his or her incapacity commenced. 15

“(2) This subclause applies to any weekly period of incapacity after the 4 weeks described in **subclause (1)**. The claimant’s weekly earnings for any such weekly period are calculated using the following formula: 20

$$\frac{a}{b}$$

where—

- a is the claimant’s earnings as an employee (from all employment that was not permanent employment) in the 52 weeks immediately before his or her incapacity commenced 25
- b is 52 or such smaller number, if adjustments are required under **subclause (4)**.

Part 1—*continued*

New clauses 35 and 36 inserted—*continued*

- “(3) For the purposes of this clause the following must be disregarded in calculating weekly earnings:
- “(a) any period during which the claimant was entitled to weekly compensation:
 - “(b) any continuous period of unpaid sick leave, during a 5
period of employment, of more than 1 week:
 - “(c) any period during which—
 - “(i) the claimant did not receive earnings as an employee; and
 - “(ii) the claimant did receive earnings as a self- 10
employed person or as a shareholder-employee; and
 - “(iii) those earnings ceased before the commencement of the claimant’s incapacity:
 - “(d) any earnings in respect of any period under **paragraph (a), (b), or (c)**. 15
- “(4) In item b of the formula set out in **subclause (2)**, the expression 52 is adjusted by deducting from it any number of weekly periods that **subclause (3)(a), (b), or (c)** applies to.
- “(5) For the purposes of **subclause (3)(c)**, the Corporation may determine the number of weeks that fairly and reasonably represent the period during which the claimant received earnings as a self-employed person or as a shareholder-employee.” 20

Clause 38

Subclause (5): omit “clauses 33 and 34” and substitute “clauses 33 to **36**”. 25

Clause 39

Subclause (1)(a): insert “or **clause 36**, whichever is applicable” after “clause 34”.

Subclause (4): omit “clauses 33 and 34” and substitute “clauses 33 to **36**”. 30

Subclause (5): omit “clauses 33 and 34” and substitute “clauses 33 to **36**”.

Part 1—*continued***Clause 41**

Subclause (1): omit “clauses 33 and 34” in each place where it appears and substitute in each case “clauses 33 to **36**”.

Subclause (3): omit “clauses 33 and 34” in each place where it appears and substitute in each case “clauses 33 to **36**”. 5

Subclause (5): insert “or **clause 36**” after “clause 34”.

Subclause (6): omit “clause 34” in each place where it appears and substitute in each case “clause 34 or **clause 36**”.

Clause 42

Subclause (1)(b): insert “**36,**” after “clauses 34,”. 10

Subclause (1)(c): omit “1 week” and substitute “5 weeks”.

Subclause (2): omit “first week of incapacity” and substitute “5-week period”.

Clause 47

Subclause (4): omit “multiplied by 125%”. 15

Clause 49

Subclause (3): repeal and substitute:

“(3) In clause 51(2), **earnings** includes any payment made on the termination of employment in respect of leave entitlements. The Corporation must treat such a payment as having been derived after the termination of employment for a period that is equal to the total period that the claimant could have taken as leave if the claimant had not received the payment.” 20

Part 2

Amendments to Schedule 4 25

Clause 7

Repeal and substitute:

“7 An employer who makes a payment to a shareholder-employee must, within the time within which the employer is required to furnish a return of income under section 33 of the 30

Part 2—*continued*

Clause 7—*continued*

Tax Administration Act 1994, deliver a statement of the total amount of shareholder-employee earnings paid or payable by the employer for the tax year to which the return relates.”

Clause 16(b)

Repeal and substitute:

5

“(b) pay to the Commissioner, on or before the due date, an earner levy, at the rate prescribed, on any earnings that do not exceed the specified maximum.”

Clause 18

Omit “and Earners’ Account Residual levy”.

10

Omit “or Earners’ Account Residual levy”.

Clause 19(a)

Omit “and Earners’ Account Residual levy”.

Clause 20

Omit “or Earners’ Account Residual levy”.

15

Schedule 2**s 46****Consequential amendments to other Acts****Health and Safety in Employment Act 1992 (1992 No 96)**Definition of **Residual Claims levy** in section 59(1): repeal.

Section 59(1): add: 5

“**Work Account levy** means the levy payable under section 168, 168A, 168B, or 211 of the applicable Act”.

Section 59(3): omit “Residual Claims levy” in each place where it appears and substitute in each case “Work Account levy”.

Income Tax Act 2007 (2007 No 97) 10

Section EF 3(5)(b): repeal.

Section EF 3(5)(e): repeal and substitute:

“(e) an Earners’ Account levy under section 283(2) of the Accident Insurance Act 1998.”.

New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84) 15

Section 16(2): omit “and (2)”.

Tax Administration Act 1994 (1994 No 166)

Section 81(1)(a)(ia): omit “sections 193 and 219” and substitute “section 219”. 20

Section 85E(2): add:

“(g) whether an employer, self-employed person, private domestic worker, or shareholder-employee has a tax agent and, if so, the tax agent’s name and contact details:

“(h) in the case of an employer, self-employed person, private domestic worker, or shareholder-employee who is an individual, whether the individual is deceased and, if so,—

“(i) the individual’s date of death; and

“(ii) the name and contact details of the administrator or executor of the individual’s estate.” 30

