



## COVERSHEET

<b>Minister</b>	Hon Carmel Sepuloni	<b>Portfolio</b>	ACC
<b>Title of Cabinet paper</b>	Regulated Rates Review 2018/19 Recommendations: ACC Implementation	<b>Date to be published</b>	18 March 2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
July 2020	Regulated Rates Review 2018/19 Recommendations: ACC Implementation	Office of the Minister for ACC
29 July 2020	Regulated Rates Review 2018/19 Recommendations: ACC Implementation DEV-20-MIN-0154	Cabinet Office
25 June 2020	Regulatory Impact Summary: Proposals for updates to ACC regulations dealing with treatment payments	MBIE
March 2021	Accident Compensation Cost of Treatment Amendment Regulations 2021	Office of the Minister for ACC
11 March 2021	Accident Compensation Cost of Treatment Amendment Regulations 2021 LEG-21-MIN-0018	Cabinet Office

### Information redacted

**YES / NO** [select one]

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 COST OF TREATMENT AMENDMENT REGULATIONS 2021**

### **Proposal**

1. I propose that the Cabinet Legislation Committee authorise the submission of the *Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Amendment Regulations 2021* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2021* to the Executive Council.

### **Policy**

2. ACC is required to make payments towards the cost of rehabilitation of claimants. These payments are governed by treatment regulations, contracts with providers and, when necessary, 'non-contracted' arrangements.
3. ACC is required to biennially review the payments set by the treatment regulations to assess whether any adjustment is required to take into account changes in the costs of rehabilitation.
4. On 3 August 2020 Cabinet agreed to implement the results of the 2018/19 review of ACC's regulated payments for treatment [CAB-20-MIN-0364 refers]. These were:
  - 4.1. a general increase of 2.05% for treatment providers and 1.72% for Radiologists and providers of Hyperbaric Oxygen Treatment, to cover the two year review period
  - 4.2. to remove provisions in the regulations that require funding deductions for dental treatment, where a claimant has received previous treatment on the same tooth for a non-accident related purpose
  - 4.3. to separate 'specified treatment providers' in the regulations to provide, in future, for separate payment rates for Acupuncturists, Chiropractors, Occupational Therapists, Osteopaths, Physiotherapists, Podiatrists, and Speech Therapists.
5. The third recommendation, of separating the 'specified treatment providers' category in the treatment regulations into the various occupations it covers, would have no immediate material effect. That is because the proposed amendments to the treatment regulations would initially specify exactly the same payment rate for all the different occupations. This change had been proposed by ACC to signal that it would make future recommendations on separate payment rates for particular occupations.

6. However, after consultation with the Parliamentary Counsel Office (PCO), MBIE and ACC considered it would be easier, more efficient, and appropriate to give effect to the third recommendation only when amendments are required to introduce separate payment rates for particular occupations. Separate payment rates for particular occupations will be formulated by ACC as part of future reviews.
7. Public consultation on the third recommendation, to have separate payment rates for the various occupations in the specified treatment provider classification, has already taken place. However, the main aim of the consultation was merely to signal that the separate payment rates would happen at a future time, and that aim has been achieved.
8. When ACC communicates with treatment providers to inform them of the changes to regulated payments for treatment, it will note that separate payment rates for particular occupations within the specified treatment provider classification will be introduced as separate payment rates are formulated and consulted on.

### Timing and 28-day rule

9. The *Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Amendment Regulations 2021* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2021* are planned to come into force on 1 May 2021. In order to comply with the 28-day rule, the Regulations should therefore be notified in the New Zealand Gazette not later than 2 April 2021. However, an earlier notification is desirable to provide certainty for treatment providers updating their systems and processes with the new rates.

### Compliance

10. 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 2020*;
  - 1.4. relevant international standards and obligations;
  - 1.5. the Legislation Design and Advisory Committee's Legislation Guidelines (2018 edition).
11. Section 324(2) of the *Accident Compensation Act 2001* requires recommendation and consultation requirements to be met. The requirements in the section were complied with in the carrying out of the 2018/19 review of the cost of treatment regulations. This included ACC making recommendations from its review and MBIE undertaking a public consultation on the proposed changes on behalf of the prior Minister.

## Regulations Review Committee

12. There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Order 327.

## Certification by Parliamentary Counsel

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

## Impact Analysis

14. A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted at the time the decisions were made on the Regulated Rates Review 2018/19 Recommendations: ACC Implementation [CAB-20-MIN-0364].

## Publicity

15. ACC, as the operational agency, has a plan to communicate the changes to regulated payments for treatment with treatment providers.

## Proactive release

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

## Consultation

17. The following government agencies were consulted on the Cabinet Economic Development Committee paper: ACC, the Ministry of Health, the Treasury, the Ministry of Social Development, the Ministry for Women, and Te Puni Kōkiri. No substantive comments were received.

## Recommendations

I recommend that the Cabinet Legislation Committee:

1. **note** that on 3 August 2020 Cabinet agreed to implement the results of the 2018/19 review of ACC's regulated payments for treatment [CAB-20-MIN-0364 refers];
2. **note** that during the regulations drafting process it became clear that it was appropriate that the third recommendation of the review, to separate 'specified treatment providers' in the regulations to provide for separate payment rates for different occupations, be implemented after separate payment rates are formulated in future reviews;
3. **note** that the *Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Amendment Regulations 2021* and the *Accident Compensation*

*(Apportioning Entitlements for Hearing Loss) Amendment Regulations 2021* will give effect to the decisions referred to in paragraphs 1 and 2 above;

4. **authorise** the submission to the Executive Council of the *Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Amendment Regulations 2021* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2021*;
5. **note** that the *Accident Compensation (Liability to Pay or Contribute to the Cost of Treatment) Amendment Regulations 2021* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2021* will come into force on 1 May 2021;
6. **note** that section 324(2) of the *Accident Compensation Act 2001* requires that the responsible Minister receive a recommendation from ACC and that the responsible Minister be satisfied that consultation with the persons and organisations the Minister considers appropriate has occurred before recommending the making of an Order in Council under section 324;
7. **note** the advice of the Minister for ACC that the requirements of section 324(2) have been met.

Authorised for lodgement

Hon Carmel Sepuloni  
**Minister for ACC**