



COVERSHEET

Minister	Hon Carmel Sepuloni	Portfolio	ACC
Title of Cabinet paper	Accident Compensation (Access Reporting and Other Matters) Amendment Bill: Approval for Introduction	Date to be published	24 January 2023

List of documents that have been proactively released		
Date	Title	Author
November 2022	Accident Compensation (Access Reporting and Other Matters) Amendment Bill: Approval for Introduction	Office of the Minister for ACC
10 November 2022	Accident Compensation (Access Reporting and Other Matters) Amendment Bill: Approval for Introduction LEG-22-MIN-0189 Minute	Cabinet Office

Information redacted: YES

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Some information has been withheld for the reasons of Confidential advice to government.

In Confidence

Office of the Minister for ACC

Chair, Cabinet Legislation Committee

**Accident Compensation (Access Reporting and Other Matters) Amendment Bill:
Approval for Introduction**

Proposal

- 1 I propose that the Cabinet Legislation Committee authorise the introduction of the Accident Compensation (Access Reporting and Other Matters) Amendment Bill (the Amendment Bill).

Policy

Background

- 2 On 8 August 2022, Cabinet agreed to three proposals for inclusion in the Accident Compensation (Access Reporting and Other Matters) Amendment Bill (the Amendment Bill) to amend the Accident Compensation Act 2001 (AC Act) [CAB-22-MIN-0299 refers]. Cabinet agreed to further refine these proposals in October 2022 [SWC-22-MIN-0180 refers].
- 3 The Amendment Bill focuses on improving access for those experiencing access barriers to the Accident Compensation Scheme (AC Scheme) – in particular Māori, and other population groups the Corporation may identify such as women, Pacific peoples, disabled people, and ethnic communities. It will also support my work to address equity issues in the AC Scheme by enhancing access to ACC compensation for low-income earners.
- 4 The three proposals are to:
 - 4.1 introduce a new duty for ACC to report annually on how Māori and other population groups are accessing its services, with research and analysis to understand the disparities and barriers to access and their causes;
 - 4.2 amend the AC Act's purpose to ensure ACC monitors access to the scheme by Māori and other population groups so that its services are delivered in a way that supports that access; and
 - 4.3 bring forward eligibility for the minimum rate of weekly compensation (for full time work) from the sixth to the second week of incapacity.
- 5 The first and second proposals deliver on our 2020 Election Manifesto to “return ACC to its original purpose of assisting all New Zealanders who have had an injury”. The third proposal meets our Manifesto commitment of “addressing the changes National made when last in office, which unfairly


disadvantaged tens of thousands of New Zealand workers". The change reverses a rule which restricted entitlements.

Need for legislation

- 6 An Amendment Bill to the AC Act is required to progress these legislative changes.
- 7 On 8 August 2022, Cabinet agreed to include these proposals in the Amendment Bill and noted that it has a category 4 priority in the 2022 Legislation Programme (to be referred to a select committee in 2022).

Possible contentious aspects of the Amendment Bill

Māori and other populations in new duty to report

- 8 The new annual reporting duty requires ACC to report annually on how Māori and other population groups are accessing the AC Scheme, and for those reports to include analysis of any identified disparities of barriers to access and the causes or drivers of those disparities or barriers.
- 9 The new reporting requirement is not intended to be prescriptive about the population groups to be included. However, in recognition of the Crown's responsibilities as a Treaty partner under the Treaty of Waitangi/te Tiriti o Waitangi, Māori are specified as a population group that must be included in each report.
- 10 Data I requested from ACC last year showed disparities in access to the Scheme for Māori as well as women, Pacific peoples, disabled people, ethnic communities, children and young people and seniors. Given the focus of the new reporting requirement the Amendment Bill will place on ACC, it is highly likely that ACC will also report on access for these population groups for at least the initial period of the new requirement's implementation.
- 11 There may be feedback that the Amendment Bill does not go far enough and should include a Treaty of Waitangi/Te Tiriti o Waitangi clause. The duty to report is intended to inform a better understanding of barriers to access which could inform a number of future reforms, including a Treaty of Waitangi/Te Tiriti o Waitangi clause for the AC Act.
- 12 This would involve considerable engagement with Māori, underpinned by a full policy process to determine the specific measures required in the ACC context to give effect to the principles of the Treaty of Waitangi/Te Tiriti o Waitangi. Understanding the barriers to access for Māori would provide important insights and knowledge to inform any future work in this area.
- 13 Confidential advice to government 

Addressing disparities

- 14 The new annual reporting duty requires ACC to report on how population groups are accessing the AC Scheme, identifying any disparities and barriers, and causes or drivers of those disparities and barriers.
- 15 There may be feedback that the reporting should also include actions ACC will take to address any identified disparities and barriers. The new reporting duty is not intended to be an Action Plan or Strategy for improvement.
- 16 That is because ACC is unlikely to be able to address all disparities and barriers on its own. Many will likely be the result of complex systemic factors and will require system wide responses, such as those already underway in the health reforms.
- 17 The intention of the reporting is therefore primarily to improve transparency and accountability. However, it is also likely to lead to some changes in ACC's operations where its practices or processes are identified as causing barriers.

Financial Implications

- 18 Proposals one and two have no, or negligible, financial implications. The outcomes of the reporting could inform future changes to AC Scheme settings or operations that would be subject to separate decisions-making processes.
- 19 Proposal three will impact levy payers (as earnings-based weekly compensation is not available to those not earning). This means no Budget funding is required, but there will be impacts on ACC's levied accounts.
- 20 The estimated annual cost increase of proposal three is \$4 million per year across all of ACC's levied accounts. The impact on the Outstanding Claims Liability and levied accounts is negligible.¹

Impact analysis

- 21 The Treasury's Regulatory Impact Analysis team has determined that the three proposals in the Amendment Bill are exempt from the requirement to provide a Regulatory Impact Statement on the basis that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Compliance

- 22 The Amendment Bill complies with the following:
 - 22.1 the principles of the Treaty of Waitangi;
 - 22.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

¹ The Outstanding Claims Liability is the actuarially-estimated lifetime cost (up to 80 years) of all claims incurred at a given point in time.

- 22.3 the disclosure statement requirements, as set out in Cabinet Office Circular CO 13(3): *Disclosure Requirements for Government Legislation*. A full disclosure statement has been prepared for this Bill;
- 22.4 the principles and guidelines set out in the Privacy Act 2020;
- 22.5 relevant international standards and obligations; and
- 22.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 23 In preparing this paper, the Ministry of Business, Innovation and Employment has consulted with the Parliamentary Counsel Office, ACC, the Treasury, Ministry of Health, Inland Revenue, Ministry for Women, Ministry for Pacific Peoples, Ministry of Social Development, Office for Disability Issues, and Ministry of Justice.
- 24 The Department of the Prime Minister and Cabinet, and Te Puni Kōkiri have been informed about this proposal.

Binding on the Crown

- 25 The Amendment Act will bind the Crown.

Creating new agencies or amending law relating to existing agencies

- 26 The Amendment Bill amends the Accident Compensation Act 2001. It puts new statutory obligations on ACC.
- 27 It does not create any new agencies.

Allocation of decision-making powers

- 28 The Amendment Bill does not involve the allocation of decision-making powers between the executive, the courts, or tribunals.

Associated regulations

- 29 No regulations will be needed to bring the Amendment Bill into operation.

Other instruments

- 30 No other instruments will be needed to support the Amendment Bill's operation.

Definition of Minister or department

- 31 The Amendment Bill does not contain a definition of a Minister, department, or chief executive or any equivalent positions.

Commencement of legislation

- 32 The provisions relating to the new reporting duty and purpose change will commence on the date the Bill receives Royal Assent.
- 33 The provisions related to bringing forward eligibility for the minimum rate of weekly compensation (for full time work) from the sixth to the second week of incapacity would commence three months after the date on which the Amendment Bill receives Royal assent. This will give ACC the time needed for implementation of the new provisions.

Parliamentary stages

- 34 I propose that the Amendment Bill be introduced into the House in November 2022, referred to the Education and Workforce Select Committee.

Proactive Release

- 35 Subject to Cabinet's agreement to the recommendations in this paper, I propose to issue a press release when the Amendment Bill is introduced.
- 36 I intend to proactively release this Cabinet paper on the Ministry of Business, Innovation, and Employment's website, subject to any appropriate withholding of information.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Accident Compensation (Access Reporting and Other Matters) Bill holds a category 4 priority on the 2022 Legislation Programme (to be referred to a select committee in 2022);
- 2 **note** that the Accident Compensation (Access Reporting and Other Matters) Amendment Bill will amend the purpose of the Accident Compensation Act 2001, introduce a new duty for ACC to report annually on how Māori and other population groups are accessing ACC and bring forward eligibility for the minimum rate of compensation from the sixth to the second week of incapacity;
- 3 **approve** the Accident Compensation (Access Reporting and Other Matters) Amendment Bill for introduction, subject to the final approval of the Government caucus and sufficient support in the House of Representatives;
- 4 **authorise** the Parliamentary Counsel Office to make minor and technical amendments to the Accident Compensation (Access Reporting and Other Matters) Amendment Bill that may arise before introduction;
- 5 **agree** that the Accident Compensation (Access Reporting and Other Matters) Amendment Bill be introduced in November 2022; and
- 6 **agree** that the Government propose that the Accident Compensation (Access Reporting and Other Matters) Amendment Bill be -

IN CONFIDENCE

- 6.1 referred to the Education and Workforce Select Committee for consideration; and
- 6.2 enacted by August 2023.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for ACC