



COVERSHEET

Minister	Hon Iain Lees-Galloway	Portfolio	ACC
Name of package	2019 ACC Regulations for Work Account Levies, the Earners' levy and Experience Rating	Date of issue	2 April 2019

List of documents that have been proactively released

Date	Title	Author
12 February 2019	2019 ACC Regulations for Work Account Levies, the Earners' levy and Experience Rating	Office of ACC Minister
19 February 2019	LEG-19-MIN-0016	Cabinet Office

Information withheld

No information has been withheld.

PROACTIVELY RELEASED

In Confidence

Office of the Minister for ACC
Chair, Cabinet Legislation Committee

2019 ACC REGULATIONS FOR WORK ACCOUNT LEVIES, THE EARNERS' LEVY AND EXPERIENCE RATING

Proposal

1. I propose that the Cabinet Legislation Committee authorise the submission of the *Accident Compensation (Earners' Levy) Regulations 2019*, the *Accident Compensation (Work Account Levies) Regulations 2019* and the *Accident Compensation (Experience Rating) Regulations 2019* to the Executive Council.

Executive Summary

2. On 10 December 2018, Cabinet agreed to ACC levy rates representing levy reductions of about \$100 million over the 2019/20 and 2020/21 levy periods. It also agreed to other levy-related policy and technical updates to levy regulations [CAB-18-MIN-0619 refers].
3. The following regulations are required to implement Cabinet's decisions relating to the Work and Earners' Accounts for the 2019/20 levy year commencing 1 April 2019 and the 2020/21 levy year commencing 1 April 2020:
 - 3.1. the *Accident Compensation (Earners' Levy) Regulations 2019*;
 - 3.2. the *Accident Compensation (Work Account Levies) Regulations 2019*; and
 - 3.3. the *Accident Compensation (Experience Rating) Regulations 2019*.
4. The *Accident Compensation (Experience Rating) Regulations 2019* implement the "business as usual" changes agreed to by Cabinet. Cabinet also agreed to enhancements to the experience rating system that will apply from 1 April 2020. I will submit a separate Cabinet Legislation Committee paper dealing with these enhancements later this year.
5. The introduction of the *Accident Compensation (Motor Vehicle Account Levies) Regulations 2019* is also required to implement Cabinet decisions on Motor Vehicle Account levy rates and other Motor Vehicle Account proposals. I intend to submit a separate paper dealing with these regulations to this Committee later in the year so that they can commence on 1 July 2019. This is because the levy year for the Motor Vehicle Account starts later than the Work and Earners' Accounts (1 July 2019 instead of 1 April 2019).

Policy changes

6. ACC is the Crown agent responsible for providing comprehensive, no-fault personal injury cover to all New Zealand residents and visitors to New Zealand. ACC cover is managed under five separate Accounts that are funded through levies, Government appropriation, or a combination of both. Three of the Accounts – the Work Account, Earners' Account and the Motor Vehicle Account – are funded solely through levies.

Decisions to be implemented through the Earners' Levy Regulations

7. On 10 December 2018, Cabinet agreed to maintain the Earners' Account levy at \$1.39 per \$100 of liable earnings (including GST) for 2019/20 and 2020/21 [CAB-18-MIN-0619 refers].
8. The *Accident Compensation (Earners' Levy) Regulations 2019* set out this flat levy rate, which all employees and self-employed must pay on their liable earnings to fund cover and entitlements for non-work personal injuries (not including motor vehicle injuries).

Decisions to be implemented through the Work Account Levies Regulations

9. On 10 December 2018, Cabinet agreed to reduce the average Work Account levy from \$0.72 to \$0.67 per \$100 of liable earnings (excluding GST) for 2019/20 and 2020/21 [CAB-18-MIN-0619 refers]. This means that while the average levy rate is reducing by 6.9%, actual levy changes of individual businesses will vary.
10. The *Accident Compensation (Work Account Levies) Regulations 2019* prescribe the levy rates for employers and the self-employed to fund cover and entitlements for workplace injuries. As provided for under section 170 of the Accident Compensation Act 2001 (the Act), regulations must prescribe a Work Account levy for each industry or risk class (classification unit) that most accurately describes their activity. Classification units involved in similar industrial activities and similar claim histories are grouped together in 'Levy Risk Groups' to accurately estimate the cost and frequency of future injury claims. This allows levies to better reflect differing risk profiles (the expected cost to the Accident Compensation Scheme).
11. Cabinet agreed [CAB-18-MIN-0619 refers] that a minor change be made to the description of one Work Account Classification Unit (CU number 84330) by removing the word 'Modern' from the CU name 'Modern Apprenticeship Co-ordinators employing apprentices'.

Decisions to be implemented through both the Earners' Levy Regulations and Work Account Levies Regulations

12. The *Accident Compensation (Earners' Levy) Regulations 2019* and the *Accident Compensation (Work Account Levies) Regulations 2019* implement changes agreed to by Cabinet to the way in which self-employed levies are calculated, with the levy for an applicable tax year to be based on the income earned for that year. The new approach will calculate the self-employed levy by reference to earnings in the tax year (rather than, as now, the immediately preceding tax year).

13. The *Accident Compensation (Earners' Levy) Regulations 2019* and the *Accident Compensation (Work Account Levies) Regulations 2019* prescribe the maximum and minimum liable earnings on which levies are calculated.

14. Cabinet agreed [CAB-18-MIN-0619 refers] that:

14.1. maximum liable earnings that self-employed people and businesses pay Work levies on, and self-employed people and employees pay Earners' levies on, be increased in line with predicted changes to the Labour Cost Index:

Levy Year	Maximum self-employed liable earnings	Maximum Employee liable earnings
2018/19 (Current)	\$124,053	\$126,286
2019/20 (Proposed)	\$128,470	\$128,470
2020/21 (Proposed)	\$130,911	\$130,911

14.2. the minimum liable earnings that full-time self-employed people pay Work and Earners' levies on be increased to \$34,320 in 2019/20 and 2020/21 (from \$32,760 in 2018/19) in line with changes to the minimum wage; and

14.3. should the minimum wage review adjust the minimum wage before the *Accident Compensation (Work Account Levies) Regulations* and the *Accident Compensation (Earners' Levy) Regulations* are made, the minimum liable earnings in the Regulations be adjusted accordingly, before submission of the Regulations to the Cabinet Legislation Committee.

15. On 12 December 2018, the Cabinet Economic Development Committee agreed [DEV-18-MIN-0309 refers]:

15.1. to increase the adult minimum wage rate from \$16.50 per hour to \$17.70 per hour

15.2. to increase the starting-out rate and training minimum wage rate from \$13.20 per hour to \$14.16 per hour

15.3. that these new minimum wage rates will come into effect on 1 April 2019.

16. The Minimum Wage Order 2019 gives effect to Cabinet's decisions above and will be notified in the New Zealand Gazette on 21 February 2019.

17. I now propose that the minimum liable earnings in 2019/20 and 2020/21 be updated to \$36,816 to reflect the Minimum Wage Order 2019. This minor amendment would continue the practice of aligning the minimum amount with annual minimum wage changes.

Decisions to be implemented through the Experience Rating Regulations

18. Section 169 of the Act allows regulations to establish a system of experience rating for Work Account levy payers.
19. The Experience Rating Programme modifies a business's Work levy based on its claims history. Large businesses (those which have an annual levy of \$10,000 or more) are compared to their industry peers and can receive a discount of up to 50% or an increase of up to 75% on their levy. Small businesses (those which have an annual Work levy of less than \$10,000) can receive a discount or loading of 10% on their Work levy based on their individual claims history under the No-Claims Discount Programme.
20. Cabinet agreed to changes to the experience rating programme that will take effect from 1 April 2020. These changes will not be implemented through the *Accident Compensation (Experience Rating) Regulations 2019* which maintain the existing programme for the 2019/20 levy year.
21. The *Accident Compensation (Experience Rating) Regulations 2019* update the three-year experience period used to calculate individual businesses' levy discounts or loadings, and the Schedules. This change has been made on the basis that it is a minor and technical amendment.

Motor Vehicle Account Levies Regulations to come

22. I will bring regulations for the Motor Vehicle Account to this Committee later in the year in time for the Motor Vehicle Account regulations which will come into effect on 1 July 2019 when the Motor Vehicle Account levy year begins.

Timing and 28-day rule

23. The *Accident Compensation (Work Account Levies) Regulations 2019*, the *Accident Compensation (Earnings' Levy) Regulations 2019* and the *Accident Compensation (Experience Rating) Regulations 2019* (the Regulations) are required to come into force on 1 April 2019 when the 2019/20 levy year begins.
24. In order to comply with the 28-day rule, the Regulations should be gazetted in early March 2019.
25. At the same time the regulations prescribing the rates of levies are made in the Gazette, ACC is required under sections 331(5A) and 331(5B) of the *Accident Compensation Act 2001* to publish a report in relation to the rate of levies prescribed in accordance with generally accepted practice within the insurance sector in New Zealand. This report must also include the long-term projections for the relevant Account of solvency rates, levy rates, Account balances, and the lifetime costs of claims in relation to injuries that occur in the relevant levy year, and the key assumptions on which the projections are based. This report must be published in the Gazette and on ACC's website.
26. ACC has indicated that the reports for the Work Account and the Earnings' Account could be published in the Gazette on 1 March 2019.

Compliance

27. The proposed regulations comply with each of the following:
 - 27.1. the principles of the Treaty of Waitangi;
 - 27.2. the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*;
 - 27.3. the principles and guidelines set out in the *Privacy Act 1993*;
 - 27.4. relevant international standards and obligations;
 - 27.5. the Legislation Design and Advisory Committee's Legislation Guidelines (2018 edition).

Regulations Review Committee

28. There are no anticipated grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

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

Impact Analysis

30. A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted at the time the policy decisions were made on the levy rates and other levy matters for 2019/20 and 2020/21 [CAB-18-MIN-0619].

Publicity

31. On 10 December 2018, I announced Cabinet's agreed 2019/20 and 2020/21 ACC levy rates. ACC, as the operational agency, will be carrying out a plan to communicate this with levy payers. This plan will be developed in consultation with the Office of the Minister for ACC.
32. I intend to publicly release this Cabinet paper.

Consultation

33. The relevant consultation requirements of the Act have been met.
34. The following government agencies were consulted on the previous Cabinet Economic Development Committee paper regarding the 2019/20 and 2020/21 ACC Levies: the Treasury, Ministry of Transport, Ministry of Justice, Ministry of Health, Ministry of Social Development, Te Puni Kōkiri, the Inland Revenue Department, New Zealand Customs Service, Ministry for Pacific Peoples, Ministry of Women's Affairs, New Zealand Transport Agency, ACC and WorkSafe. The Department of Prime Minister and Cabinet was informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

1. note that on 10 December 2018 Cabinet made decisions on the 2019/20 and 2020/21 Earners' levy that require the introduction of the *Accident Compensation (Earners' Levy) Regulations 2019*, that:
 - 1.1. maintain the Earners' levy rate at \$1.39 per \$100 liable earnings, including GST;
 - 1.2. change the way levies for self-employed are calculated so the levy for that year is based on the income earned in that year;
 - 1.3. update the maximum liable earnings based on actual and forecast changes to the Labour Cost Index;
 - 1.4. update the minimum liable earnings that self-employed people pay Earners' levies on to \$34,320 in 2019/20 and 2020/21 (subject to adjustments to reflect the minimum wage review);
2. note that on 10 December 2018, Cabinet made decisions on the 2019/20 and 2020/21 Work Account levies that require the introduction of the *Accident Compensation (Work Account Levies) Regulations 2019* and the *Accident Compensation (Experience Rating) Regulations 2019*, that:
 - 2.1. set the Work Account levy rate at an average rate of \$0.67 per \$100 of liable earnings, excluding GST;
 - 2.2. update the maximum liable earnings based on actual and forecast changes to the Labour Cost Index;
 - 2.3. update the minimum liable earnings that self-employed people pay Work levies on to \$34,320 in 2019/20 and 2020/21 (subject to adjustments to reflect the minimum wage review);
 - 2.4. amend the description of one Work Account Classification Unit (CU number 84330) by removing the word "Modern" from the CU name "Modern Apprenticeship Co-ordinators employing apprentices";
3. agree to updating the minimum liable earnings in 2019/20 and 2020/21 to \$36,816 to reflect the Minimum Wage Order 2019;
4. note that the three-year experience periods that apply to the 2019/20 and 2020/21 levy years are updated in the *Accident Compensation (Experience Rating) Regulations 2019* which is a minor and technical matter needed to make the experience rating programme work;

5. note that sections 331(5A) and 331(5B) of the *Accident Compensation Act 2001* provides that ACC must prepare a report in relation to the rate of levies prescribed detailing the effect the prescribed levies are expected to have on the relevant Accounts (including future levy and solvency rates), which must be published at the same time the regulations prescribing the rates of levies are made in the Gazette;
6. note that the *Accident Compensation (Earners' Levy) Regulations 2019*, the *Accident Compensation (Work Account Levies) Regulations 2019* and the *Accident Compensation (Experience Rating) Regulations 2019* must come into force on 1 April 2019;
7. authorise the submission to the Executive Council of the *Accident Compensation (Earners' Levy) Regulations 2019*, the *Accident Compensation (Work Account Levies) Regulations 2019* and the *Accident Compensation (Experience Rating) Regulations 2019*.

Authorised for lodgement

Hon Iain Lees-Galloway
Minister for ACC

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