



COVERSHEET

Minister	Hon Iain Lees Galloway	Portfolio	ACC
Title of Cabinet paper	Accident Compensation (Experience Rating) Amendment Regulations 2020	Date to be published	20 April 2020

List of documents that have been proactively released

Date	Title	Author
14 February	Accident Compensation (Experience Rating) Amendment Regulations 2020	Office of the Minister for ACC
18 February	LEG-20-MIN-0022	Secretary for Cabinet Legislation Committee

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister for ACC
Chair, Cabinet Legislation Committee

ACCIDENT COMPENSATION (EXPERIENCE RATING) AMENDMENT REGULATIONS 2020

Proposal

1. I propose that the Cabinet Legislation Committee authorise the submission of the *Accident Compensation (Experience Rating) Amendment Regulations 2020* to the Executive Council.

Policy

2. ACC injury cover is managed under five separate Accounts that are funded through levies, Government appropriation, or a combination of both. Three of the Accounts – the Work Account, Earners' Account and the Motor Vehicle Account – are funded solely through levies.
3. Section 169 of the Accident Compensation Act 2001 allows regulations to establish a system of experience rating for Work Account levy payers. The experience rating programme adjusts a business's Work levy up or down based on its claims history over three prior years.
4. Under experience rating, large businesses (those with an annual levy of \$10,000 or more) are compared to their industry peers and can receive a discount of up to 50% or an increase of up to 75% on their levy. Small businesses (those with an annual Work levy of less than \$10,000) can receive a discount or loading of 10% on their Work levy based on their individual claims history under the no-claims discount programme.
5. On 10 December 2018, Cabinet agreed to enhancements to ACC's experience rating programme, to take effect from 1 April 2020 [CAB-18-MIN-0619 refers]. The enhancements aim to simplify and improve the responsiveness of the programme, and were in addition to 'business as usual' changes already implemented by the *Accident Compensation (Experience Rating) Regulations 2019*.
6. The enhancements make various changes to how levy discounts and increases are calculated. The most significant change lowers the level of earnings at which given loadings or discounts apply when calculating the experience rating. This linking of experience rating to the total earnings of a business's employees is known as credibility weighting.
7. There is also a change from giving equal weight to each tax year in the three year experience period to give more weight to the most recent year and less weight to earlier years – using weights of 100%, 70% and 40% respectively. This ensures an

employer's experience rating adjustment better reflects their more recent claims and any improvements to safety management. This change requires ACC to perform calculations for each tax year separately before adding them together in the experience rating calculation.

8. Other changes are to remove the industry modifier and smoothing adjustment from the experience rating calculation. The industry modifier was not achieving its purpose of improving industry co-operation so ACC has introduced more effective alternatives.
9. The final change is to round the experience rating to the closest rate in a set of fixed discount and penalty levels, eg -10%, 0, +10%. This is intended to reduce levy volatility caused by small changes in the experience rating modifier from year to year.

Timing and 28-day rule

10. The *Accident Compensation (Experience Rating) Amendment Regulations 2020* (the Regulations) will be made on 24 February. They will come into force on 1 April 2020, the day the 2020/21 levy year begins. The Regulations will be gazetted in February 2020.

Compliance

11. The proposed regulations comply with each of the following:
 - 1.1. the principles of the Treaty of Waitangi;
 - 1.2. the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*;
 - 1.3. the principles and guidelines set out in the *Privacy Act 1993*;
 - 1.4. relevant international standards and obligations;
 - 1.5. the Legislation Design and Advisory Committee's Legislation Guidelines (2018 edition).
12. Sections 330 and 331 of the Act require consultation, recommendation and reporting requirements to be met. These sections were complied with through the 2019/20 and 2020/21 levy setting process (which includes ACC reporting on the basis of its levies and proposed changes to them, and consulting on them, as well as consulting proposed policy changes on my behalf) and through consultation with government agencies.

Regulations Review Committee

13. There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

14. The draft regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

15. A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted at the time the policy decisions were made on the levy rates and other levy matters for 2019/20 and 2020/21 [CAB-18-MIN-0619].

Publicity

16. ACC, as the operational agency, has a plan to communicate the experience rating enhancements with levy payers.

Proactive release

17. MBIE will proactively release this Cabinet paper and accompanying Cabinet minute. No redactions are proposed.

Consultation

18. The following government agencies were consulted on the Cabinet Economic Development Committee paper regarding the 2019/20 and 2020/21 ACC Levies, including enhancements to experience rating: the Treasury, Ministry of Transport, Ministry of Justice, Ministry of Health, Ministry of Social Development, Te Puni Kōkiri, the Inland Revenue Department, New Zealand Customs Service, Ministry for Pacific Peoples, Ministry of Women's Affairs, New Zealand Transport Agency, ACC and WorkSafe. The Department of Prime Minister and Cabinet was informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

1. note that on 10 December 2018 Cabinet agreed to enhancements to ACC's experience rating programme [CAB-18-MIN-0619 refers];
2. note that the *Accident Compensation (Experience Rating) Amendment Regulations 2020* will give effect to the decisions referred to in paragraph 1 above;
3. authorise the submission to the Executive Council of the *Accident Compensation (Experience Rating) Amendment Regulations 2020*;
4. note that the *Accident Compensation (Experience Rating) Amendment Regulations 2020* will come into force on 1 April 2020;
5. note that sections 330 and 331 of the Act require consultation, recommendation and reporting requirements to be met;

6. note that all the requirements of sections 330 and 331 of the Act have been met.

Authorised for lodgement

Hon Iain Lees-Galloway
Minister for ACC

PROACTIVELY RELEASED