



## COVERSHEET

<b>Minister</b>	Hon Scott Simpson	<b>Portfolio</b>	ACC
<b>Title of Cabinet paper</b>	Updates to Accident Compensation Regulatory Settings	<b>Date to be published</b>	3 July 2025

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
June 2025	<i>Updates to Accident Compensation Regulatory Settings</i>	<i>Office of the Minister for ACC</i>
4 June 2025	<i>SOU-25-MIN-0065 Minute</i>	<i>Cabinet Office</i>
28 May 2025	<i>Regulatory Impact Statement: Updates to Hearing Assessment Regulations</i>	<i>MBIE</i>

### Information redacted

**YES / NO**

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## In Confidence

Office of the Minister for ACC

Cabinet Social Outcomes Committee

## Updates to Accident Compensation Regulatory Settings

### Proposal

- 1 I am seeking Cabinet agreement to regulatory updates to:
  - 1.1 Add twelve items to Schedule 2, the list of occupational diseases in the Accident Compensation Act 2001;
  - 1.2 Update the maximum reimbursement rate paid to claimants having their ACC decision reviewed and simplify the cost categories in the Review Costs Regulations;
  - 1.3 Update the age scale used in hearing assessments to align with new international standards and modernise references in the Hearing Assessment Regulations; and
  - 1.4 Update the reimbursement rates paid to claimants travelling for treatment in the Ancillary Services Regulations.

### Relation to government priorities

- 2 The proposals in this paper are related to the Government priority of delivering better public services.

### Executive Summary

- 3 Accident Compensation regulations governing the list of occupational diseases, costs reimbursed at review, the age scale used in hearing assessments, and reimbursement rates paid to claimants travelling for treatment have gone too long without substantial updates. As such, the current settings are undermining the purpose of these regulations with the burden being borne by claimants attempting to access the Accident Compensation Scheme (the AC Scheme). I am therefore proposing a suite of minor updates to a set of four Accident Compensation Regulations to ensure these are modern and better fit for purpose.
- 4 While the proposed updates will impact ACC's levied Accounts, Non-Earners' Appropriation, and Outstanding Claims Liability, these cost increases are minor. The portion impacting the levied Accounts can be factored into the 2028-31 levy round, and the portion impacting the Non-Earners' Appropriation can be factored into the annual forecast adjustment capped at 7.5 per cent per year. As such, these updates represent a minor adverse effect on the fiscal position of ACC's levied and appropriated accounts.

- 5 None of these proposals will require further Government Appropriation as the updates are cost pressures responding to inflation, wage growth and up-to-date medical science. I am not introducing new policies that require new spending.

**Schedule 2, list of occupational diseases**

- 6 In addition to the broad cover for injuries caused by accidents, ACC has extended cover for injuries and illnesses caused by work, including occupational diseases.
- 7 Schedule 2 is the list of occupational diseases in the Accident Compensation Act 2001 (the AC Act). In principle, a claim being assessed via inclusion in Schedule 2 provides claimants with a more streamlined path to cover. As a result, claimants may receive their claim decision faster and with a lower personal evidence threshold. Additionally, ACC can spend less time processing claims.
- 8 The existing list of occupational diseases within the AC Act is out of date with current epidemiological evidence as it has not been updated since 2008. As a result, some illnesses that have sufficient evidence of a causal relationship are not benefitting from this streamlined cover route and this means that Schedule 2 does not reflect the occupational exposures faced by New Zealand's workforce.

*Proposed updates and benefits*

- 9 Following a review by independent health experts and public consultation, I am proposing to add twelve illnesses to Schedule 2:
- 9.1 Erionite and malignant mesothelioma;
  - 9.2 Infrared radiation and heat-induced cataracts;
  - 9.3 Nickel and nasal cancer;
  - 9.4 Ammonia and chronic corneal ulcer;
  - 9.5 1,2-dichloropropane and cholangiocarcinoma;
  - 9.6 Butadiene and leukaemia;
  - 9.7 Trichloroethylene and kidney cancer;
  - 9.8 Welding and ocular melanoma;
  - 9.9 Potroom emissions and asthma;
  - 9.10 Asbestos and laryngeal cancer;
  - 9.11 Asbestos and ovarian cancer; and
  - 9.12 Vinyl chloride and hepatocellular carcinoma.
- 10 The new additions are proven to have a strong causal relationship between workplace exposure and the development of the associated illness. A majority of submitters agreed that these would be appropriate and practical additions to Schedule 2.

- 11 The inclusion of firefighting (as an occupation) being a cause of mesothelioma and bladder cancer were also consulted on. However, I am not proposing that these are included in Schedule 2. Following consultation with ACC's clinical advisors, I do not believe this would be operationally efficient for either claimants or ACC. In practice, ACC would still need to establish the likelihood that mesothelioma or bladder cancer were caused by work as a firefighter rather than being caused by non-work factors. As such, I am proposing to leave these as being assessed on a case-by-case basis.

### Review Costs Regulations

- 12 Claimants who disagree with a claim decision made by ACC are able to have this considered by an independent reviewer. ACC is required to reimburse some of the costs incurred by this process as set out in the *Accident Compensation (Review Costs and Appeals) Regulations 2002* (the Review Costs Regulations).
- 13 Providing cost awards through regulated rates makes it clear that claimants will have access to some level of reimbursement. This supports claimants to obtain appropriate medical evidence and representation while disincentivising vexatious or excessive litigation.
- 14 Currently, the cost caps provided for in the Review Costs Regulations have not kept pace with inflation and wage growth, and therefore do not provide a meaningful contribution to costs for some claimants seeking review. This acts as a barrier to claimants' access to dispute resolution.
- 15 While the reimbursement rates were last updated in 2017 to meet inflationary pressures, there has been no significant review of these regulations since their introduction in 2002.

### Proposed updates and benefits

- 16 Following independent advice, and public consultation, I am proposing to simplify the cost categories down from 14 to three. This will make the regulations less prescriptive and easier to understand and apply for claimants and lawyers/advocates.
- 17 I propose to introduce a cost matrix to *Cost Category One* to allow ACC to vary reimbursement rates based on the complexity involved in each case, and uplift the maximum reimbursement rates across all three new cost categories. This will improve claimants' access to justice while ensuring ACC is not over or undercompensating claimants at review. I propose the following cost increases:

Category	Current maximum rates (GST incl.)	Proposed new maximum rates (GST incl.)		
Cost Category One – <i>Representation Costs</i>  Contribution to costs associated with engaging a lawyer or lay advocate preparing for, and attending, a review.	\$1,022.67		Complexity and/or time	
			A.	B.
		1. Lay Advocates	\$1,050	\$2,100
		2. Lawyers	\$2,100	\$4,200

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Cost Category Two – <i>Medical and other reports</i>  Contribution towards expert reports that a claimant may require to support their case during a review process.	\$1,636.26	\$4,150
Cost Category Three – <i>Other expenses</i>  Contribution for expenses incurred by the claimant in the review process, such as for travel, accommodation, cultural support, and childcare.	\$681.77	\$1,500

18 I am also proposing three further minor updates:

- 18.1 *Defining how ‘lawyers’ and ‘complex case’, referred to in the cost matrix, are to be captured in these Regulations:* to assist in determining which reimbursement rate should apply across the cost matrix and aid in ensuring the right reimbursement rate is applied.
- 18.2 *Removing the distinction between registered specialists and other person with a recognised qualification:* to improve claimant access to reports they may require.
- 18.3 *Removing the mileage rate, which has a current cap of \$178.78:* to allow for more flexibility, ensuring that rural communities have greater access to in-person reviews and specialists where required. This avoids the need to change the mileage rate in future.<sup>1</sup>

### Hearing Assessment Regulations

- 19 ACC provides cover for hearing loss where the claimant is determined to have five per cent or more of their hearing loss attributed to work-related causes. This cover is not available for non-work related factors, such as ageing.
- 20 The *Accident Insurance (Occupational Hearing Assessment Procedures) Regulations 1999* (the Hearing Assessment Regulations) help ACC treatment providers determine whether a claimant is eligible for work-related hearing loss cover and entitlements. People with five per cent (or more) hearing loss from work-related personal injury are eligible for cover under the AC Scheme.
- 21 The Hearing Assessment Regulations contain an age scale showing the percentage of hearing loss assumed to be caused by age for male and female claimants across given age brackets. The relevant amount is deducted from a claimant’s total hearing loss when they are assessed for cover under the AC Scheme. The remainder of the hearing loss can then be assumed to be from sources other than ageing.
- 22 The total claims cost for hearing loss is shared between ACC and the Disability Support Services (DSS) business unit of the Ministry of Social Development (MSD).<sup>2</sup>

<sup>1</sup> The mileage reimbursement rate will continue to be regulated through the Ancillary Services Regulations.

<sup>2</sup> As part of their ringfenced appropriation provided through Vote Disability Support Services (from 1 July 2025).

Where people are not eligible for hearing loss cover under the AC Scheme, they can seek assistance from MSD. Consequently, updating the age scale will impact the portion of hearing loss being funded by DSS; this is projected to have an annual impact of less than \$100,000 on DSS funding.

- 23 The age scale is based on an international hearing loss standard from 1984 (ISO 7029:1984), which has now been superseded with the standard introduced in 2017 (ISO 7029:2017). This means the Hearing Assessment Regulations no longer reflect up-to-date scientific evidence.
- 24 Utilising the current standard means that eligible people may be missing out on AC Scheme cover for hearing loss, while ineligible people could be receiving it. Updating the age scale to the 2017 standard will ensure that hearing loss attributable to ageing is accurately accounted for and that ACC is only covering hearing loss resulting from work-related factors, not ageing.

*Proposed updates and benefits*

- 25 I am proposing to update the age scale used in the Hearing Assessment Regulations to ensure it is based on the current international standard (ISO 7029:2017). This ensures ACC cover is more consistent and fair for work-related hearing loss.
- 26 I am also proposing three further minor updates:
  - 26.1 *Updating the reference to a test method to the most recent version (AS ISO 8253.1-2009 to ISO 8253.1-2010):* to only reference the current international standard for pure-tone air and bone conduction threshold testing.
  - 26.2 *Removing the reference to hearing tests conducted by otolaryngologists:* to align with ACC's operational practice of requiring hearing tests to be carried out by audiologists .
  - 26.3 *Correcting minor drafting errors relating to how ages are expressed in the age scale:* the current wording incorrectly excludes males aged 55 years and females aged 68 years, and all claimants aged 81 and over.

**Ancillary Services Regulations**

- 27 The *Accident Compensation (Ancillary Services) Regulations 2002* (the Ancillary Services Regulations) prescribe the rates ACC is liable to reimburse for claimants travelling to receive treatment and rehabilitation.
- 28 These regulations are designed to help claimants access the treatment and rehabilitation services they need by relieving cost pressures associated with travel and accommodation. Easing these cost pressures facilitates early intervention in primary care management and access to specialist services which are important in achieving good rehabilitation outcomes and in returning people to work, as well as helping to minimise the downstream cost of injuries.
- 29 ACC's ancillary services reimbursement rates are over twenty years old and are out of step with the actual costs incurred by travelling for treatment, leaving claimants inadequately reimbursed. ACC's rates have fallen out of alignment with those offered by similar schemes, such as the Ministry of Health's National Travel Assistance Scheme and the Veterans' Affairs support schemes.

*Proposed updates and benefits*

- 30 *Increase the accommodation rate to \$140 per night:* increasing this rate will more accurately reflect the current market rate for commercial accommodation costs.
- 31 *Introduce a separate rate for staying with family and friends at \$35 per night:*<sup>3</sup> introducing this rate may incentivise clients to stay with friends or family, which may be a more cost-effective option than staying in a hotel or motel.
- 32 *Increase the travel reimbursement rate to \$0.34 per km:* increasing this rate will more accurately reflect the average cost of running a motor vehicle as determined annually by Inland Revenue, and will align ACC with the mileage reimbursement rate offered by the Ministry of Health.

**Cost-of-living Implications**

- 33 The proposals in this paper may have minor positive impacts for New Zealander's cost-of-living where they relate to improving access to treatment and access to the reviews process.

**Financial Implications**

- 34 All proposals in this paper have been projected (by ACC's actuarial team) to have minor fiscal impacts on ACC, as outlined in the table below:

<i>Regulation and impacted account</i>	<i>Annual Impact on Outstanding Claims Liability (OCL)</i>	<i>Impact on Levy or Appropriation</i>
<b>Schedule 2</b> Work Account	Exact impact difficult to quantify due very low expected claims numbers, and different progression and survival rates of the illnesses.	Negligible increase to the Work Account.
<b>Review Costs Regulations</b> Work, Earners', and Motor Vehicle Accounts, and the Non-Earners' Appropriation	Increase by \$4.9 million.	Increase of spending in the Work, Earners', and Motor Vehicle Accounts by \$1.9 million.  Increase of spending in the Non-Earners' Account by \$0.5 million.
<b>Hearing Assessment Regulations</b> Work Account	Increase by \$13 million. <sup>4</sup>	Negligible increase to the Work Account.  Less than \$0.01 per every \$100 of liable earnings.
<b>Ancillary Services Regulations</b> Work Account and the Non-Earners' Appropriation	Increase by \$10.7 million.	Increase of \$0.11 to the Motor Vehicle Levy.  Increase of spending in the Non-Earners' Account by \$1.77 million.
<b>Total</b>	<b>Increase by \$28.6 million.</b>	<b>Spending increase of \$4.2 million.</b>

<sup>3</sup> Initial conversations with ACC's operational team have indicated that this proposal may take some time to implement. A delayed implementation date will be discussed with the Parliamentary Counsel Office during the drafting of the Amendment Regulations.

<sup>4</sup> While this is referred to as an impact on the OCL, in practice it is referred to as the claims 'Incurred But Not Reported (IBNR) liability' (the liability held by ACC to highlight the potential payments related to persons who may have suffered exposure to conditions of harm but have not yet made a claim to ACC).

- 35 All costs outlined in the table above are able to be factored into the 2028-31 levy round, and the portion impacting the Non-Earners' Appropriation is able to be factored into the annual forecast adjustment. As such, these updates represent a minor adverse effect on the fiscal position of ACC's levied and appropriated accounts.

#### **Hearing Assessment Regulations Updates – Impact on DSS Funding**

- 36 Based on analysis that MSD has undertaken, using ACC data, DSS estimates that the overall financial impact on Hearing Aid Subsidies will be minor, and will be below \$100,000 annually. There may be a related minimal increase in recoverable assistance payments made by MSD to those who are not already covered by other assistance.

#### **Legislative Implications**

- 37 If the proposals in this paper are agreed to, the following Regulations will be amended via the Order in Council process to implement the updates:
- 37.1 Schedule 2 list of occupational diseases;
  - 37.2 Accident Compensation (Review Costs and Appeals) Regulations 2002;
  - 37.3 Accident Insurance (Occupational Hearing Assessment Procedures) Regulations 1999;<sup>5</sup>
  - 37.4 Accident Compensation (Ancillary Services) Regulations 2002.
- 38 Subject to Cabinet approval and Parliamentary Counsel Office availability, the amended regulations are expected to come into force in early September 2025.

#### **Impact Analysis**

##### **Regulatory Impact Statement**

- 39 The Ministry for Regulation RIA Team has determined that three proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement. The proposal to update the Schedule 2 list of occupational diseases in the AC Act is exempted on the grounds that this has minor economic, social, or environmental impacts. The proposals to update ACC's Review Costs Regulations and Ancillary Services Regulations are exempted on the grounds that the economic, social or environmental impacts are limited and easy to assess.
- 40 The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper to update the age scale in the Hearing Assessment Regulations. MBIE's RIA Review Panel has reviewed the attached Regulatory Impact Statement (prepared by MBIE) and considers that the information and analysis summarised meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

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<sup>5</sup> I am also proposing to update the title of this Regulation to align with the current name of the primary legislation, i.e., *Accident Compensation*, not *Accident Insurance*.



### **Climate Implications of Policy Assessment**

- 41 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to these policy proposals, as the threshold for significance is not met.

### **Population Implications**

#### **Women and seniors**

- 42 Women aged 66 and over, and men aged 78 and over, will find it harder to be considered eligible for work-related hearing loss cover under the AC Scheme relative to the status quo. This could mean some of those claimants may need to personally fund treatment or may be redirected to the wider health and welfare system for financial assistance. As the number of women applying for work-related hearing loss cover is low, these updates are expected to impact a very small number of people.

#### **Rural communities**

- 43 The proposals to update the Ancillary Services Regulations may have a positive impact on New Zealand's rural communities because it will better compensate them for travel and accommodation costs incurred, and enable them to receive treatment and rehabilitation.

### **Human Rights**

- 44 The proposals contained in this paper are unlikely to raise issues of consistency under the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

### **Use of External Resources**

- 45 Allen + Clarke procured and managed a panel of independent health experts to make recommendations on Schedule 2. This contract ran from July to November 2023 and the total cost was \$70,000. This stage of the work was contracted out to maintain the independence of the panel's recommendations and ensure the evidence review was completed as a scientific evaluation, separate from any policy considerations. There was no use of external resources in developing the proposals for Review Costs Regulations, Hearing Assessment Regulations, and Ancillary Services Regulations.

### **Consultation**

#### **Public consultation**

- 46 The consultation requirements for Schedule 2 and the Hearing Assessment Regulations prescribed by sections 336(2) and 323(2) respectively, have been fulfilled following public consultations with the appropriate persons or organisations undertaken in 2022 and 2024.

#### **Government consultation**

- 47 The following agencies and Crown Entities were consulted on the proposals in this paper: the Accident Compensation Corporation, the Treasury, the Department of Internal Affairs, Fire and Emergency New Zealand, the Ministry of Business, Innovation and Employment, WorkSafe New Zealand, the Ministry of Health,

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Whaikaha, the Ministry of Social Development, the Ministry for Women, Veterans' Affairs, and the Office for Seniors.

### Communications

- 48 I intend to announce these updates to ACC's regulatory settings in June 2025, following Cabinet agreement.

### Proactive Release

- 49 I propose to proactively release this paper, along with the accompanying Cabinet minutes and relevant supporting documentation, on MBIE's website within 30 working days of the final decision being made by Cabinet subject to any appropriate redactions.

### Recommendations

The Minister for ACC recommends that the Committee:

#### *Schedule 2*

- 1 **note** that I have fulfilled the requirements under section 336(2) of the Accident Compensation Act 2001 to only make recommendations to amend Schedule 2 after consulting the persons or organisations I consider appropriate;
- 2 **agree** to add the twelve proposed additions to Schedule 2 as outlined on pages 2-3;

#### *Review Costs Regulations*

- 3 **agree** to simplify the cost categories in Schedule 1 of the Review Costs Regulations down from fourteen to three, as outlined on pages 3-4;
- 4 **agree** to increase the maximum reimbursement rates in Cost Category One and have these be expressed in a cost matrix according to the complexity/time involved in each case and the qualifications of the representative used (outlined on page 3);
- 5 **agree** to the following updates to the Review Costs Regulations:
  - 5.1 define how 'lawyers' and 'complex case' are to be captured in these Regulations to help assess which rates should apply in the cost matrix under Cost Category One;
  - 5.2 increase the maximum reimbursement rate for Cost Category Two to \$4,150 (from \$1,636.26);
  - 5.3 increase the maximum reimbursement rate for Cost Category Three to \$1,500 (from \$681.77);
  - 5.4 remove the specified mileage rate which has a maximum reimbursement rate of \$178.78; and
  - 5.5 remove the distinction between registered specialists and other person with a recognised qualification.

*Hearing Assessment Regulations*

- 6 **note** that I have fulfilled the requirements under section 323(2) of the Accident Compensation Act 2001 to only make a recommendation to amend the hearing assessment regulations after consulting the persons or organisations I consider appropriate;
- 7 **note** that I will instruct the Parliamentary Counsel Office to update the name of this Regulation to align with the name of the primary legislation;
- 8 **agree** to the following updates to the Hearing Assessment Regulations:
- 8.1 update the age scale used in the Hearing Assessment Regulations to the new international standard (ISO 7029:2017);
  - 8.2 update the reference to audiometric test methods to the latest standard (ISO 8253.1-2010);
  - 8.3 remove the reference to tests conducted by otolaryngologists in Regulations 4 and 6 of the Hearing Assessment Regulations;
  - 8.4 correct minor drafting errors relating to how ages are expressed in the age scale.

*Ancillary Services Regulations*

- 9 **agree** to the following updates to the Ancillary Services Regulations:
- 9.1 increase the travel reimbursement rate to \$0.34 per kilometre (from \$0.29 per kilometre);
  - 9.2 increase the accommodation rate to \$140 per night (from \$57.55 per night);
  - 9.3 introduce a rate for staying with family and friends at \$35 per night;

*Drafting*

- 10 **authorise** the Minister for ACC to issue drafting instructions to the Parliamentary Counsel Office for regulations to give effect to recommendations 2 to 9;
- 11 **authorise** the Minister for ACC to make decisions and further clarify matters consistent with the above recommendations on any issues which may arise during the drafting process.

Authorised for lodgement

Hon Scott Simpson

**Minister for ACC**