



COVERSHEET

Minister	Hon Iain Lees-Galloway	Portfolio	ACC
Title of Cabinet paper	Accident Compensation (Definitions) Regulations 2019	Date to be published	18 September

List of documents that have been proactively released

Date	Title	Author
1 August	Accident Compensation (Definitions) Regulations 2019	Office of the Minister for ACC
6 August	LEG-19-MIN-0109	Secretary of Cabinet Legislation Committee

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister for ACC
Chair, Cabinet Legislation Committee

ACCIDENT COMPENSATION (DEFINITIONS) REGULATIONS 2019

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the *Accident Compensation (Definitions) Regulations 2019* ('the regulations'), the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2005 (No 2) Commencement Order 2019*, and the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 Commencement Order 2019*.

Executive summary

2. The regulations and commencement orders will move the key definitions of 'registered health professional' and 'treatment provider' and associated definitions from the *Accident Compensation Act 2001* ('AC Act') to new standalone regulations to allow definitions to be more easily added and updated in the future.
3. The regulations will also add nine occupational groups under the 'registered health professional' definition (and align with the *Health Practitioners Competence Assurance Act 2003* (HPCA Act)), update the definitions of three treatment providers, and change the titles of two other definitions.
4. The addition of the nine occupational groups will provide more accurate information on treatment injury claims for the Accident Compensation Corporation (ACC).

Policy

5. Registered health professionals and treatment providers are occupational groups that are currently defined in the AC Act.
6. People who are injured by a registered health professional can make a claim for their injury under the treatment injury provisions in the AC Act. ACC uses information from treatment injury claims to understand the injuries caused by registered health professionals and to develop injury prevention strategies.
7. Treatment providers are occupational groups that ACC can pay for, or contribute to the cost of the treatment that they have provided for claimants.
8. In 2005, Parliament passed the *Injury Prevention, Rehabilitation, Compensation Amendment Act (No 2) 2005* (the 2005 Amendment Act) which included provisions to:

- 8.1. repeal the key definitions of 'registered health professional' and 'treatment provider' from the AC Act, and the associated occupational groups (for example, 'dentist' and 'nurse'), and
- 8.2. amend the AC Act to allow for the definitions to be set out in regulations.
9. These provisions in the 2005 Amendment Act have not been implemented until this point.
10. Moving these definitions to standalone regulations will allow definitions to be more easily added and updated. Currently an amendment to the AC Act is required for any changes.
11. In May 2018, Cabinet agreed to commence these sections and move the definitions from the AC Act to regulations made under the 2005 Amendment Act [SWC-18-MIN-0054 refers].
12. Cabinet also agreed to update the occupational groups included in the 'registered health professional' definition at the same time, to align the definitions with the *Health Practitioners Competence Assurance Act 2003* (HPCA Act), which regulates health occupational groups [SWC-18-MIN-0054 refers]. Nine occupational groups will be added to the 'registered health professional' definition. These are anaesthetic technician, dental hygienist, dental therapist, dietitian, dispensing optician, oral health therapist, osteopath, psychologist and psychotherapist.
13. The addition of these groups will provide more accurate information on treatment injury claims for ACC and ensures alignment across the broader health system.

Changes during drafting

Nurse practitioner definition

14. In 2008, a definition of 'nurse practitioner' was added to the AC Act by the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008* (the 2008 Amendment Act). It was included in the definitions of both 'registered health professional' and 'treatment provider'.
15. There is a commencement section in the 2008 Amendment Act that allows the movement of this definition to the regulations. This was not considered by Cabinet at the time that the policy decisions were made [SWC-18-MIN-0054 refers].
16. I am seeking agreement to move the definition of 'nurse practitioner' from the AC Act to the regulations. This would provide greater consistency as the intent of the regulations is to include all occupational groups under the 'registered health professional' and 'treatment provider' definitions.

Changes to definitions

17. Cabinet authorised me to make decisions and changes, consistent with the policy outlined in the policy Cabinet paper, on other issues and matters of detail that arise during the drafting process [SWC-18-MIN-0054 refers]. I have made a number of changes in line with that authorisation, which I note below for Cabinet's information.

18. The definitions of three occupational groups under the 'treatment provider' definition were updated following consultation with the relevant professional bodies.
- 18.1. The definition of 'acupuncturist' contained outdated information about the qualifications required to be a member of the New Zealand Acupuncture Standards Authority. The definition also referred to the New Zealand Register of Acupuncturists (Acupuncture NZ) by a former title. Membership requirements and the title were updated following consultation with the professional bodies.
- 18.2. The definition of 'audiologist' was updated following consultation with the New Zealand Audiological Society to provide greater clarity around membership requirements.
- 18.3. The definition of 'speech therapist' was updated following consultation with the New Zealand Speech Language Therapists Association to provide greater clarity around membership requirements.
19. The titles of two occupational groups were updated following consultation with the Medical Sciences Council of New Zealand as these are the terms that the body uses.
- 19.1. The title of 'anaesthetic technologist' [SWC-18-MIN-0054 refers] was changed to 'anaesthetic technician'.
- 19.2. The title of 'medical laboratory technologist' was changed to 'medical laboratory science practitioner'.
20. To ensure that all occupational groups can be added to the Regulations, the term 'health practitioner' was substituted with 'person' in the definitions that included this term. This does not impact the operation of the definitions.

The definition of 'medical practitioner' should not be repealed and moved to the regulations at this time

21. I have decided not to repeal the definition of 'medical practitioner' as the term is used elsewhere in the AC Act.
22. This is due to an oversight in the 2005 Amendment Act which did not include a provision to substitute the definition and cross-reference it to the regulations.
23. The regulations will still include the definition of 'medical practitioner' in the definitions of 'registered health professional' and 'treatment provider', with the term defined in the primary Act (AC Act). It does not impact the operation of the definition.
24. The definition of 'medical practitioner' in the AC Act can be amended to point towards the regulations when the Act is next amended. The definition of 'medical practitioner' would be moved to the regulations at the same time.

Timing and 28-day rule

25. The orders and regulations will commence on 1 October 2019, which is more than 28 days after anticipated notification in the *New Zealand Gazette*.

Compliance

26. The proposed Regulations comply with each of the following:
 - 26.1. the principles of the Treaty of Waitangi;
 - 26.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 26.3. the principles and guidelines set out in the Privacy Act 1993;
 - 26.4. relevant international standards and obligations;
 - 26.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
27. Section 322(3) of the *Accident Compensation Act 2001* requires the Minister for ACC to consult relevant persons and organisations before recommending regulations that add new occupational groups to the definition of 'registered health professional'. I confirm that this requirement has been met.

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 regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

30. A Regulatory Impact Summary (RIS) for the introduction of the nine occupational groups to the definition of registered health professional was prepared by the Ministry of Business, Innovation and Employment (MBIE) to accompany the Cabinet paper in May 2018 [SWC-18-MIN-0054 refers].
31. The other elements of the proposed changes do not require a regulatory impact analysis as they relate to the commencement of existing legislative provisions.

Publicity

32. ACC will notify the relevant professional bodies as part of their implementation plan to ensure that the new 'registered health professional' groups are aware of the changes.
33. The changes will be publicised on MBIE's website.

Proactive release

34. I intend to proactively release this Cabinet paper on MBIE's website within 30 business days of the final decision being made by Cabinet. Any redactions will be made in accordance with the *Official Information Act 1982*.

Consultation

35. MBIE consulted the following agencies on the proposals in this paper and the draft regulations: ACC, the Ministry of Health, the Treasury, the Ministry for Women, Veteran's Affairs, Te Puni Kōkiri, the Ministry for Pacific Peoples, and the Department of the Prime Minister and Cabinet (the Policy Advisory Group).
36. Public consultation on the policy proposals was carried out from 14 April 2017 to 12 May 2017 in accordance with section 322(3) of the AC Act, which requires the Minister for ACC to consult relevant persons and organisations before recommending new occupational groups for addition to the registered health professional definition.
37. The following professional bodies were consulted about minor policy changes I made during drafting: New Zealand Register of Acupuncturists (Acupuncture NZ), the New Zealand Acupuncture Standards Authority, the New Zealand Audiological Society, the New Zealand Speech Language Therapists Association and the Medical Sciences Council of New Zealand.

Recommendations

The Minister for ACC recommends that the Cabinet Legislation Committee:

1. **note** that on 16 May 2018 the Social Wellbeing Committee agreed to move the definitions of 'registered health professional', 'treatment provider', and associated occupational groups from the *Accident Compensation Act 2001* to regulations to allow the definitions to be more easily updated in the future [SWC-18-MIN-0054 refers];
2. **note** that the Social Wellbeing Committee also agreed to update the definition of 'registered health professional' by adding the following occupational groups to the definition [SWC-18-MIN-0054 refers];
 - anaesthetic technologist
 - dental hygienist
 - dental therapist
 - dietitian
 - dispensing optician
 - oral health therapist
 - osteopath
 - psychologist
 - psychotherapist
3. **agree** to commence section 4(4) of the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008* in order to move the definition of 'nurse practitioner' from the Accident Compensation Act 2001 to the regulations;
4. **note** that the Minister for ACC has approved minor changes to update the definitions of 'acupuncturist', 'audiologist' and 'speech therapist', to ensure they are up-to-date and fit for purpose;
5. **note** that the Minister for ACC has approved minor changes to update the titles of 'anaesthetic technologist' to 'anaesthetic technician' and 'medical laboratory technologist' to 'medical laboratory science practitioner' as these are the terms used by the professional body;
6. **note** that the Minister for ACC has approved that the definition of 'medical practitioner' not be moved from the AC Act to the regulations at this time as it would leave the term undefined in the primary Act. This will not impact the operation of the definition with the regulations still referring to the definition in the Act;
7. **note** that the *Accident Compensation (Definitions) Regulations 2019*, the *Injury Prevention, Rehabilitation, the Compensation Amendment Act (No 2) 2005*

Commencement Order 2019, and the Injury Prevention, Rehabilitation, and the Compensation Amendment Act 2008 Commencement Order 2019 will give effect to the decisions referred to in paragraphs 1 to 6 above;

8. **note** that section 322(3) of the *Accident Compensation Act 2001* requires the Minister for ACC to consult relevant persons and organisations before recommending new occupational groups be added to the definition of 'registered health professional' and that this requirement has been met;
9. **note** that the *Accident Compensation (Definitions) Regulations 2019*, the *Injury Prevention, Rehabilitation, and Compensation Amendment Act (No 2) 2005 Commencement Order 2019*, and the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 Commencement Order 2019* will come into force on 1 October 2019;
10. **authorise** the submission of the *Accident Compensation (Definitions) Regulations 2019*, the *Injury Prevention, Rehabilitation, and Compensation Amendment Act (No 2) 2005 Commencement Order 2019*, and the *Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 Commencement Order 2019* to the Executive Council.

Authorised for lodgement

Hon Iain Lees-Galloway
Minister for ACC