

Injury Prevention, Rehabilitation, and Compensation Amendment Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from the committee of the whole House

Struck out

Subject to this Act,

Text struck out

New

Subject to this Act,

Text inserted

Hon Ruth Dyson

Injury Prevention, Rehabilitation, and Compensation Amendment Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act amended	2
Part 1	
Amendments to principal Act	
4 New section 167 substituted	2
167 Application and source of funds	2
5 New section 168B inserted	4
168B Self-employed persons to pay levies	4
6 New section 169 substituted	4
169 Rates of levies	4
7 New section 169A inserted	5
169A Limit on offsets in case of earnings as self- employed person	5
8 Classification of industries or risks	5
9 New section 171 substituted	6
171 Classification of self-employed persons and employees engaged in 2 or more activities	6
10 New section 172A inserted	7
172A Work Account levy not payable on earnings of self-employed person over specified maximum	7
11 New section 175 substituted	7
175 Risk adjustment of Work Account levies	7
12 Medical Misadventure Account renamed	8
13 Consequential amendments	8
Part 2	
Transitional provisions	
14 Transfer of assets and liabilities to Work Account	9
15 Sections 330 and 331 do not apply to making of regula- tions for Work Account for 2007–08 tax year	9
16 Payment of levies payable before 1 April 2007	9

**Schedule
Consequential amendments**

10

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Injury Prevention, Rehabilitation, and Compensation Amendment Act **2006**.

2 Commencement

This Act comes into force on **1 April 2007**.

5

3 Principal Act amended

This Act amends the Injury Prevention, Rehabilitation, and Compensation Act 2001.

Part 1

Amendments to principal Act

10

4 New section 167 substituted

Section 167 is repealed and the following section substituted:

“167 Application and source of funds

“(1) The purpose of the Work Account is to finance entitlements provided under this Act by the Corporation to employees, private domestic workers, and self-employed persons for work-related personal injuries (other than entitlements funded from the Residual Claims Account).

15

“(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

20

“(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.

25

“(3) The funds in the Work Account must be applied to meet the costs of—

30

- “(a) entitlements in respect of employees, private domestic workers, and self-employed persons for work-related personal injuries (other than entitlements funded from the Residual Claims Account); and
- “(b) entitlements in respect of employees, private domestic workers, and self-employed persons for personal injury caused by work-related gradual process, disease, or infection if—
- “(i) the employment task, or employment in the particular environment, giving rise to that personal injury was performed or occurred on or after 1 July 1999; and
- “(ii) the claimant was an employee, a private domestic worker, or self-employed when performing that task or in that environment (regardless of whether the claimant was an employee, a private domestic worker, or self-employed at the date on which the personal injury is regarded as having been suffered); and
- “(c) 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
- “(d) 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
- “(e) 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
- “(f) administering the Account; and
- “(g) audits and assessments referred to in **section 175**; and
- “(h) any other expenditure authorised by this Act.”

5 New section 168B inserted

The following section is inserted after section 168A:

“168B Self-employed persons to pay levies

“(1) A self-employed person must pay, in accordance with this Act and regulations made under it, levies to fund the Work Account. 5

“(2) A levy must relate to a prescribed period.

“(3) A self-employed person must pay the levy by the date specified for payment, whether in an invoice or other appropriate document given to the self-employed person by the Corporation or an agent of the Corporation, being a date not less than 2 months after the date of the invoice or other appropriate document.” 10

6 New section 169 substituted

Section 169 is repealed and the following section substituted: 15

“169 Rates of levies

“(1) Levies are to be paid under sections 168, 168A, and **168B** at a rate or rates prescribed in regulations made under this Act, and must be related in whole or in part to—

“(a) the amount of earnings paid, estimated to be paid, or deemed by regulations to have been paid by an employer to the employer’s employees for that period; or 20

“(b) the amount of earnings received for that period as a private domestic worker or deemed by regulations to have been received as a private domestic worker for that period; or 25

“(c) the level of earnings (other than earnings as an employee) derived, estimated to be derived, or deemed by regulations to be derived, by a self-employed person. 30

“(2) The extent of funds to be derived from levies under sections 168, 168A, and **168B** is to be calculated so that the cost of all claims under the Work Account is fully funded.”

7 New section 169A inserted

The following section is inserted after section 169:

“169A Limit on offsets in case of earnings as self-employed person

- “**(1)** In determining a person’s earnings as a self-employed person, 5
no offset may be allowed for the amount of—
“**(a)** any net loss of the person for an earlier tax year that
might otherwise be offset by the person under section
IE 1 of the Income Tax Act 2004; or
“**(b)** any part of the net loss of a loss attributing qualifying 10
company (as defined in section OB 1 of the Income Tax
Act 2004) attributable to the person as a shareholder of
that company under section HG 16 of the Income Tax
Act 2004.
“**(2)** If the result of the calculation of a person’s earnings as a self- 15
employed person is a negative amount and the person also
derives earnings as an employee, the person’s earnings as an
employee must not be reduced by the negative amount.”

8 Classification of industries or risks

- (1)** Section 170 is amended by repealing subsection (1) and sub- 20
stituting the following subsection:
“**(1)** The Corporation must classify an employer and a self-
employed person in an industry or risk class that most accu-
rately describes their activity, being an industry or risk class
set out in regulations made under this Act for the purposes of 25
setting levies payable under sections 168, **168B**, and 211.”
(2) Section 170 is amended by repealing subsection (4) and sub-
stituting the following subsections:
“**(4)** Regulations made under this Act must prescribe a Work
Account levy for each industry or risk class defined under 30
subsection (1).
“**(4A)** The regulations referred to in **subsection (4)**—
“**(a)** may, until the end of the 2009–10 tax year, prescribe the
levies at different rates for employers and self- 35
employed persons classified in the same industry or risk
class; and
“**(b)** must, until the end of the 2009–10 tax year, prescribe
the levies at a rate that does not increase or decrease the

- levy rate payable by employers or self-employed persons in a particular industry or particular risk class by more than 25% of the rate payable in the previous tax year; and
- “(c) must, after the end of the 2009–10 tax year, prescribe the levies at the same rate for employers and self-employed persons classified in the same industry or risk class.” 5
- (3) Section 170(5) is amended by inserting “or self-employed person” after “employer”. 10
- (4) Section 170 is amended by repealing subsection (6) and substituting the following subsection:
- “(6) The Corporation must separately account for the amounts—
- “(a) collected from each industry or risk class under sections 168, **168B**, and 211; and 15
- “(b) expended for the purposes of **section 167(3)** in respect of each industry or risk class.”
- (5) Section 170(8) is amended by inserting “or self-employed persons” after “employers”.
- 9 New section 171 substituted** 20
- Section 171 is repealed and the following section substituted:
- “171 Classification of self-employed persons and employees engaged in 2 or more activities**
- “(1) A self-employed person or (if section 170(3) applies) an employee who is engaged in 2 or more activities must be classified in the industry or risk class for whichever of those activities attracts the highest levy rate under the regulations. 25
- “(2) If a particular activity accounts for 5% or less of a self-employed person’s or an employee’s earnings for the year, then that activity need not be considered when determining the correct industry or risk class under **subsection (1)**. 30
- “(3) **Subsection (2)** applies only if the self-employed person’s or the employer’s records are sufficient and accurate enough to satisfy the Corporation that the apportionment of total earnings is correct.” 35

10 New section 172A inserted

The following section is inserted after section 172:

“172A Work Account levy not payable on earnings of self-employed person over specified maximum

Nothing in this Act requires a self-employed person to pay a Work Account levy on earnings that exceed the specified maximum.” 5

11 New section 175 substituted

Section 175 is repealed and the following section substituted:

“175 Risk adjustment of Work Account levies 10

“(1) A Work Account levy determined for the purposes of sections 168, **168B**, or 211 may be adjusted down, in accordance with regulations made under this Act, for a particular employer or a particular self-employed person on the basis of—

“(a) an audit of the employer’s or the self-employed person’s safety management practices; or 15

“(b) an assessment of the self-employed person’s safety management capabilities (including, for example, practices and qualifications).

“(2) To avoid doubt, regulations may limit the application of **subsection (1)** to— 20

“(a) any 1 or more industries or risk classes:

“(b) particular types of employers or self-employed persons classified in the same industry or risk class.

“(3) A Work Account levy determined for the purposes of section 168 may be adjusted up, in accordance with regulations made under this Act, for a particular employer on the basis of an audit of the employer’s safety management practices. 25

“(4) An audit of an employer’s or a self-employed person’s safety management practices must, and an assessment of a self-employed person’s safety management capabilities may, be conducted in accordance with an audit tool or audit tools that— 30

“(a) are approved by the Minister; and

“(b) measure safety management practice or safety management capability, as the case may be, against independent New Zealand or foreign standards. 35

“(5) If any upward adjustment of levies under **subsection (3)** is to occur for a particular employer, sections 178 to 180 apply.

- “(6) Adjustments to levies may be reassessed on the basis of any new audits or assessments.
- “(7) Regulations made for the purposes of **subsection (1)(a) or (3)** must, and regulations made for the purposes of **subsection (1)(b)** may, provide for the following matters: 5
- “(a) the level or levels of levy adjustment for different levels of compliance assessed by the audit tool or tools:
- “(b) the basis and conditions on which, and periods for which, Work Account levies may be adjusted:
- “(c) the frequency of, and circumstances under which, there may be additional audits or assessments of an employer’s or a self-employed person’s safety management practices or capabilities: 10
- “(d) the order in which applications for audits or assessments are to be dealt with: 15
- “(e) the approval of auditors by the Corporation.
- “(8) Section 331 (which prescribes consultation requirements for regulations relating to levy setting) applies in relation to the making of regulations for the purposes of this section as if the regulations prescribed rates of levies. 20
- “(9) The Corporation must decide—
- “(a) whether an adjustment to a Work Account levy is to be made; and
- “(b) the level of any adjustment.”
- 12 Medical Misadventure Account renamed 25**
- (1) The Account known immediately before the commencement of this Act as the Medical Misadventure Account is, on the commencement of this Act, renamed the Treatment Injury Account.
- (2) Unless in any case the context otherwise requires, every reference to the Medical Misadventure Account in any enactment or document is, after the commencement of this Act, to be read as a reference to the Treatment Injury Account. 30
- 13 Consequential amendments**
- (1) The principal Act is consequentially amended in the manner set out in **Part 1 of the Schedule.** 35
- (2) The Income Tax Act 2004 is consequentially amended in the manner set out in **Part 2 of the Schedule.**

Part 2
Transitional provisions

- 14 Transfer of assets and liabilities to Work Account**
All assets and liabilities of the Employers' Account and the Self-Employed Work Account (as they were immediately before the commencement of this Act) are, on the commencement of this Act, transferred to the Work Account. 5
- 15 Sections 330 and 331 do not apply to making of regulations for Work Account for 2007–08 tax year**
Sections 330 and 331 do not apply to the making of regulations in relation to the Work Account for the 2007–08 tax year. 10
- 16 Payment of levies payable before 1 April 2007**
Amounts of levy that were, or become, payable to the Employers' Account and the Self-Employed Work Account (as they were immediately before the commencement of this Act) in respect of any period before 1 April 2007— 15
- (a) continue to be due and payable; and
 - (b) must be paid into the Work Account.
-

Schedule Consequential amendments

Part 1

Consequential amendments to principal Act

Section 6(1)	5
Definition of Employers' Account : repeal.	
Definition of Medical Misadventure Account : repeal.	
Definition of Self-Employed Work Account : repeal.	
Paragraph (c) of the definition of suffers : insert "treatment injury or" after "in relation to".	10
Insert in their appropriate alphabetical order:	
" Treatment Injury Account means the Account described in section 228	
" Work Account means the Account described in section 167 ".	
Section 12	15
Heading to section 12: omit " Employers' Account " and substitute " Work Account ".	
Omit "Employers' Account" and substitute "Work Account".	
Section 31(6)	20
Omit "Employers' Account and the Self-Employed Work Account" and substitute "Work Account".	
Section 166	
Subsection (1)(a): omit "an Employers' Account" and substitute "a Work Account".	
Subsection (1)(c): repeal.	
Subsection (1)(g): omit "a Medical Misadventure Account" and substitute "a Treatment Injury Account".	25
Heading above section 167	
Omit and substitute " <i>Work Account</i> ".	
Section 168(1)	30
Omit "Employers' Account" and substitute "Work Account".	
Section 168A	
Subsection (1): omit "Employers' Account" and substitute "Work Account".	
Subsection (4): repeal.	35

Part 1—*continued*

Section 168A—*continued*

New

Subsection (5): omit “an employer levy” and substitute “a Work Account levy”.

Section 172

Heading to section 172: omit “**Employer levy**” and substitute “**Work Account levy**”.

Heading to section 172: insert “**of employee**” after “**earnings**”.

5

Subsection (1): omit “an employer levy” and substitute “a Work Account levy”.

New

Subsection (2)(a): omit “an employer levy” and substitute “a Work Account levy”.

Subsection (3): omit “employer levy” and substitute “Work Account levy”.

10

Section 180(1)

Omit “175(2)” and substitute “**175(4)**”.

Section 190(2)

Omit “206A” and substitute “**175**”.

15

Section 191

Heading to section 191: omit “**employer levy**” and substitute “**Work Account levy**”.

Subsection (1): omit “Employers’ Account” and substitute “Work Account”.

20

Heading above section 201

Repeal.

Sections 201 to 207

Repeal.

Section 218(4)(b)

25

Omit “the Medical Misadventure Account” and substitute “the Treatment Injury Account”.

Part 1—*continued***Heading above section 228**

Repeal and substitute “*Treatment Injury Account*”.

Section 228

Subsection (1): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”. 5

Subsection (2): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”.

Subsection (4): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”.

Section 229(3)

Omit “Medical Misadventure Account” and substitute “Treatment Injury Account”. 10

Section 230

Subsection (1): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”. 15

Subsection (2): omit “medical misadventure” and substitute “treatment injury”.

Section 232

Heading to section 232: omit “**employer levy**” and substitute “**Work Account levy**”. 20

Struck out

Subsection (1): omit “employer levy” and substitute “Work Account levy”.

New

Subsection (1): omit “an employer levy” and substitute “a Work Account levy”.

Subsection (4): omit “employer levy” and substitute “Work Account levy”. 25

Section 233(2)(c)(i)

Omit “Self-Employed”.

Part 1—*continued*

Section 239(1)	Omit “any of sections 170 (Employers’ Account levies), 195 (Residual Claims Account levies), and 205 (Self-Employed Work Account levies)” and substitute “either, or both, of sections 170 (Work Account levies) and 195 (Residual Claims Account levies)”.	5
Section 274(3A)	Omit “167(4)” and substitute “ 167(3)(b) ”. Omit “or section 201(4)”. Omit “Employers’ Account, the Residual Claims Account, and the Self-Employed Work Account” and substitute “Work Account and the Residual Claims Account”.	10
Section 329	Paragraph (b): repeal and substitute: “(b) prescribing earnings deemed,— “(i) for the purposes of section 169(1) , to have been paid by an employer to the employer’s employees or earned by a self-employed person; or “(ii) for the purposes of sections 169(1) and 193, to have been earned as a private domestic worker:”.	15
	Paragraph (g): omit “sections 170, 195, and 205” and substitute “ sections 170 and 195”.	20
	Paragraph (j): omit “175(5)” and substitute “ 175(7) ”.	
	Paragraph (n): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”.	
Section 330	Heading to section 330: omit “ medical misadventure ” and substitute “ treatment injury ”. Omit “Medical Misadventure Account” and substitute “Treatment Injury Account”.	25
Schedule 1	Clause 38(3): omit “section 202” and substitute “ section 168B ”. Clause 42(1)(a)(i): omit “section 202” and substitute “ section 168B ”. Clause 43(6): omit “Medical Misadventure Account” and substitute “Treatment Injury Account”.	30

Part 2
Consequential amendments to Income Tax Act 2004

Section EF 3(5)

Paragraph (a)(i): omit “Employers’ Account” and substitute “Work Account”.

Paragraph (c)(i): omit “Self-Employed Work Account under section 202” and substitute “Work Account under **section 168B**”.

5

Legislative history

12 October 2006	Introduction (Bill 83–1)
24 October 2006	First reading and referral to Transport and Industrial Relations Committee
14 December 2006	Reported from Transport and Industrial Relations Committee (Bill 83–1)
20 February 2007	Second reading
27 February 2007	Committee of the whole House (Bill 83–2)

