



**THE ACCIDENT REHABILITATION AND COMPENSATION
INSURANCE (TREATMENT AND RELATED TRANSPORT
OVERSEAS COSTS) REGULATIONS 1992**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 21st day of September 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 167 of the Accident Rehabilitation and Compensation Insurance Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Treatment and Related Transport Overseas Costs) Regulations 1992.

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

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

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

“Area health board” means an area health board constituted under the Area Health Boards Act 1983:

“Claimant” means a person who claims cover under the Act in respect of a work injury to which regulation 3 of these regulations applies:

“Emergency transport” means transport that—

(a) Occurs wholly outside New Zealand; and

(b) Commences within 24 hours of the work injury being suffered or the claimant being found, whichever is the later; and

(c) Is necessary for the purposes of obtaining urgent overseas treatment for personal injury; and

(d) Is provided at the request of a person equivalent to—

(i) A member of the New Zealand Police; or

(ii) An ambulance operator (as defined in the Accident Rehabilitation and Compensation Insurance (Costs of Transport Related to Treatment, Service, or Physical Rehabilitation) Regulations 1992*):

“Ordinarily resident in New Zealand” has, in relation to any person, the meaning given to it in the Accident Rehabilitation and Compensation Insurance (Ordinary Residence Definition) Regulations 1992†:

“Private hospital” means a licensed hospital as defined in section 118 of the Hospitals Act 1957:

“Public hospital” means any hospital, as defined in the Hospitals Act 1957, that is not a private hospital and is operated by the Crown or an area health board:

“Overseas treatment” means any treatment, service, or physical rehabilitation provided outside New Zealand for which the Corporation or exempt employer would be required to make a contribution towards the cost if the treatment, service, or physical rehabilitation were provided in New Zealand outside a public hospital and by a person who was not acting in the course of employment by the Crown or an area health board.

(2) In these regulations, unless the context otherwise requires, expressions defined in or for the purposes of the Act have the meanings so defined.

3. Overseas treatment and emergency transport costs in respect of work injuries suffered outside New Zealand—(1) Where, on or after the 1st day of July 1992, a work injury is suffered outside New Zealand by a

person who is ordinarily resident in New Zealand and that person incurs outside New Zealand, on account of that injury, costs in respect of overseas treatment or costs in respect of emergency transport or both, the Corporation or exempt employer shall, subject to subclauses (2) and (3) of these regulations and to the other provisions of these regulations, pay or contribute to those costs.

(2) The work injury must be a work injury for which there would be cover under section 8 of the Act if it had occurred in New Zealand.

(3) The remuneration for the employment out of which and in the course of which the work injury arose must be remuneration that, for income tax purposes, is treated as income derived in New Zealand.

4. Limitation in respect of costs of overseas treatment—Where overseas treatment is provided to the claimant more than 6 months after the date on which the work injury was suffered, nothing in regulation 3 of these regulations requires the Corporation or the exempt employer to pay or contribute to the costs incurred in respect of the overseas treatment so provided.

5. Limitation in respect of costs of emergency transport—Nothing in regulation 3 of these regulations requires the Corporation or the exempt employer to pay more than \$300 in respect of the costs of emergency transport.

6. Information to be provided by claimant—(1) The claimant shall provide information as to—

- (a) The date or dates on which the overseas treatment or emergency transport was provided; and
- (b) The specific nature of that overseas treatment or emergency transport.

(2) The claimant shall provide such information or declarations as the Corporation or exempt employer may require to verify—

- (a) That the claimant has suffered a work injury; and
- (b) That the overseas treatment or emergency transport was provided in circumstances that entitle the claimant to a payment under these regulations.

7. Payment of costs of overseas treatment or emergency transport—(1) Subject to these regulations, upon receipt of a work injury claim that relates to the costs of overseas treatment or the costs of emergency transport or both, the Corporation or exempt employer shall, if the Corporation or the employer accepts the claim, pay the lesser of—

- (a) The actual cost of the overseas treatment or the emergency transport, as the case may be; or
- (b) The amount that the Corporation or exempt employer would be required to pay in respect of those costs if the overseas treatment or the emergency transport, as the case may be, had been provided in New Zealand.

(2) For the purposes of calculating under subclause (1) of this regulation, the amount payable in respect of the overseas treatment, the Corporation or exempt employer shall calculate the payment that would have been made in respect of that treatment had it been provided in New Zealand

outside a public hospital by a person who was not acting in the course of employment by the Crown or an area health board.

(3) Subject to subclause (4) of this regulation, where any work injury claim relates to the costs of emergency transport or overseas treatment, the requirements of the Act or of any relevant regulations shall, with all necessary modifications, apply in relation to that work injury claim as if the work injury had occurred in New Zealand.

(4) The Corporation or exempt employer shall not be required to give prior approval before the emergency transport or overseas treatment is undertaken.

8. Person to whom costs payable—Any costs payable under these regulations by the Corporation or an exempt employer shall—

- (a) Where the costs have been paid by the claimant to the treatment provider or service provider, be paid to the claimant; or
- (b) Where the costs have been paid by the claimant's employer to the treatment provider or service provider, be paid to that employer; or
- (c) Where the costs have not been paid by the claimant or the claimant's employer, be paid, if the claimant so requests, to the treatment provider or service provider.

9. Exempt employers—Nothing in these regulations limits the liability of an exempt employer (or any other employer) under section 29 of the Act.

10. Revocation and saving—(1) The Accident Compensation (Overseas Treatment Costs) Regulations 1989* are hereby revoked.

(2) The revocation of the Accident Compensation (Overseas Treatment Costs) Regulations 1989 by subclause (1) of this regulation shall not affect any claim made for payment for costs incurred overseas before the 1st day of July 1992, and any such claim may be dealt with as if those regulations were still in force.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide that where, on or after 1 July 1992, a work injury is suffered outside New Zealand by a person who is ordinarily resident in New Zealand, the Accident Rehabilitation and Compensation Insurance Corporation or the exempt employer will be required, subject to the regulations, to pay the costs of any emergency transport or overseas treatment.

The person must be engaged in New Zealand-based employment at the time when the person suffers the injury outside New Zealand.

The total amount that may be paid for emergency transport may not exceed \$300.

Claims for costs incurred overseas before 1 July 1992 may be made and dealt with under the Accident Compensation (Overseas Treatment Costs) Regulations 1989 notwithstanding that those regulations are revoked by these regulations.

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

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

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