

## How to submit this form

# Submission form: Proposed amendments to the Accident Compensation (Review Costs and Appeals) Regulations 2002

The Ministry of Business, Innovation and Employment (MBIE) would like your feedback on proposals on updating the Accident Compensation (Review Costs and Appeals) Regulations 2002. Please provide your feedback by **5pm, on 28 March 2022**.

When completing this submission form, please provide comments, evidence, and any data that may aid your submission. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

## Instructions

**To make a submission you will need to:**

1. Fill out your name, email address, phone number and organisation.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
  - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
  - ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
  - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

## How to submit this form

### 4. Submit your feedback:

i. As a Microsoft Word document by email to [ACregs@mbie.govt.nz](mailto:ACregs@mbie.govt.nz) with subject line:  
*Consultation: Review Costs Regulations*

ii. By mailing your submission to:

The Manager, Accident Compensation Policy  
Ministry of Business, Innovation and Employment  
PO Box 1473

Wellington 6140  
New Zealand

## Submitter information

## Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

## Your name, email address, phone number and organisation

Name:	Jared Phillips
Email address:	Privacy of natural persons
Phone number:	
Organisation:	Dairy Workers Union Te Runanga Wai U (DWU)

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.
- MBIE may upload submissions or a summary of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because... [insert reasoning here]

## Please check if your submission contains confidential information

- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

## Proposed updates to the Accident Compensation (Review Costs and Appeals) Regulations 2002

### Proposed updates to the Accident Compensation (Review Costs and Appeals) Regulations 2002

#### Questions on the proposed objectives

1. Do you agree with the presented objectives?

Yes       No       Not Sure

2. Are there alternative objectives that should be considered to help shape the discussion? (please provide detail on any alternative objectives you consider relevant)

Nil

#### Questions on the proposed cost categories

3. What do you think about the proposed cost categories?

Simplifying the cost categories makes sense and the proposed categories are appropriate.

4. Do you agree with the proposed categories?

Yes       No       Not Sure

Why/ why not?

Nil

5. Are there any other alternative options for grouping the cost categories that could be used? Please provide supporting information.

Nil

#### Questions on Category 1 – Application costs

6. Should Application Costs (Category 1) remain separate from Representation Costs (Category 2)?

Yes       No       Not sure

Why/ why not?

Applicants should be able to claim the cost of simply lodging the application.

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7. Do you agree with the proposed increase in maximum costs awardable for Application Costs? (please circle or highlight your response)

Strongly Disagree
Disagree
Neither
Agree
Strongly Agree

### Questions on Category 2 – Representation costs

8. Based on the options provided in this document, what is your preferred option? (please circle or highlight your response)

2.1 One maximum limit for all representatives

OR

2.2 Sliding scale based on complexity and/or time and, ~~qualification of the representative.~~

Please provide the reasons for your view

A sliding scale makes sense for complexity. However, the DWU has reservations about how complexity is determined. The DWU is concerned that complexity can in fact be a reflection of poor case management, or other factors such as the involvement of multiple agencies (i.e. ACC and an AE/TPA). The DWU disagrees with differentiating representation costs on the basis of qualification and believes that if there is any under-representation by an advocate or a Lawyer this needs to be addressed elsewhere.

9. Do you have any other suggested options or groupings to categorise Representation Costs (Category 2)?

Nil

10. Is there any information to support or reject the distinction that is made between lawyers and advocates (Option 2.2)?

Nil

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11. Do the proposed new rates reflected in Option 2.2 reflect appropriate market rates for lawyers and advocates?

Yes     No     Not sure

If not, is there any information that can be shared to inform this discussion.

The 1A amount of \$660 under Option 2.2 for advocates is too low (page 19). It is lower than the current representation level shown of \$886.32

12. Do you agree with the proposed new maximum costs awardable for Representation costs (both options)? (please circle or highlight your response)

Strongly Disagree
Disagree
Neither
Agree
Strongly Agree

13. Do you think the proposed changes will increase access to justice (and therefore improve outcomes) for claimants?

Yes     No     Not sure

If not, why not?

Dairy Workers Union members will be in a better position to obtain support and evidence to provide to any investigation or decision-making about their disputed claims.

14. Is there any evidence/data or precedence that could be used to determine the complexity of a review (i.e. which cases should sit in which categories (ie A or B)?

Nil

### Questions on Category 3 – Medical and Other Report costs

15. Currently, the medical reports categories can be used for multiple reports. Is there any information to suggest the capped approach is inappropriate? Please provide supporting information.

The DWU agrees that it is very important to increase the amounts that can be awarded for medical reports. The cost of obtaining specialist reports is a significant barrier for claimants and often there is a shortfall between what is paid by claimants and what can be recovered. The proposed amount of \$4,150 seems a significant increase and would be sufficient in many cases. However, some specialist costs can be in the \$3000-\$5000 range and in some cases multiple reports are necessary. We believe

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that the matter of capping must be assessed against the principle in Anderson v ACC that more than one report may be funded.

16. Do you think the proposed new rates will increase access to medical reports (and therefore access to justice) for claimants?

Yes     No     Not sure

As discussed above

17. Do you agree with the proposed new maximum costs awardable for Medical and Other Report Costs? (please circle or highlight your response)

Strongly Disagree
Disagree
Neither
Agree
<b>Strongly Agree</b>

18. Do you think removing the distinction between registered specialist reports and other reports will improve claimant's access to reports?

Yes     No     Not sure

Please explain your view.

Nil.

### Questions on Category 4 – Other expenses

19. Do you think the new rates will increase access to in-person reviews for rural communities?

Yes     No     Not sure

Why/ why not?

Most of the DWU's membership lives and work in regional parts of Aotearoa New Zealand. The increase to the rates is important to cover injured DWU members costs such as travel, accommodation and - where required - time taken off work for appointments in the major centres.

20. How can 'Other Expenses' (Category 4) be improved to enhance support for rural communities?

Please provide supporting information.

Nil.

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21. Do you agree with the proposed new maximum costs awardable for Other Expenses? (please circle or highlight your response)

Strongly Disagree
Disagree
Neither
Agree
<b>Strongly Agree</b>

### Questions on the overall proposed changes to the Regulations

22. Are there any other costs, benefits, or unintended consequences of the proposed changes that have not been considered in this document?

Nil

23. Do you think MBIE should conduct regular reviews of the maximum cost caps in the regulations?

Yes     No     Not sure

24. Do you have any comments on the alternative approaches considered?

Nil



## Proposed updates to the Accident Compensation (Review Costs and Appeals) Regulations 2002

### Questions on Alternative Dispute Resolution (ADR)

25. If the regulated timeframes are extended while clients are engaged in ADR, what effect do you think it will have on claimant's decisions to use ADR and the external review process? Please provide supporting information.

No comments

26. Have you incurred costs as a result of undertaking ADR? What are these and did it impact on decisions to proceed with an external review?

Nil

27. If a level of reimbursement for costs was to be included for ADR in the Regulations, what should be taken into consideration?

Nil

28. Would the inclusion of a level of reimbursement for ADR costs change your position on undertaking ADR in comparison to an external review?

Nil