

# **Injury Prevention, Rehabilitation, and Compensation Amendment Bill**

Government Bill

As reported from the Transport and Industrial Relations Committee

## **Commentary**

### **Recommendation**

The Transport and Industrial Relations Committee has examined the Injury Prevention, Rehabilitation, and Compensation Amendment Bill and recommends that it be passed with the amendment shown.

### **Aim of bill**

The aim of the bill is to amend the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the principal Act), which is the Act governing New Zealand's accident compensation scheme. The principal change proposed is an increase to the excise duty on petrol sales to cover increased costs to the Accident Compensation Corporation (ACC) of compensating motor vehicle injuries. The bill also provides for an ACC levy to be applied to petrol or any other category of fuel that may be prescribed by regulations. Furthermore, the bill preserves the requirement to obtain leave to appeal under section 162 of the principal Act against a decision of a District Court.

### **Reason for increase**

ACC's Motor Vehicle Account covers the costs of all motor vehicle-related injuries. The Motor Vehicle Account is facing increased costs resulting largely from improved estimates of long-term rehabilitation costs for seriously injured claimants and the underlying

cost increases. The Motor Vehicle Account has the highest proportion of serious injury claimants of all ACC accounts, and thus is affected disproportionately more than other ACC accounts.

### **Amendment**

We recommend that clause 4 be redrafted so that it substitutes a new section 162 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 in place of the version set out in the Schedule of the District Courts Amendment Act 2002.

We also recommend that provisions be added to clause 4 to provide that appeals and reviews arising under Part 6 of the Accident Insurance Act 1998 (which are preserved by section 391 of the Injury Prevention, Rehabilitation, and Compensation Act 2001) are subject to the new section 162. This will ensure that the requirements for obtaining leave to appeal are consistent for both Acts.

### **Appendix**

#### **Committee process**

The Injury Prevention, Rehabilitation, and Compensation Amendment Bill was referred to the committee on 10 April 2003. The closing date for submissions was 14 May 2003. We received and considered three submissions from interested groups. We heard two submissions orally on 22 May 2003. Hearing evidence took 33 minutes and consideration took 22 minutes.

We received advice from the Department of Labour and the ACC.

#### **Committee membership**

Helen Duncan (Chairperson)

Roger Sowry (Deputy Chairperson)

Peter Brown

Deborah Coddington

Dave Hereora

John Key

Lynne Pillay

Hon Judith Tizard

Mike Ward

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**Injury Prevention, Rehabilitation,  
and Compensation Amendment**

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

**Struck out (majority)**

Subject to this Act,

Text struck out by a majority

**New (majority)**

Subject to this Act,

Text inserted by a majority

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*Hon Ruth Dyson*

# **Injury Prevention, Rehabilitation, and Compensation Amendment Bill**

Government Bill

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

### **1 Title**

- (1) This Act is the Injury Prevention, Rehabilitation, and Compensation Amendment Act **2003**.
- (2) In this Act, the Injury Prevention, Rehabilitation, and Compensation Act 2001<sup>1</sup> is called “the principal Act”.

<sup>1</sup> 2001 No 49

### **Part 1**

#### **Preliminary provisions**

#### **2 Commencement**

- (1) **Section 4** comes into force on the commencement of the District Courts Amendment Act 2002.
- (2) **Section 12** comes into force on the day after the date on which this Act receives the Royal assent.
- (3) The rest of this Act comes into force on 1 July **2003**.

**3 Purpose**

The purpose of this Act is to—

- (a) establish as a levy under the principal Act the portion of excise and excise-equivalent duty payable on motor spirit that is paid to the Motor Vehicle Account; and
- (b) avoid the need for an amending Act to consequentially adjust the rates of excise duty and excise-equivalent duty on the relevant fuel (as set out in the Third Schedule of the Customs and Excise Act 1996) whenever the levy changes; and
- (c) preserve the requirement to obtain leave to appeal under section 162 of the principal Act against a decision of a District Court.

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**Part 2**

**Amendments to Injury Prevention, Rehabilitation,  
and Compensation Act 2001**

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**Struck out (majority)**

**4 Appeal to High Court on question of law**

(1) Section 162 of the principal Act (as substituted by section 4 of the District Courts Amendment Act 2002) is amended by repealing subsection (1), and substituting the following subsections:

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“(1) A party to an appeal who is dissatisfied with the decision of a District Court as being wrong in law may, with the leave of the District Court, appeal to the High Court.

“(1A) The leave of the District Court must be sought within 21 days after the District Court’s decision.

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“(1B) If the District Court refuses to grant leave, the High Court may grant special leave to appeal.

“(1C) The special leave of the High Court must be sought within 21 days after the District Court refused leave.”

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**New (majority)**

**4 New section 162 substituted**

(1) The principal Act is amended by repealing section 162, and substituting the following section:

**“162 Appeal to High Court on question of law**

“(1) A party to an appeal who is dissatisfied with the decision of a District Court as being wrong in law may, with the leave of the District Court, appeal to the High Court. 5

“(2) The leave of the District Court must be sought within 21 days after the District Court’s decision.

“(3) If the District Court refuses to grant leave, the High Court may grant special leave to appeal. 10

“(4) The special leave of the High Court must be sought within 21 days after the District Court refused leave.

“(5) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under this section as if it were an appeal under section 72 of that Act.” 15

(2) In applying Part 6 of the Accident Insurance Act 1998 to applications for review made, and appeals filed, before 1 April 2002 (as provided in section 391(3) of the principal Act), section 162 of the principal Act (as substituted by **subsection (1)** of this section) applies with all necessary modifications instead of section 165 of the Accident Insurance Act 1998. 20

(3) Section 391 of the principal Act is consequentially amended by inserting, after subsection (3), the following subsection: 25

“(3A) Subsection (3) is subject to **section 4(2)** of the Injury Prevention, Rehabilitation, and Compensation Amendment Act **2003**.”

(4) The Schedule of the District Courts Amendment Act 2002 is consequentially amended by repealing so much as relates to section 165 of the Accident Insurance Act 1998 and section 162 of the principal Act. 30

**5 Application and source of funds**

(1) Section 213(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph: 35

- “(c) a levy to be paid in accordance with **section 214(4)**; and”.
- (2) Section 213 of the principal Act is amended by repealing subsections (3) and (4), and substituting the following subsection:
- “(3) The levy payable under **subsection (2)(c)** is payable— 5
- “(a) on any fuel (or any category of fuel) specified in the Third Schedule of the Customs and Excise Act 1996 that is prescribed by regulations made under this Act; or
- “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, on any motor spirit in respect of which excise duty or excise-equivalent duty is for the time being payable under the Customs and Excise Act 1996.” 10
- 6 Rate of levies**
- Section 214 of the principal Act is amended by adding the following subsections: 15
- “(4) The levy payable under **section 213(2)(c)** is payable—
- “(a) at the rate or rates per litre or other unit prescribed by regulations made under this Act; or
- “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, at the rate of 5.08 cents per litre of motor spirit in respect of which excise duty or excise-equivalent duty is payable under the Customs and Excise Act 1996. 20
- “(5) The rate or rates of the levy prescribed by regulations made under this Act, and the rate prescribed by **subsection (4)(b)**, are exclusive of goods and services tax.” 25
- 7 Levy categories**
- Section 216 of the principal Act is amended by adding the following paragraph: 30
- “(d) fuel in respect of which a levy is payable under **section 213(2)(c)**.”
- 8 Collection of levies**
- (1) Section 217 of the principal Act is amended by repealing subsection (2), and substituting the following subsection: 35

- “(2) The levy payable under **section 213(2)(c)** on any fuel is payable—
- “(a) in the manner prescribed by regulations made under this Act; or
  - “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, with any excise or excise-equivalent duty that is payable on that fuel.” 5
- (2) Section 217 of the principal Act is amended by inserting, after subsection (4), the following subsection:
- “(4A) However, in the case of the levy payable under **section 213(2)(c)**, an agent who collects any amount of the levy on the Corporation’s behalf must pay that amount to the Corporation— 10
- “(a) in the manner prescribed by regulations made under this Act; or 15
  - “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, in the manner agreed by the Corporation and the agent.”
- (3) Section 217 of the principal Act is amended by adding the following subsection: 20
- “(6) Subsection (5) does not apply to the levy payable under **section 213(2)(c)**”.
- 9 Challenges to levies**
- Section 236(2) of the principal Act is amended by adding the words “or in respect of the levy payable under **section 213(2)(c)**”. 25
- 10 Power in respect of small amounts of levy**
- Section 244 of the principal Act is amended by adding, as subsection (2), the following subsection:
- “(2) Subsection (1) does not apply to the levy payable under **section 213(2)(c)**”. 30
- 11 Refunds payable by Corporation**
- (1) Section 255 of the principal Act is amended by inserting, after subsection (1), the following subsection:



- “(1A) Levies paid under **section 213(2)(c)** are refundable to the persons or classes of person, to the extent, and in the manner, prescribed by regulations made under this Act, and any refundable amount must be paid by the Corporation or an agent of the Corporation in accordance with the regulations.” 5
- (2) Section 255(2) of the principal Act is amended by inserting, after the expression “subsection (1)(b),” the words “or making a refund under **subsection (1A)**.”
- 12 Regulations relating to levies** 10
- Section 329 of the principal Act is amended by repealing paragraph (k), and substituting the following paragraph:
- “(k) prescribing, in relation to the levy payable under **section 213(2)(c)**,—
- “(i) the fuels in respect of which the levy is payable:
- “(ii) the category or categories of any fuel in respect of which the levy is payable: 15
- “(iii) the rate or rates at which the levy is payable:
- “(iv) the manner in which the levy is to be collected and paid to the Corporation:
- “(v) the persons or classes of person who are entitled to a refund under **section 255(1A)**, the extent to which any amount of levy may be refunded, the manner in which persons must apply for a refund, and the manner in which refunds are to be paid:” 20

### Part 3 25

#### Consequential amendments

- 13 Customs and Excise Act 1996 amended**
- (1) Section 2(1) of the Customs and Excise Act 1996 is amended by adding to the definition of **duty** the following paragraph: 30
- “(e) levies imposed by **section 213(2)(c)** of the Injury Prevention, Rehabilitation, and Compensation Act 2001”.
- (2) Section 75A of the Customs and Excise Act 1996 is repealed.
- (3) The Third Schedule of the Customs and Excise Act 1996 is amended by repealing so much as relates to Excise item numbers 99.75.15C and 99.75.18H, and substituting the Excise item numbers and rates of duty specified in **Part A of the Schedule**. 35

- (4) The Third Schedule of the Customs and Excise Act 1996 is amended by repealing so much as relates to Tariff item numbers 2710.19.11 and 2710.19.29, and substituting the Tariff item numbers and rates of duty specified in **Part B of the Schedule**.
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**Schedule**  
**Amendments to Third Schedule of Customs and Excise Act 1996**  
**(excise and excise-equivalent duties)**

s 13(3), (4)

**Part A**  
**Goods manufactured in New Zealand**

Excise item number	Goods	Unit	Rates of duty
99.75.15C	– Motor spirit with a Research Octane No. (RON) less than 92 (regular grade) which, if imported, would be classified within Tariff item 2710.19.11 or 2710.19.29	per l	36.2¢ plus 8¢ per g of Pb
99.75.18H	– Motor spirit with a Research Octane No. (RON) 92 or greater (premium grade) which, if imported, would be classified within Tariff item 2710.19.11 or 2710.19.29	per l	36.2¢ plus 8¢ per g of Pb

Part B  
Imported goods

Tariff item number	Goods	Unit	Rates of duty
2710.19.11 or 2710.19.29	– Motor spirit with a Research Octane No. (RON) less than 92 (regular grade) which, if manufactured in New Zealand, would be classified within Excise item number 99.75.15C	per ℓ	36.2¢ plus 8¢ per g of Pb
2710.19.11 or 2710.19.29	– Motor spirit with a Research Octane No. (RON) 92 or greater (premium grade) which, if manufactured in New Zealand, would be classified within Excise item number 99.75.18H	per ℓ	36.2¢ plus 8¢ per g of Pb

**Injury Prevention, Rehabilitation, and  
Compensation Amendment**

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**Legislative history**

7 April 2003

Introduction (Bill 40-1)

10 April 2003

First reading and referral to Transport and Industrial  
Relations Committee

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