MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Matt Doocey	**Portfolio**	ACC
Title of Cabinet paper	ACC Financial Sustainability – levies and performance improvement	**Date to be published**	13 December 2024

List of documents that have been proactively released		
Date	**Title**	**Author**
28 August 2024	*Consultation on 2025/26 – 2027/28 ACC levies*	*Office of the Minister for ACC*
28 August 2024	*ECO-24-MIN-0174 - 2025/26 – 2027/28 ACC Levies: Approval to Consult*	*Cabinet Office*
25 November 2024	*ACC Financial Sustainability – levies and performance improvement*	*Office of the Minister for ACC*
25 November 2024	*CBC-24-MIN-0118 – Cabinet Business Committee Minute of Decision*	*Cabinet Office*
25 November 2024	Appendix 5 – Cost Recovery Impact Statement 2025/26, 2026/27, 2027/28 ACC Levies	*MBIE*
25 November 2024	Appendix 6 – RIS New classification unit for home improvement stores and sports and physical recreation	*MBIE*
25 November 2024	Appendix 7– RIS Removing ACC's No Claims Discount	*MBIE*
25 November 2024	Appendix 8 – RIS Reviewing motorcycle groupings to enable levy rates to better reflect crash and claim data	*MBIE*
25 November 2024	Appendix 9 – RIS ACC's Ride Forever programme	*MBIE*
25 November 2024	Appendix 10 – RIS Levy portion for plug-in hybrids and battery electric vehicles	*MBIE*
25 November 2024	Appendix 11 – RIS ACC's Fleet Saver	*MBIE*
25 November 2024	Appendix 12 – RIS ACC interest rates and bad debt	*MBIE*

Information redacted **YES / NO** *(please select)*

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Regulatory Impact Statement: Removal of ACC’s No Claims Discount

Coversheet

Purpose of Document	
Decision sought:	This document provides an analysis of a proposal for Cabinet on removing, from ACC’s experience rating framework, the No Claims Discount (NCD) product and amending the Experience Rating (ER) product. It is proposed to remove the NCD product and lessen or remove the cross-subsidisation of the ER product to make the experience rating framework a more effective financial incentive to prevent injuries and make levies fairer. The analysis covers the following options for proceeding with the proposal: • Option One: Status quo: Maintain the current NCD • Option Two: Remove NCD and make ER fully self-funding. • Option Three: Remove NCD and reduce the degree of cross-subsidisation of ER.
Advising agencies:	MBIE (with input from ACC as operational agency)
Proposing Ministers:	Minister for ACC
Date finalised:	20 November 2024

Problem Definition
ACC provides incentive products, as part of an experience rating framework, that adjust the Work Account levy of levy payers to reflect the past claims experience of covered workers (whether better or worse than average). The objective of the experience rating framework is to provide a financial incentive for employers to change behaviour to improve workplace safety, and to make levies fairer to business by reducing cross-subsidies between low-risk and high-risk employers. The problem is that the evidence indicates the NCD product (one of two in the experience rating framework) is particularly ineffective at changing employer behaviour and making levies fairer. The NCD imposes administrative costs on ACC and its incentive, which is only a 10% discount to the standard ACC levy, is heavily cross-subsidised by other Work Account levy payers. A study indicated that the behaviour of most qualifying levy payers is unaffected by the incentive.

Executive Summary

Employers, self-employed and shareholder employees have to pay Work Account levies to fund ACC scheme coverage of work-related injuries.

Work Account levy payers may be covered by the experience rating framework (the framework) that is intended to provide an incentive to improve workplace safety. It does this by modifying the standard levy to reflect recent claims history - businesses with low claim rates get a levy discount, while businesses with high claim rates have levies increased.

The framework includes the Experience Rating product (ER) that is for larger businesses and the No Claims Discount product (NCD) for smaller businesses. ER provides discounts of up to 50% of the levy or loadings (increases) of up to 100%, based on a businesses' prior relative claims performance compared to their peers. NCD can provide businesses a 10% levy discount or a 10% loading, based on prior weekly compensation and fatal claims.

The evidence indicates NCD is ineffective at both changing behaviour and making levies fairer. It is also heavily cross-subsidised by other Work Account levy payers.

To make the experience rating framework more effective and fairer it is proposed to remove the NCD product and reduce the cross-subsidisation of the ER product.

There is analysis considering retaining the status quo compared to removing NCD and removing all or some of the cross-subsidisation of ER.

Limitations and Constraints on Analysis

The options considered in this RIS focus on the operation of the current experience rating framework. The recent data used has been collected by ACC. Other findings come from an *Evaluation of ACC's Experience Rating* by MBIE and ACC, finalised in 2015. Given the NCD has remained unchanged since it was introduced in 2011, and the behaviour of employers and workers is unlikely to have changed, we consider the research is still relevant.

Given the findings of the 2015 evaluation, a case could have been made for the removal of NCD before now. We have not investigated why a change was not recommended earlier.

We also cannot find any policy rationale explaining why the current heavy cross-subsidy for Work Account levy payers covered by the experience rating framework came about and has continued.

Responsible Manager(s) (completed by relevant manager)

Bridget Duley
Manager, Accident Compensation Policy
Ministry of Business, Innovation and Employment

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Ministry of Business, Innovation and Employment
Panel Assessment & Comment:	MBIE's Regulatory Impact Analysis Review Panel has reviewed the Regulatory Impact Statement (the Statement) prepared by MBIE. The panel considers that the information and analysis summarised in the Statement meets the Quality Assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

How ACC is funded

1. ACC is funded through a mixture of levies and government appropriations. The *Accident Compensation Act 2001* (the AC Act) makes the Minister for ACC responsible for setting appropriate levies to maintain the various Accounts in a fully funded state.
2. ACC operates five accounts: Work, Earners', Motor Vehicle, Non-Earners' and Treatment Injury. The Non-Earners' Account (NEA) and a portion of the Treatment Injury Account are funded through appropriation. The rest of the accounts (collectively the levied Accounts) are funded through levies.
3. The Work Account is funded through levies on the entities that benefit from ACC's coverage of work-related injuries – that is employers, self-employed and shareholder-employees.
4. The levied Accounts and the NEA operate on a fully funded principle. Full funding for a funding period means that the Scheme is sufficiently funded for the lifetime (100-year) cost of claims arising from that funding period. This ensures intergenerational equity, so that costs of current injuries are not transferred to future generations.

Levy rates and experience rating framework

5. Levy rates are set by regulation so they can be easily adjusted on a regular basis to ensure they are meeting, as much as considered appropriate, the fully funded principle. Currently the levy review cycle is three years.
6. The levy regulation setting powers of the AC Act (section 169(2)) allows for a system of experience rating to be established that adjusts the levies for a particular employer, private domestic worker or self-employed person. This has been implemented as an experience rating framework.
7. The experience rating framework (the framework) is intended to incentivise employers to improve workplace safety. It does this by modifying an employer's standard Work Account levy to reflect their recent claims history - businesses with lower claim rates are provided a levy discount, while businesses with higher claim rates have their levies increased.
8. The framework includes two products. The first is the Experience Rating product (ER) that is for larger businesses (liable to at least $10,000 of Work Account levies in each of three previous years). ER provides discounts of up to 50% of the standard levy or loadings (increases) of up to 100%, based on a businesses' past relative claims performance compared to their peers.
9. The second product is the No Claims Discount (NCD) for micro, small and medium businesses. NCD provides these businesses a 10% levy discount (if they have had no fatal claims and no weekly compensation claims) or a 10% loading (if they have had more than 70 days of weekly compensation claims). To be eligible for NCD, a business has to have met a minimum liable earnings threshold, based on the minimum rate of weekly compensation, in each of three previous experience years. The most recent year of experience for NCD, the 2022/23 year, had a minimum liable earnings threshold of $42,465.

Most Work Account levy payers do not qualify for the experience rating framework

10. To fall under the experience rating framework, a Work Account levy payer has to have had three contiguous years of claims experience where it exceeded the appropriate levies or earnings thresholds.

11. Given the dynamic nature of the small business and self-employed sector in particular, the bulk of Work Account levy payers are too new or not consistently earning sufficient income to qualify for the experience rating framework.

12. The 2023 Work Account levy invoices show about 13,000 levy payers qualified for the ER product and 179,000 for NCD, while a clear majority of 463,000 (around 70%) fell outside the experience rating framework. Older data shows a similar pattern.

13. However, although the bulk of Work Account levy payers do not qualify for the experience rating framework, their low earnings mean they generate only about 20% of the total earnings that are subject to Work Account levies.

Experience rating framework subsidised by non-qualifying levy payers

14. Neither the NCD nor ER product are currently fully funded, meaning that the total cost of the discounts given is greater than the extra levy revenue collected from the loadings applied. The shortfall is covered by those Work Account levy payers not eligible for the experience rating framework. This cross-subsidisation is not contributing to a fairer levy system.

15. For the 2023 levy year ACC charged these non-qualifying businesses an additional $12.7 million in levies to fund the discounts for NCD and ER customers.

Relevance to strategic goals

16. On-going management of the ACC levy (and appropriation) system is required to ensure accurate, fair and equitable collection of revenue to fund scheme activity. The levy system can reward safer levy payers and ensure that levy payers participating in less safe activities contribute their fair share of the cost of prevention, care and recovery funded by ACC.

What is the policy problem or opportunity?

The NCD does not improve behaviour

17. There is little evidence that the NCD improves the behaviour of those levy payers it covers. A 2015 evaluation by MBIE and ACC found the ER system did not appear to be working well as a direct influence on employers' health and safety management (HSM) systems. Evidence of efficacy in reducing claim rates was weak and generally limited to larger businesses in higher risk industries.

18. The evaluation found that even though the ER system provides a financial incentive, the incentive is not economic because it does not operate in a way that makes the benefit of a levy discount tangible to employers. The level of incentive (or penalty) was not viewed by employers as being sufficiently large on its own to motivate them to improve HSM. The loadings and discounts comprise only a small part of overall business costs and can even be "crowded out" by changes in the base levy. Feedback from the employer interviews suggested that employers did not regard the ER system as an influence on their HSM, and that other factors (such as anticipated legislative changes) dominated the motivation for implementing changes or introducing new health and safety measures.

19. A literature search of studies on experience rating systems used in workers compensation schemes overseas found that doubts about their effectiveness are common. https://www.parliament.nz/resource/0000158269

20. NCD is likely to be more ineffective than ER given it provides only a 10% loading or discount on the base levy and the thresholds to trigger the discount or loading are relatively large in terms of the costs to the business. For example, a small machine parts manufacturer would currently pay a levy rate of 55 cents per $100 of liable earnings, so with a wages bill of $500,000 it would pay ACC levies of $2,750 a year. A 10% levy discount from having ‘no claims’ would amount to $275 (or $5.28 a week). To lose its no claims discount the business would have to have a workplace death or a weekly compensation claim for ACC. The employer pays the first week of compensation before a claim arises. Even at the minimum wage, for a fulltime employee this would cost 80% of $23.15 x 40 hours = $740.80 and considerably more than the no claims 10% levy discount that would be lost. The relativities would vary with other scenarios but employers qualifying for NCD already have a significant and potentially much greater financial incentive than the no claims bonus to provide a safe work environment.

21. Also relevant is the fact that most workplaces nowadays are relatively safe with very few serious accidents. This is demonstrated by the statistic that 93% of businesses in NCD have no qualifying claims so get the 10% discount. Furthermore, the average Work Account levy rate (63 cents per $100 of liable earnings) is also about half the Earners’ Account levy rate ($1.39 per $100 of liable earnings) that funds the cost of non-vehicle accidents outside of work. This suggests the average workplace is generally safer than outside of work.

22. Accidents by their nature have a randomness to them, and the smaller the business, the fewer the employees (and paradoxically, the safer the work environment) the more random the occurrence of occasional accidents is likely to be. For example, office workers would rarely sustain a work injury sufficiently serious to have to take time off work. This means that a scheme like the NCD that applies to small businesses is often likely to be rewarding or punishing random events.

The NCD does not improve fairness of the levy system

23. The other objective of the experience rating framework is to improve the fairness of the levy system by imposing higher (or lower) levies on those levy payers imposing higher (or lower) costs on the accident compensation scheme.

24. However, if the reward or penalty is often due to random events (as discussed in paragraph 22), then it is not improving fairness.

25. Furthermore, charging higher levy rates to Work Account levy payers not qualifying for the experience rating framework to cross-subsidise those covered by it is not fair. The greatest degree of cross-subsidy is given to NCD, with its total discounts being 7.2 times the value of its loadings. ER discounts are, by comparison, less subsidised at 1.8 times the value of its loadings.

26. Given the concerns already raised about the effectiveness of the NCD, any restructuring to make it self-funding, like decreasing the discount, would likely make it even less effective. A change to make it cover a longer experience period would mean an even greater proportion of businesses would not qualify for it, as well as increasing its complexity.

What objectives are sought in relation to the policy problem?

27. Two objectives are sought for the policy problem for the experience rating framework. These are to ensure levies are:

- Risk aligned (fair), and
- Affordable for levy payers .

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

28. The options for reform have been assessed against the following criteria:
    - Risk aligned: Levies should be risk aligned (fair)
    - Affordable: Levies should be affordable for levy payers.
    - Cost-effectiveness and implementation: The option should minimise the cost to ACC and be easy to implement.
    - Risks: The risk of unintended consequences and perverse outcomes should be minimised.

What scope will options be considered within?

29. The options will be considered within the following scope:
    - Following earlier external reviews there has been ongoing work looking at improvements to ER.
    - The levy impacts to 'winners' and 'losers' has been estimated.

What options are being considered?

30. The following three options shown in the table below have been considered to address the policy problem of the NCD being ineffective and ER being unfair to other levy payers. Other potential options for making NCD fairer, like reducing the discount would make NCD even more ineffective.

31. Options to potentially make NCD more effective, like lengthening the claims history period would have problems like decreasing the already low coverage and increasing its complexity (which would decrease business understanding).

Options	Advantages	Disadvantages
Option One: Status quo. Option One requires maintaining the current NCD and the current degree of cross-subsidisation for both NCD and ER.	Option One is familiar to levy payers and does not require any system changes.	Option One continues with a product that has very little justification in terms of changing behaviour or making levies fairer. Option One results in the loss of the opportunity to improve the experience rating framework.
Option Two: Remove NCD and make ER fully self-funding. Option Two would remove NCD from the experience rating framework and remove	Option Two increases the fairness of levies by removing the ineffective NCD product and all cross-subsidisation in the experience rating framework.	Option Two risks some negative feedback as the vast majority (93%) of levy payers in NCD receive a 10% discount that will be removed.

Options	Advantages	Disadvantages
all cross-subsidisation of ER.	Option Two reduces the complexity of levies by removing the NCD product. Option Two reduces administration costs for ACC by removing NCD.	Some levy payers in ER will also be worse off from the removal of all cross-subsidisation.
Option Three: Remove NCD and reduce degree of subsidisation of ER. Option Three would remove NCD from the experience rating framework and lessen the cross-subsidisation of ER.	Option Three increases the fairness of levies by removing the ineffective NCD product, but not by as much as Option Two because cross-subsidation of the ER product is lessened rather than removed. However, this also means Levy payers in ER are still slightly better off after the lessening of cross-subsidisation because they also benefit from the removal of NCD. Option Three reduces the complexity of levies by removing the NCD product. Option Three reduces administration costs for ACC by removing NCD.	Option Three risks some negative feedback as the vast majority (93%) of levy payers in NCD receive a 10% discount that will be removed. .

How do the options compare to the status quo/counterfactual?

Dealing with ineffective NCD and cross-subsidisation of ER

	Option One: Status quo.	Option Two: Remove NCD and make ER fully self-funding.	Option Three: Remove NCD and reduce degree of subsidisation of ER.
Risk aligned (fair) and affordable.	Continues with a product that has no little justification in terms of increasing fairness. 0	Option 2 makes levies the most risk aligned. Option 2 makes levies somewhat more affordable by completely removing unfair cross-subsidisation by removing NCD and eliminating cross-subsidation in ER. ++	Option 3 makes levies more risk aligned. Option 3 also makes levies marginally more affordable by removing NCD and partially removing the unfair cross-subsidisation of ER. +
Cost-effectiveness and implementation	NCD will continue to impose administration costs on ACC although these are relatively insignificant. There are no compliance costs for levy payers, and the product is familiar. 0	There will be reduced administration costs for ACC with the removal of NCD, although some one-off systems changes will be required to revamp ER. +	There will be reduced administration costs for ACC with the removal of NCD, although some one-off systems changes will be required to revamp ER. +
Risks	Lost opportunity to improve the experience rating framework 0	Option 2 risks negative feedback by having a negative impact on the levy payers covered by the ER product (from removing the cross-subsidy to ER) but has a less negative impact on NCD businesses compared to Option 3 (because they will no longer subsidise ER). -	Option 3 has no overall negative impact on ER businesses (the removal of the cross-subsidy to NCD roughly offsets the reduction in the cross-subsidy to ER) but risks negative feedback from its greater impact on NCD businesses who lose NCD but keep cross-subsidising ER levy payers. -
Overall assessment	Option 1 does not meet the policy objectives. 0	Option 2 best meets the policy objectives with some risk of challenge from levy payers. ++	Option 3 does not meet the policy objectives quite as well as Option 2 and has a risk of challenge from levy payers. +

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Remove ineffective NCD and cross-subsidisation of ER

32. Option Two is recommended as it gets rid of an ineffective incentive product and removes all the cross-subsidisation of the remaining ER product. Option Two will make the AC scheme fairer and more equitable, while being cost effective to implement.

Consultation feedback

33. The consultation undertaken by ACC allowed feedback to be given in a number of different ways, including just indicating sentiment by giving a ‘thumbs up’ to the proposal, which was largely in favour of the proposal.

34. Written feedback was more mixed. Most agreed to changes to the ER but many disagreed with the removal of NCD.

35. 68% of submitters supported the removal of both NCD and cross-subsidisation. Some submitters stated that the ER programme does not accurately reflect an organisation’s commitment to injury prevention. Submitters were concerned about the removal of the NCD (such as Business NZ), and Rural Contractors New Zealand noted that ACC introduced these programmes as an incentive which was, in their view, functioning as intended.

36. Supporters of changes to ER considered that it does not accurately reflect an organisation’s commitment to injury prevention, and is unfair on employers.

37. Those who disagreed with the removal of the NCD felt that good behaviour should be rewarded. They considered that the NCD encourages and rewards good health and safety practices.

38. Some submissions suggested changes to NCD, like reducing the discount, to make it self-funding.

What are the marginal costs and benefits of the option?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing with the 25% of Work Account levy payers eligible for the NCD discount and the 2% in ER getting levy increases as specified.	Group – Levy impact Eligible for NCD 10% disc – +4.7% Eligible for ER – +1.1%	High. ACC has modelled impact.
Regulators	There will be one-off costs of system changes.	Low	Medium. These are known but small costs.
Others (eg, wider govt, consumers, etc.)	Removing NCD may initially create a negative perception	Low	Low. The likely effects are not really known.
Total monetised costs	Ongoing admin cost savings. Other costs and benefits balance out between groups	An increase in levies for affected groups	High. ACC"s paper provides evidence.
Non-monetised costs	Ongoing and neutral	Low	Low.
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Ongoing with the remaining 73% of Work Account levy payers getting levy reductions as specified.	Group – Levy impact Not in NCD or ER – -5.7% NCD no discount – -5.7% NCD 10% loading – -14.3%	High. ACC has modelled impact.
Regulators	Will be lower admin costs going forward.	Low.	Medium. These are known but small costs.
Others (eg, wider govt, consumers, etc.)	Ending cross-subsidisation may eventually improve image of scheme.	Low	Low. The likely effects are not really known.
Total monetised benefits	Ongoing	A reduction in levies for affected groups	High. ACC has modelled impact.
Non-monetised benefits	Ongoing and neutral	Low	Low.

Section 3: Delivering an option

How will the new arrangements be implemented?

39. ACC will be responsible for implementing any agreed changes. ACC is familiar with the systems used to deliver the experience rating framework and has made changes previously.

How will the new arrangements be monitored, evaluated, and reviewed?

40. The ACC systems will collect data able to be used for monitoring and evaluation.

41. MBIE as the monitoring agency has responsibility for monitoring the impact of policy changes over time. It is anticipated that the experience rating framework will be reviewed in the medium term when resources allow.