

Accident Compensation (Financial Responsibility and Transparency) Amendment Bill

**Submission to the Transport and Industrial Relations
Select Committee**

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Contact

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About the New Zealand Nurses Organisation

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 46,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse.*

EXECUTIVE SUMMARY

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment on Accident Compensation (Financial Responsibility and Transparency) Amendment Bill.
2. NZNO is affiliated to the New Zealand Council of Trade Unions, Te Kauae Kaimahi, and fully supports its submission.
3. Contracted nursing services (eg Urgent and After Hours contract, Community Nurses contract) are integral to ACC's treatment and management of personal injury across a continuum of emergency, elective, acute, and community care. In addition, a significant part of the work of primary health care and practice nurses involves using ACC regulations to provide treatments and costs for people with injuries.
4. Nurses are thus very much interested in the financial security of ACC and its responsibility to meet the costs of providing universal no-fault accident compensation for personal injury, according to the social contract established by the Accident Compensation Act 1972.
5. NZNO is primarily concerned with the bill's proposal to remove the residual levy without making any provision for funding occupational disease beyond the work levy.
6. NZNO recommends that a separate account for occupational disease funded by a flat rate levy on all employers is established.

DISCUSSION

7. The Committee will be aware of NZNO's several submissions on health and safety reforms following the Report of the Independent Taskforce on Workplace Health and Safety (2013).
8. A recurrent theme in all our submissions on proposed legislative and regulatory reform, and one that we feel has been substantively ignored, is that of occupational health and disease.
9. The Taskforce reported that:

"New Zealand does not collect reliable data on occupational illnesses and diseases, due partly to the difficulties in measurement and attribution arising from long latency periods and conditions that can have multiple causes. In 2011, it was estimated that occupational illness cases result in 500-800 premature deaths a year. The majority of premature deaths are from work-related diseases due to occupational cancer, from exposure to hazardous substances such as asbestos and arsenic, and diseases of the respiratory system and ischaemic heart disease. Mental and nervous system disorders, diseases of the digestive and genito-urinary system, and toxic poisoning are also prevalent."

(The Independent Taskforce on Workplace Health & Safety, 2013. p 10)

10. When, with multiparty support, the Accident Compensation Act was passed in 1972, New Zealanders gave up the right to sue for personal injury and the right to compensation for loss of potential earnings.
11. Implicit in that covenant is the expectation that workers will not be exposed unnecessarily to risk, that the government will regulate to protect the health of workers, and will prosecute offending employers.
12. While subsequent legislation has held to the *principle* of safe, healthy workplaces, in practice, quite clearly, that has not been the case.
13. As we have noted, regulatory reforms following the Pike River Disaster and the Taskforce's Report have largely focused on immediate workplace safety, with little provision for increasing capacity or capability for long-term monitoring of occupational health.
14. Evidence presented at the 2013 Forum on Carcinogens in the Workplace, jointly hosted by the Cancer Society of New Zealand and the Centre for Public Health Research, Massey University, showed the enormous gap between the 500-800 premature deaths from occupational harm, per annum, the number of claims (~11 or 12) and the number of paid claims (~2)!
15. However, the difficulty of identifying occupational disease, because of the time it takes to develop, and the multiple risk factors which may be

involved, does not absolve ACC of its responsibility for protecting and compensating workers.

16. Until now the residual levy has been available for pre-1999 occupational disease claims. However, if, as the bill proposes, the residual levy goes, all of the occupational disease claims will need to be funded from the work levy.
17. This is problematic since, with the experience rating introduced in 2011, the employer levy is adjusted according to the claims costs of the employer. Occupational disease, developed over time, or, like mesothelioma, presenting many years after exposure (to asbestos in this case) makes it difficult to attribute liability to a particular employer (if still in business).
18. There is also a disincentive for employers to invest in long-term workplace monitoring of the health and safety of employees; although unlikely to be held accountable because of the long latency period, it is not in employers' interest to collating evidence that may be used against them.
19. It is, however, in the interests of the health of workers and productivity.
20. It is very clear that there will be claims for occupational disease in the future, both anticipated, for example with the huge increase in asbestos exposure following the Christchurch earthquakes, and as a result of improved monitoring technologies.
21. We therefore submit that before the residual levy is finally discontinued, a special account for occupational disease claims be established. It should be funded by a flat rate levy on all employers, including those in the accredited employers programme.

CONCLUSION

22. There are huge challenges and opportunities for both workers and employers in the global environment. Protecting the health and safety of workers, including ensuring that they are adequately cared for in the event of occupational harm, is an effective and ethical way to minimise future risks.
23. Although NZNO is not confident that the proposed Health and Safety Reform Bill will address the systemic gaps in New Zealand's capacity to identify and mitigate occupational health risks, the bill should provide a mechanism by which ACC may prepare for occupational health claims.
24. NZNO recommends that occupational disease claims should be funded by a separate flat rate levy imposed on all employers, including employers in the accredited employers programme.

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