



## ANALYSIS

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1993, No. 25

**An Act to amend the Accident Rehabilitation and Compensation Insurance Act 1992** [10 May 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Accident Rehabilitation and Compensation Insurance Amendment Act 1993, and shall be read together with and deemed part of the Accident Rehabilitation and Compensation Insurance Act 1992 (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the day after the date on which this Act receives the Royal assent.

(3) Section 16 (1) of this Act shall come into force on the 1st day of July 1993.

**2. Interpretation**—Section 3 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Public health care costs’ means the public health care costs in respect of which the Corporation makes payments to a Crown Bank Account under section 32 or section 32A of this Act:

“‘Purchaser’ has the same meaning as in the Health and Disability Services Act 1993.”.

**3. Treatment and physical rehabilitation**—The principal Act is hereby amended by repealing section 27, and substituting the following section:

“27. (1) Where a person requires any treatment, service, physical rehabilitation, related transport, or certificate in respect of that person’s personal injury that is covered by this Act (in this section called a ‘specified service’), the Corporation shall contribute to the cost of that specified service to the extent required or permitted by regulations made under this Act.

“(2) Notwithstanding subsection (1) of this section,—

“(a) The Minister may from time to time, after consultation with and on behalf of the Corporation, enter into an agreement with the Minister of Health, on behalf of the Crown, as to specified services to be purchased by purchasers, the conditions on which those services will be purchased, the amounts to be paid by the Corporation to the Crown in respect of the purchase of those services, including any amounts to be paid to meet administration costs of purchasers in respect of the Corporation’s requirements, and such other matters as the parties may agree (and any such agreement may provide for any matters to be determined by agreement between the Corporation and the purchasers); and

“(b) The Corporation may from time to time, with the consent of the Minister, enter into agreements with purchasers or providers of specified services, as to specified services to be purchased or provided, the conditions on which those services will be purchased or provided, the amounts to be paid by the Corporation in respect of those services, including any amounts to be paid to meet administration costs of purchasers in respect of the Corporation’s requirements, and such other matters as the parties may agree; and

“(c) Where any specified service is the subject of an agreement made under this section, no payment shall be made by the Corporation under any regulations made under this Act in respect of that service, except to the extent that the regulations expressly provide that the payment is to be made in addition to any payment under that agreement.

“(3) Without limiting subsection (2) of this section, every agreement entered into by the Minister under paragraph (a), or by the Corporation under paragraph (b), of that subsection shall provide for—

“(a) Any payments by the Corporation under the agreement to be made from one or more of the Accounts referred to in Part VII of this Act; and

“(b) The Corporation to receive all information reasonably necessary to enable it to carry out the functions and duties conferred or imposed upon it by this Act in respect of the specified services; and

“(c) The Corporation to be able to legally enforce obligations relating to the provision of the specified services or the provision of information to the Corporation; and

“(d) Purchasers, and providers, of any specified services to comply with orders or decisions of any person appointed under section 90 of this Act, or of any Court, as to claims or entitlements under this Act in respect of those services; and

“(e) Procedures to resolve disputes arising out of the agreement or any subsidiary agreement;—

and the parties shall comply with those provisions notwithstanding any other provision of this Act or any other enactment or rule of law.

“(4) Neither the Minister nor the Corporation shall enter into an agreement under this section which prescribes the kinds of services to be provided without first consulting in regard to those kinds of services with such persons or organisations as the Minister considers appropriate.

“(5) As soon as practicable after an agreement is entered into under this section, the Minister shall publish in the *Gazette* and lay before the House of Representatives a copy of those provisions of the agreement on which there was consultation under subsection (4) of this section.

“(6) The Corporation shall not make any payment in respect of any specified service unless it is satisfied that the specified

service is necessary, appropriate, timely, of the required quality, and not excessive in number or duration.

"(7) Where the Corporation considers that any specified service was unnecessary, inappropriate, untimely, not of the required quality, or excessive in number or duration, it—

“(a) Shall give the provider (and, if appropriate, the purchaser) a reasonable opportunity to comment on the matter; and

“(b) May report the circumstances to any appropriate body with a view to the institution of disciplinary proceedings, and to any other body that may be appropriate.”

**4. Extent of treatment and physical rehabilitation costs to be met by exempt employers**—The principal Act is hereby amended by inserting, after section 27, the following section:

"27A. Where a person requires any treatment, service, physical rehabilitation, related transport, or certificate in respect of that person's personal injury that is covered by this Act, and an exempt employer is liable to contribute to the cost of that treatment, service, physical rehabilitation, transport, or certificate, the exempt employer shall so contribute to the extent required by regulations made under this Act."

**5. Corporation may advance additional private hospital costs of treatment and recover amounts paid**—Section 28 of the principal Act is hereby amended by adding the following subsection:

"(4) Advances may be made under this section only in respect of—

“(a) Costs that are not the subject of an agreement under section 27 of this Act; or

“(b) Where the costs are the subject of an agreement under section 27 of this Act, only to the extent that they are not met under that agreement.”

**6. Conveyance for immediate treatment for work injury**—Section 29 of the principal Act is hereby amended by adding the words "or under any agreement made under section 27 of this Act".

**7. Application of certain provisions to exempt employers**—Section 30 of the principal Act is hereby

amended by inserting, after the expression "29", the expression "(other than section 27)".

**8. Further provision of rehabilitation, treatment, service, or transport**—Section 31 of the principal Act is hereby amended by omitting the expression "Part of this Act", and substituting the expression "this Act or any regulations made under this Act".

**9. Claims**—Section 63 (3) of the principal Act is hereby amended by inserting, after the word "payments", the words "either directly or pursuant to an agreement made under section 27 of this Act".

**10. Suspension, cancellation, or refusal of compensation and rehabilitation**—Section 73 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Where the suspension, cancellation, or refusal under this section is in respect of a matter that is the subject of an agreement made under section 27 of this Act, the Corporation shall notify the appropriate purchaser of the suspension, cancellation, or refusal within 14 days or such other period as is specified in the agreement."

**11. Recovery of overpayments and unpaid premiums by Corporation**—(1) Section 77 of the principal Act is hereby amended by inserting in subsection (1), after the words "the sum of money shall", the words ", except to the extent that it is recovered under subsection (3) of this section,".

(2) Section 77 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) Where any amount, treatment, service, compensation, related transport, allowance, or rehabilitation has been overpaid or provided to or in respect of any person as a result of that person having—

“(a) Knowingly made an incorrect statement on any matter relevant to the entitlement of that person or any other person; or

“(b) Failed to inform the Corporation of any matter which the person ought to have known was relevant to the entitlement of that person or any other person,—

that person shall be liable to pay to the Corporation the amount so overpaid or value of the rehabilitation provided (calculated from the date of the overpayment to the date of payment of the penalty) plus a penalty of 10 percent of that amount or value."

(3) Section 77 (4) of the principal Act is hereby amended by omitting the word "recipient" in both places where it occurs, and substituting in each case the word "person".

(4) Section 77 of the principal Act is hereby further amended by adding the following subsection:

"(10) This section shall apply in respect of any sum of money paid or applied under an agreement under section 27 of this Act in respect of personal injury covered by this Act as if it were a sum of money received from the Corporation by the person who suffered that personal injury."

**12. Effect of decisions of Corporation**—Section 79 of the principal Act is hereby amended by adding the following subsections:

"(4) Every decision of the Corporation under this Act in relation to any claim shall be binding on any relevant purchaser.

"(5) Every decision under Part VI of this Act that is binding on the Corporation shall be equally binding on any relevant purchaser."

**13. Compensation payable to claimant only**—The principal Act is hereby amended by repealing section 87, and substituting the following section:

"87. (1) Subject to subsection (2) of this section, payments in respect of treatment, services, physical rehabilitation, compensation, grants, and allowances shall be made to the claimant and to that person only.

"(2) Subsection (1) of this section shall not apply—

"(a) In respect of payments made by the Corporation pursuant to an agreement made under section 27 of this Act; or

"(b) Where section 80, section 85, or section 86 (3) of this Act applies; or

"(c) Where payment is authorised by regulation to be paid to any other person."

**14. Application for review**—Section 89 of the principal Act is hereby amended by inserting, after subsection (6), the following subsection:

“(6A) Nothing in this section shall entitle any person to apply for a review of the terms of any agreement made under section 27 of this Act.”

**15. Decisions of regional health authorities**—The principal Act is hereby amended by inserting, after section 89, the following section:

“89A. Any decision by a purchaser affecting the entitlement of any claimant to the provision of treatment, service, physical rehabilitation, or related transport under this Act is hereby deemed for the purposes of section 79 (1) and this Part of this Act to be a decision of the Corporation.”

**16. Regulations**—(1) Section 167 of the principal Act is hereby amended by repealing paragraph (f) of subsection (5).

(2) Section 167 of the principal Act is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) Every reference in subsection (1) (l) and subsection (5) of this section to the term ‘Corporation’ shall be read as a reference also to any exempt employer; and the matters that may be prescribed in regulations made under subsection (1) (l) of this section may be prescribed on the same or a different basis in respect of the Corporation or exempt employers.”