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S08.04

Submission to the Transport and Industrial Relations Select Committee on the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 2)

The National Council of Women of New Zealand (NCWNZ) is an umbrella organization representing 46 Nationally Organised Societies and National Members. It has 28 branches through the country attended by representatives of those societies and some 150 other societies. The Council's functions are to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

Introduction

NCWNZ has consistently supported the Accident Compensation Scheme since the original legislation was first drafted in 1971. At that time we requested Government to compensate for personal injury based firmly on the Woodhouse principle of comprehensive entitlement to provide equal access to financial compensation and equal provision for rehabilitative treatment. 27 years later we welcome this current Amendment Bill and strongly support many of its key provisions. We are pleased that Government is at last heeding our submission of 1996 to the Labour Select Committee that compensation needs to be provided "not just for permanent employees but also for casual workers, self employed people and those just starting work". We also noted in 1996 that "there is an additional problem with those who are self employed or establishing a business, who often have no taxable income on paper".

This submission has been prepared following limited consultation within our organization because of the unfortunate timing of the release of the Bill for consultation over the Christmas holidays. While we appreciate the philosophy behind the Act and the Bill, our members are concerned that people with long term sickness that is non work-related, and also those with accumulative work-related conditions (such as arthritis, or conditions that lead to requiring joint replacements) are not provided for despite their full working life having gradually contributed to their medical condition. They may have been retired for many years before their condition becomes acute and are often outside the provisions of the Act and still are under the current Bill.

Specific Comments

Part 1 Amendments to principal Act

Clause 4 Interpretation, and

Clause 18 Procedure in determining incapacity under section 103 or section 105

We agree with the proposed amendment to Section 6 (1) that provides for the inclusion of "nurse practitioners" to the list of those eligible to determine incapacity and undertake assessment for ACC purposes, and to include the date of treatment by a nurse practitioner to be considered as the date on which a person suffers a personal injury caused by a work-related gradual process, disease or infection. Nurse practitioners have the necessary training to undertake the assessments.

Clauses 21 to 23 on paying levies, and

Clause 34 Amendment to Injury Prevention, Rehabilitation, and Compensation (Interest Rate for Late Payment of Levies) Regulations 2002

We have concerns about reducing the due date for levy payments from 2 months to 30 days after which time ACC must calculate and apply interest to any unpaid levy. Dwellers in Wellington and Auckland may enjoy a reliable and quick mail delivery but the regular experience

of our members living in smaller cities and rural areas is that mail is not reliable. For example the IRD sent a very large GST refund cheque on the 18th December to an Invercargill taxpayer and it was not delivered until Friday 28th December when the person was away on holiday. Then New Year intervened. We suggest that the same thing could happen with ACC levy charges which are posted to the self-employed, employers and private domestic workers and cause them great stress. Also, these payers of ACC levies often have to query the calculation of the levies and one month is not long enough to resolve these before penalties would be invoked and more stress caused.

Part 2 Further amendment to principal Act and regulations

Clause 33 Schedule 1 amended

There is concern that previous claims for lump sum compensation for work-related gradual process, disease or infection, mental injury suffered before the date the Bill comes into force, will be denied cover. While the Bill expresses the intention to be fair, this, and other measures in the Bill where previous settlements cannot be renegotiated under the new provisions, will hurt many people who would have received a much better deal if their case had arisen after the Bill is passed.

NCWNZ appreciates that if cover was to include all these past cases, the cost in terms of professional personnel, and payouts from the scheme would be huge. We note however that the Bill amends **Clauses 38 of Schedule 1** of the Act to clarify that in relation to any self-employed/shareholder-employee claims accepted before 1 July 2005 and then resubmitted after that date, recalculated payments of weekly compensation will be backdated to 1 July 2005.

While the stated intention of the bill is to make assessment for claimants easier to understand we feel that the Bill is still unclear over how weekly compensation will be calculated i.e. "For short-term compensation, claimants' earnings (from employment held at the date of incapacity) in the 4 weeks before the incapacity will be divided by the full and part weeks worked in that period".

NCWNZ endorses the new provisions of the Bill to improve abatement conditions for partially incapacitated people who return to work part-time. It is good that the Bill encourages claimants to return to work by allowing them to earn up to 100% of their weekly earnings before weekly compensation is abated. Previously the Act tended to discourage claimants from doing this. However does this mean that claimants can keep receiving their full weekly compensation until they have started earning as much as 100% of their old salary as well? We found this aspect ambiguous.

Conclusion

NCWNZ supports the Government's commitment to a fair and sustainable ACC scheme and we consider that most of the key changes will be workable and will be welcomed particularly by non-permanent employees who have seasonal or casual employment, those who are injured between jobs or changing their employment situation, and for those who are eligible for weekly compensation now increasing the period up to 28 days after stopping work. We also fully concur with the new provision whereby full-time employees who are incapacitated, will be eligible for the minimum weekly compensation amount after the first week of incapacity instead of having to wait for 5 weeks under the current legislation. Most of the other provisions are sensible and fair and we welcome their inclusion in the Injury Prevention, Rehabilitation, and Compensation Amendment (No 2).

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