

**Accident Compensation (Maternal Birth Injury and  
Other Matters) Amendment Bill**

Government Bill

As reported from the committee of the whole House



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Other Matters) Amendment Bill**

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**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

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*Hon Carmel Sepuloni*

# **Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill**

Government Bill

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**Schedule 1**

**New Part 3 inserted into Schedule 1AA**

8

**Schedule 2**

**New Schedule 3A inserted**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act **2021**.

**2 Commencement**

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- (1) **Sections 6 and 17** come into force on **1 October 2022**.
- (2) **Sections 12 and 21** come into force on **1 July 2023**.
- (3) The rest of this Act comes into force 30 days after the date on which it receives the Royal assent.

**3 Principal Act**

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This Act amends the Accident Compensation Act 2001.

**Part 1**

**Amendments to principal Act**

**4 Section 6 amended (Interpretation)**

- |     |                                                                                                                                                                                               |    |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| (1) | In section 6(1), replace the definition of <b>medical practitioner</b> with:<br><b>medical practitioner</b> means a medical practitioner of a type defined in regulations made under this Act | 15 |
| (2) | In section 6(1), definition of <b>moped</b> , replace “Transport (Vehicle and Driver Registration and Licensing) Act 1986” with “Land Transport Act 1998”.                                    |    |

- (3) In section 6(1), definition of **motorcycle**, replace “Transport (Vehicle and Driver Registration and Licensing) Act 1986” with “Land Transport Act 1998”.

**5 Section 17 amended (Ordinarily resident in New Zealand)**

After section 17(5), insert:

- (6) In this section,— 5
- child**, in relation to any person referred to in subsection (1)(b)(i) or (ii) or (4)(a),—
- (a) means a child who, at the date of that child’s injury,— 10
- (i) was aged under 18, or was aged under 21 and was in full-time study at a place of education; and
- (ii) either—
- (A) was that person’s natural or adopted child; or
- (B) would ordinarily have been regarded as that person’s child because they were the child of that person’s spouse or partner, and that person acted as their parent; and 15
- (b) does not include an other dependant of that person
- other dependant**, in relation to any person referred to in subsection (1)(b)(i) or (ii) or (4)(a), means a dependant who, at the date of that dependant’s injury,—
- (a) was financially dependent on that person because of the dependant’s mental or physical condition; and 20
- (b) was not that person’s spouse, partner, or child.

**6 Section 25 amended (Accident)**

- (1) After section 25(1)(e), insert:
- (f) an application of a force or resistance internal to the human body at any time from the onset of labour to the completion of delivery that results in an injury described in **Schedule 3A** to a person who gives birth. 25
- (2) After section 25(2), insert:
- (2A) Subsection (2)(a) does not apply to an accident of the kind described in **subsection (1)(f)**. 30

**6A New section 25A inserted (Review of operation of Schedule 3A)** 30

After section 25, insert:

**25A Review of operation of Schedule 3A**

- (1) As soon as practicable after the expiry of the period of 3 years beginning on the commencement of the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act ~~2021~~ 1 October 2025, the Minister must,— 35

- (a) for the purpose of determining whether any amendments to **Schedule 3A** are necessary or desirable, review the operation of **Schedule 3A** in relation to **section 25(1)(f)** since the date of that commencement; and
- (b) prepare a report of the review that includes recommendations on whether any amendments to **Schedule 3A** are necessary or desirable; and 5
- (c) present a copy of the report to the House of Representatives.
- (2) In preparing the report, the Minister must consult the parties the Minister thinks appropriate.
- 7 Section 26 amended (Personal injury) 10**  
In section 26(1A), replace “6%” with “5%”.
- 8 Section 30 amended (Personal injury caused by work-related gradual process, disease, or infection)**
- (1) After section 30(1), insert:
- (1A) Subsection (1)(c) is subject to **subsection (2A)**. 15
- (2) Repeal section 30(2)(b)(ii).
- (3) Replace section 30(2)(c) with:
- (c) that, if the particular property or characteristic is present in both the person’s employment tasks or environment and non-employment activities or environment, it is more likely that the person’s personal injury was caused as a result of the employment tasks or environment rather than the non-employment activities or environment. 20
- (4) After section 30(2), insert:
- (2A) However, even if it is established that a claimant’s personal injury was caused in the circumstances described in subsection (2), the Corporation may decline the claim if the Corporation establishes that the risk of suffering the personal injury is not significantly greater for persons who— 25
- (a) perform the employment task than it is for persons who do not perform it; or
- (b) are employed in that type of environment than it is for persons who are not. 30
- 9 Section 91 amended (Conduct of initial occupational assessment)**  
In section 91(1A), replace “may” with “must”.
- 10 Section 119 amended (Disentitlement for wilfully self-inflicted personal injuries and suicide) 35**  
After section 119(3), insert:



- (4) Subsection (1) does not apply if the death was the result of assisted dying in accordance with the End of Life Choice Act 2019.
- 11 Section 173 amended (Estimation of levy)**  
In section 173(2)(a), after “at the rate prescribed by regulations”, insert “or the rate as calculated by the method prescribed by regulations”. 5
- 12 Section 250 amended (Penalties and interest due to Corporation in respect of unpaid levies)**  
In section 250(1), delete “that is 30 days”.
- 13 Section 267 amended (Board of Corporation)**  
In section 267(1), replace “8” with “9”. 10
- 14 Section 329 amended (Regulations relating to levies)**  
After section 329(1)(h), insert:  
(ha) prescribing the rate of interest payable on any amount exceeding \$1,000 under section 173(2)(a) or the method by which the rate is to be calculated: 15
- 15 Schedule 1AA amended**  
In Schedule 1AA,—  
(a) insert the Part set out in **Schedule 1** of this Act as the last Part; and  
(b) make all necessary consequential amendments.
- 16 Schedule 1 amended** 20  
(1) In Schedule 1, clause 25(1A), replace “may” with “must”.  
(2) In Schedule 1, after clause 31, insert:
- 31A Use of employment income information in determining earnings**  
(1) The Corporation, for the purposes of calculating a claimant’s earnings for any period under this Part, may take into account the claimant’s most recent pre-incapacity employment income information available from the Inland Revenue Department. 25  
(2) **Subclause 1** applies even if that information does not relate to the period immediately before the claimant’s incapacity commenced.  
(3) **Subclauses 1 and 2** do not affect a claimant’s right under section 134 to apply for a review of the Corporation’s decision as to the amount payable to the claimant for weekly compensation, based on their actual earnings. 30  
(4) In this Part, **employment income information** has the same meaning as in section 3(1) of the Tax Administration Act 1994.
- (2A) In Schedule 1, replace clause 42(3) with: 35

- (3) The minimum weekly earnings are,—
- (a) for a person under the age of 18 years, the amount as at each assessment date that is the greatest of—
- (i) the minimum weekly adult rate prescribed under section 4 of the Minimum Wage Act 1983; and 5
- (ii) 125% of the rate of the supported living payment for a single person under the age of 18 years without dependent children under the Social Security Act 2018; and
- (iii) the greater of the amounts calculated under **subparagraphs (i) and (ii)** as at the date of the preceding assessment. 10
- (b) for a person 18 years of age or over, the amount as at each assessment date that is the greatest of—
- (i) the minimum weekly adult rate prescribed under section 4 of the Minimum Wage Act 1983; and
- (ii) 125% of the rate of the supported living payment for any other single person without dependent children under the Social Security Act 2018; and 15
- (iii) the greater of the amounts calculated under **subparagraphs (i) and (ii)** as at the date of the preceding assessment.
- (3A) In **subclause (3)**, **assessment date** means the most recent of the following dates that results in a greater amount being calculated under **paragraph (a) or (b)** of that subclause (as applicable): 20
- (a) the date on which the current order prescribing the rate of the supported living payment for a single person under the age of 18 years without dependent children under the Social Security Act 2018 came into force; and 25
- (b) the date on which the current order prescribing the rate of the supported living payment for any other single person without dependent children under the Social Security Act 2018 came into force; and
- (c) the date on which the current order prescribing the minimum wage made under section 4 of the Minimum Wage Act 1983 came into force. 30
- (3) In Schedule 1, after clause 49(6), insert:
- (7) In clause 51(2), **earnings** does not include payments of weekly compensation and weekly income compensation under the Veterans' Support Act 2014.
- 17 New Schedule 3A inserted** 35
- After Schedule 3, insert the **Schedule 3A** set out in **Schedule 2** of this Act.

## Part 2 Consequential amendments to regulations

### *Amendment to Accident Compensation (Definitions) Regulations 2019*

#### 18 Principal regulations

**Section 19** amends the Accident Compensation (Definitions) Regulations 2019. 5

#### 19 Regulation 3 amended (Interpretation)

In regulation 3(1), insert in its appropriate alphabetical order:

**medical practitioner** means a health practitioner who—

- (a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and 10
- (b) holds a current practising certificate

### *Amendment to Injury Prevention, Rehabilitation, and Compensation (Interest Rate for Late Payment of Levies) Regulations 2002* 15

#### 20 Principal regulations

**Section 21** amends the Injury Prevention, Rehabilitation, and Compensation (Interest Rate for Late Payment of Levies) Regulations 2002.

#### 21 Regulation 3 amended (Interest rate for late payment of levies) 20

In regulation 3(a), replace “date that is 30 days” with “day”.

**Schedule 1**  
**New Part 3 inserted into Schedule 1AA**

s 15

<b>Part 3</b>		
	<b>Provisions relating to Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act 2021</b>	5
<b>8</b>	<b>Interpretation</b>	
	In this Part, <b>amendment Act</b> means the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act <b>2021</b> .	
<b>9</b>	<b>Assessment of vocational independence</b>	10
	An assessment of a claimant's vocational independence that has been commenced, but not determined, before the commencement of this clause must, on or after that commencement, be considered and determined as if <b>sections 9</b> and <b>16(1)</b> of the amendment Act had not been enacted.	
<b>10</b>	<b>Claims for personal injury including hearing loss that have been lodged but not decided</b>	15
(1)	This clause applies if, before the commencement of this clause,—	
	(a) a person has suffered a personal injury that includes any degree of hearing loss caused by a personal injury described in section 20(2); and	
	(b) the person has lodged a claim with the Corporation under section 48 in respect of the personal injury; and	20
	(c) the Corporation has not made a decision on the claim.	
(2)	On or after the commencement of this clause, the Corporation must make a decision on the claim as if <b>section 7</b> of the amendment Act had not been enacted.	25
<b>11</b>	<b>Claims for personal injury caused by work-related gradual process, disease, or infection that have been lodged but not decided</b>	
(1)	This clause applies if, before the commencement of this clause,—	
	(a) a person has suffered a personal injury caused by work-related gradual process, disease, or infection described in section 30; and	30
	(b) the person has lodged a claim with the Corporation under section 48 in respect of the personal injury; and	
	(c) the Corporation has not made a decision on the claim.	

- (2) On or after the commencement of this clause, the Corporation must make a decision on the claim as if **section 8** of the amendment Act had not been enacted.

## Schedule 2

### New Schedule 3A inserted

s 17

### Schedule 3A

#### Maternal birth injuries

5

s 25(1)(f)

**Birth injuries**

Anterior wall prolapse, posterior wall prolapse, or uterine prolapse  
 Coccyx fracture or dislocation  
 Levator avulsion  
 Obstetric anal sphincter injury tears or tears to the perineum, labia, vagina, vulva, clitoris, cervix, rectum, anus, or urethra  
 Obstetric fistula (including vesicovaginal, colovaginal, and ureterovaginal)  
 Obstetric haematoma of pelvis  
 Post-partum uterine inversion  
 Pubic ramus fracture  
 Pudendal neuropathy  
 Ruptured uterus during labour  
 Symphysis pubis capsule or ligament tear

**Legislative history**

7 December 2021	Introduction (Bill 103–1)
14 December 2021	First reading and referral to Education and Workforce Committee
28 June 2022	Reported from Education and Workforce Committee (Bill 103–2)
27 July 2022	Second reading
22 September 2022	Committee of the whole House (Bill 103–3)