



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 8 December 1998

ACCIDENT INSURANCE BILL

Proposed Amendments

Hon MURRAY McCULLY, in Committee, to move the following amendments:

Clause 1 (2): To insert, after the expression "234," (page 10, line 21), the expression "sections 327,".

Clause 13: "associated costs": new definition: To insert, on page 18 after line 28, the following definition:

"Associated costs" includes the costs of—

- (a) Receiving a claim; and
- (b) Determining whether the insured has cover, if the claim is made under section 48c (a) or (b); and
- (c) Transferring the claim, if that is necessary; and
- (d) Doing any other thing necessary to manage the claim:

Clause 13: definition of "claim": To omit the expression "section 46" (page 19, line 7), and substitute the expression "section 48c".

Clause 13: definition of "earnings as an employee": To omit the expression "section 15" (page 21, line 13), and substitute the expression "sections 15 to 17".

Clause 13: definition of "individual rehabilitation plan": To omit the word "approved" (page 24, line 10).

Clause 13: "laboratory technician": new definition: To insert, on page 26 after line 22, the following definition:

"Laboratory technician" means a person registered with the Medical Laboratory Technologists Board as a medical laboratory technologist:

Clause 13: "liable to provide": new definition: To insert, on page 26 after the definition of "laboratory technician", the following definition:

"Liable to provide", in sections 45 and 82 to 86, means liable to provide an entitlement under an accident insurance contract or under this Act, regardless of whether or not a claim has yet been made:

Clause 13: definition of “managing insurer”: To omit the expression “**section 44A**” (page 26, line 25), and substitute the expression “**section 45**”.

Clause 13: definition of “receiving insurer”: To omit the expression “**section 44B**” (page 31, line 24), and substitute the expression “**section 46**”.

Clause 13: “optometrist”: new definition: To insert, on page 28 after line 8, the following definition:

“Optometrist” means an optometrist registered with the Opticians Board who holds a current annual practising certificate issued by the Opticians Board:

Clause 13: definition of “specified insolvency date”: To omit the word “Registrar” (page 33, line 24), and substitute the word “Regulator”.

Clause 13: definition of “treatment provider”: To insert, after the words “occupational therapist” (page 35, line 18), the word “optometrist”.

Clause 13: definition of “weekly compensation”: To insert, after the figure “6,” (page 36, line 14), the figure “22,”.

To omit the words “, **Part 13, or clause 22 of Schedule 1**” (page 36, line 16), and substitute the words “**or Part 13**”.

Clause 13A (1) (b): To insert, after the words “provider’s” (page 37, line 7), the word “reasonable”.

Clause 28 (1) (c) (iii): To omit the word “an” (page 51, line 20), and substitute the word “another”.

Clause 29 (4): To omit the expression “**section 38**” (page 54, line 36), and substitute the expression “**section 372**”.

Clause 35 (2) (i): To omit the words “that is personal injury” (page 59, line 14).

Clause 35 (2A) (a) and (b): To omit the paragraphs (page 59, lines 18 to 22), and substitute the following paragraphs:

- (a) **Section 36B** denies cover to some insureds otherwise potentially within the scope of **subsection (1)**;
- (b) **Section 37** denies cover to some insureds otherwise potentially within the scope of **subsections (1) and (2) (d)**.

Clause 45 (a) and (b): To omit the paragraphs (page 69, lines 24 to 28), and substitute the following paragraphs:

- (a) In relation to—
 - (i) An insured as defined in **section 83**, means a managing insurer as defined in that section;
 - (ii) An insured as defined in **section 85**, means a managing insurer as defined in that section;
 - (iii) An insured as defined in **section 86A**, means a managing insurer as defined in that section;
 - (iv) An insured as defined in **section 86D**, means a managing insurer as defined in that section;
- (b) In relation to any other insured, means the insurer that is liable to provide the insured with entitlements:

Clause 47 (2): To omit the expression “**section 48 (b) (ii)**” (page 70, line 3), and substitute the expression “**section 48 (1) (b) (ii)**”.

Clause 47 (3): To omit the words “contributions from contributing insurers under one of **sections 86, 86B, 86C, 86E, or 399**” (page 70, lines 10 and 11), and substitute the words “recover a proportion of its costs from contributing insurers under one of **sections 86, 86B, 86C, or 86E** or from the manager under **section 399**”.

Clause 48: To omit the word “section” (page 70, line 19), and substitute the word “subsection”.

Clause 48j: To add, on page 73 after line 21, the following subclause:

(6) Nothing in section 9 of the Insurance Law Reform Act 1977 applies to the time limits specified in this section.

Clause 56: To omit the words “suitably qualified independent advice” (page 78, line 31), and substitute the words “independent advice from a suitably qualified person”.

Clause 57: To omit the expression “**section 46 (a) or (b)**” in both places where it appears (page 79, line 23 and line 28), and substitute the expression “**section 48c (a) or (b)**”.

Clause 63 (1) (a): To omit the expression “**section 65 (2)**” (page 85, line 23), and substitute the expression “**section 65 (2) to (5)**”.

Clause 63 (1) (c): To omit the words “for which the insurer determines the insured is not incapacitated within the meaning of **section 65 (2)**” (page 85, lines 31 to 33), and substitute the words “that the insurer determines, under **section 65**, the insured is able to engage in”.

Cross-headings: To omit the cross-heading above clause 64 (page 86, line 16).

To insert, on page 86 after line 22, the following cross-heading:

Incapacity for Employment

Clause 65 (3): To omit the words “any of the employments” (page 87, line 36), and substitute the word “every part of every such employment”.

Clause 65 (4): To omit the words “the employments” in the second place it appears (page 88, line 2), and substitute the words “every employment”.

Clause 65 (5): To omit the word “perform” (page 88, line 5), and substitute the words “engage in”.

Cross-heading: To insert, on page 90 after line 9, the following cross-heading:

Capacity for Work

Clause 68 (a): To omit the words “all the employments” (page 92, line 26), and substitute the words “every part of every employment”.

To add, after the word “applies” (page 92, line 29), the words “, but **section 69** applies instead of **section 65A (3) (a) (ii)**”.

Clause 68 (b): To add, after the word “applies” (page 92, line 34), the words “, but **section 69** applies instead of **section 66A (a) (ii)**”.

Clause 70 (2) (b): To omit the words “would be entitled under **Part 2 of Schedule 1** if the new incapacity were the relevant incapacity” (page 93, lines 22 to 24), and substitute the words “is entitled under **Part 2 of Schedule 1**, calculated at the time that he or she regains the entitlement”.

Clause 80 (1) (c): To omit the expression “paragraph (f)” (page 97, line 14), and substitute the expression “**paragraph (f)**”.

Clause 80 (1) (d): To omit the expression “**23**” (page 97, line 16), and substitute the expression “**23A**”.

Clause 81 (1): To omit the expression “**62, and 72**” (page 97, line 26), and substitute the expression “**and 62**”.

Clause 86: To omit the word “pay” in both places where it appears (page 104, line 5 and line 8), and substitute the word “provide”.

Clause 86D: To add, after the word “injury” (page 105, line 38), the words “, if the insured’s previous personal injury was a work-related personal injury he or she suffered as an employee”.

To omit paragraphs (b) and (c) (page 106, lines 2 to 9), and substitute the following paragraphs:

- (b) The insurer that insured the insured for the injury, if the insured suffered the previous personal injury while a self-employed person with an accident insurance contract; or
- (c) The insurer that insured the insured for the injury, if the insured suffered the previous personal injury while a private domestic worker with an accident insurance contract; or
- (d) The manager, if the insured’s previous personal injury was not an injury insured under an accident insurance contract:

To insert, on page 106 after line 11, the following definition:

“Managing insurer” means—

(a) The insurer under the employer’s accident insurance contract at the time that the insured suffers the subsequent injury, if the insured’s subsequent injury is a work-related personal injury he or she suffers as an employee; or

(b) The insurer that insured the insured for the injury, if the insured suffers the subsequent injury while a self-employed person with an accident insurance contract; or

(c) The insurer that insured the insured for the injury, if the insured suffers the subsequent injury while a private domestic worker with an accident insurance contract; or

(d) The manager, if the insured’s subsequent injury is not an injury insured under an accident insurance contract:

To insert, on page 106 after line 14, the following definition:

“Recurrence”, in relation to a previous personal injury, means a recurrence of the effects of the injury, if the recurrence is—

(a) Directly attributable to the previous personal injury; or

(b) Not directly attributable to an intervening incident:

To add, after the word “injury” on page 106 in line 23, the words “; and “subsequent injury” also includes a recurrence of a previous personal injury if the recurrence occurs on or after 1 July 1999”.

Clause 93 (1): To omit the expression “**section 19A (2)**” (page 111, line 35), and substitute the expression “**section 19A (2) (b)**”.

Clause 106 (1): To omit the words “unless **subsection (2A)** applies,” (page 118, line 17).

Clause 107 (6): To add, on page 119 after line 28, the following paragraph:

- (e) The amount the manager is liable to contribute to an insurer under **section 399**.

Clause 108 (2) (e) (i): To omit the figure “52” (page 120, line 8), and substitute the figure “53”.

Clause 111D (a): To omit the expression “section 111” (page 122, line 30), and substitute the expression “section 111A”.

Clause 119 (1): To insert, after the word “insurer” (page 126, line 32), the words “that allocates a reviewer”.

To omit the words “a reviewer” (page 126, line 33), and substitute the words “the reviewer”.

Clause 119 (2) (b): To omit the word “Must” (page 126, line 39), and substitute the word “May”.

Clause 135 (1A): To omit the words “the District Court” (page 133, line 29), and substitute the words “District Courts”.

Clause 136 (ca): To insert, after paragraph (c) (page 135, line 8), the following paragraph:

- (ca) To allow the parties to an accident insurance contract (being employers, self-employed persons, private domestic workers, as the case may be, and insurers) to enter into contractual arrangements to complement the delivery of statutory entitlements:

Clause 160 (1) (g): To insert, before the word “injury” (page 153, line 4), the word “personal”.

Clause 160 (4A): To insert, before the word “injury” in each place where it appears (page 153, lines 23, 24, and 25), the word “personal”.

Clause 168 (f): To omit the expression “or section 418 (2)” (page 159, line 11).

Clause 239: definition of “accident insurance contract”: To omit the expression “section 147A” (page 201, line 18), and substitute the expression “section 148A”.

Clause 240(2): To omit the expression “section 40” (page 202, line 16), and substitute the expression “section 36B”.

Clause 250 (3) (ea): To insert (page 210, after line 15) the following paragraph:

- (ea) The payment referred to in subsection (3A); and

Clause 250 (3A): To insert (page 210, after line 16) the following subclauses:

(3A) The manager must pay out of the Non-Earners’ Account an amount for education-related support for children requiring special assistance as a result of personal injury covered by this Act to enable the children to receive education.

(3B) The amount referred to in subsection (3A)—

- (a) Must be the amount specified in a policy direction given under section 298; and
 (b) Must be paid to the persons specified in the policy direction (which may include the Crown); and
 (c) Must be paid in the manner specified in the policy direction.

Clause 255 (5): To insert, after the word “manager” (page 213, line 6), the words “(or such lesser penalty as may be prescribed by regulations made under this Act)”.

Clause 263 (4) (c): To omit the expression “sections 85 and 86” (page 218, line 39), and substitute the expression “sections 85 to 86E and 399”.

Clause 279 (3): To omit the subclause (page 228, lines 20 to 24).

Clause 279B (2): To add (page 229, to line 13) the words “(or such lesser penalty as may be prescribed by regulations made under this Act)”.

Clause 286 (d): To omit the expression “Part 6” (page 232, line 20), and substitute the expression “Parts 4 and 6”.

Cross-heading: To omit, from the cross-heading on page 250, line 30, the words “Restricted Acute Health”, and substitute the words “Public Health Acute”.

Clause 320 (3): To omit the subclause (page 251, lines 27 to 29).

New clause 320 (7): To add, on page 251 after line 42, the following subclause:

- (7) In this section, “prescribed amount” means,—
- (a) If an amount is prescribed in regulations made for the purpose, that amount; or
 - (b) If a method of calculating an amount is prescribed in regulations made for the purpose, the amount that results from that calculation.

New clause 325A (1A): To insert, before subclause (1) (page 253, line 32), the following subclause:

- (1A) This section applies when—
- (a) This Act requires a document to be given to a person; or
 - (b) This Act requires a person to be notified of any information, and references in this section to a document being given must be applied accordingly.

Clause 325A (1): To omit the word “insurer” (page 253, line 34), and substitute the words “person required to give the document”.

New clause 325A (6): To add, on page 254 after line 23, the following subclause:

- (6) This section is subject to **section 47** and to any provision of this Act that specifically provides how a document is to be given.

Clause 327(3): To omit the words “, and their tax file numbers” (page 256, line 12), and substitute the words “their tax file numbers, and the time at which the person became or ceased to be an employer”.

New clause 327AA: To insert, after clause 327 (pages 255 and 256), the following clause:

327AA. Information available to Regulator to assess sanctions for employers without accident insurance contracts—(1) This section applies if the Regulator identifies an employer who is not complying with the obligation under **section 137**.

(2) The purpose of the section is to enable the Regulator to identify, for the purpose of **sections 337 to 344** (sanctions for failing to insure), the premium that would have been payable by the employer.

(3) The Regulator may from time to time request the Commissioner to provide such information relating to the employer’s industry classification and earnings levels as the Regulator may specify for that purpose.

(4) This section authorises the Commissioner to comply with the request, but—

- (a) Not in a way that could reasonably be expected to identify the individual employees concerned; and

(b) To the extent that this section involves an information match, **section 327(5) and (6)** applies.

Clause 327A (1): To insert, after the words “has been revised” (page 256, line 32), the words “on medical grounds”.

Clause 330 (1) (c): To omit the paragraph (page 259, line 35).

Clause 357 (f): To add (page 273, after line 24) the following paragraph:

(f) Prescribing the circumstances in which penalties in respect of unpaid premiums may be less than 3 times the amount of unpaid premium, and the penalties, or the method of calculating the penalties, in such cases.

Clause 360 (1): To insert, after the word “Minister” (page 275, line 18), the words “and the Minister of Health”.

Clause 360 (1) (a): To omit the paragraph (page 275, lines 20 to 22), and substitute the following paragraph:

(a) Prescribing—
 (i) The amount to be paid by an insurer under **section 320**; or
 (ii) A method by which the amount is calculated;
 and

Clause 360 (2): To omit the subclause (page 275, lines 27 and 28), and substitute the following subclause:

(2) Without limiting the matters that may be prescribed by regulations, regulations made under **subsection (1)** may—
 (a) Set different amounts to be paid by different classes of insurers;
 (b) Provide for the payment of amounts by instalments.

Clause 360 (3): To omit the subclause (page 275, lines 36 and 37 and page 276, lines 2 and 3), and substitute the following subclause:

(3) The Minister and the Minister of Health must not make any recommendation—
 (a) Under **subsection (1) (a)** without first consulting every insurer liable to pay the amount; or
 (b) Under any paragraph of **subsection (1)** without first consulting the persons or organisations the Ministers consider appropriate, having regard to the subject-matter of the proposed regulations.

Clause 360A (3) (g): To omit the paragraph (page 277, lines 2 to 4), and substitute the following paragraphs:

(g) Specify the period for which a transitional insurance contract must remain in force (which period must be no less than 3 months and no more than 6 months);
 (h) Enable any nominated insurer to require employers to provide information that is reasonably required for premium setting purposes;
 (i) Prescribe offences in respect of the contravention of or non-compliance with any regulations made under **paragraph (h)**, and the amount of the fine that may be imposed in respect of the offence, which fine may not exceed \$10,000.

Clause 367: To omit the words “One of the former Acts, or a section in one of the former Acts,” (page 295, lines 2 and 3), and substitute the words “A former Act, or a section in a former Act,”.

New cross-heading and new clause 372A: To insert, on page 297 after line 3, the following cross-heading and clause:

*First Week Compensation for Injury Suffered Before 1 July 1999
and Covered By Former Act*

372A. First week compensation for incapacity before 1 July 1999—(1) This section applies to a person who—

- (a) Immediately before 1 July 1999 was entitled to compensation under section 38 or section 137 of the Accident Rehabilitation and Compensation Insurance Act 1992; and
- (b) On and after 1 July 1999 would have continued to be so entitled.

(2) On and after 1 July 1999 such a person continues to be entitled to compensation under whichever of those sections applies to him or her.

Clause 373 (1): To omit the expression “391” (page 297, line 7), and substitute the expression “390”.

Clause 373 (2): To omit the subclause (page 297, lines 10 to 12), and substitute the following subclause:

(2) Sections 391 to 397 provide for entitlements for the spouse, children, and other dependants of such a person, if the personal injury for which the person has cover is death or is physical injuries from which he or she dies.

Clause 373 (3): To omit the expression “399” (page 297, line 15), and substitute the expression “398”.

Clause 375 and cross-heading: To omit the clause and the cross-heading above it (page 297, lines 25 to 36).

Clause 381: To omit the expression “Sections 64 (2)” (page 300, line 12), and substitute the expression “Sections 64”.

Clause 384 (2): To omit the words “approved as an individual rehabilitation plan under clause 29 of Schedule 1” (page 301, lines 2 and 3), and substitute the words “an individual rehabilitation plan to which clause 31 of Schedule 1 applies”.

New clause 384 (8): To add, on page 301 after line 29, the following subclause:

(8) The Accident Rehabilitation and Compensation Insurance (Complex Personal Injury) Interim Regulations 1994 do not cease to be in force because of the repeal of the Accident Rehabilitation and Compensation Insurance Act 1992 or commencement of this Act.

Clause 388: To omit the expression “clause 52 (3)” (page 303, line 29), and substitute the expression “clause 52 (2)”.

New clause 389 (1) (aa): To insert, before paragraph (a) (page 303, after line 37), the following paragraph:

- (aa) A person to whom section 27 (1) of the Accident Rehabilitation and Compensation Insurance Amendment Act (No. 2) 1996 applies and who was not reassessed under section 54A of the Accident Rehabilitation and Compensation Insurance Act 1992 before 1 July 1999:

Clause 389 (1) (c): To omit the paragraph (page 304, line 7).

Clause 389 (3) to (5): To omit the subclauses (page 304, lines 11 to 36), and substitute the following subclause:

- (3) The modifications are as follows:
- (a) Such a person may not lodge a claim for an independence allowance under **Part 4 of Schedule 1** for any injuries suffered before **1 July 1999**:
 - (b) A person described in **subsection (1) (aa)** receives the rate of independence allowance payable on 30 June 1997 as adjusted by section 71 of the Accident Rehabilitation and Compensation Insurance Act 1992 or **section 410**:
 - (c) Any assessment under **clause 56 of Schedule 1**, or reassessment under **clause 57 of Schedule 1**, must be done on the basis of whole-person impairment for the combined effect of all his or her personal injuries covered by the former Acts, and only 1 independence allowance is payable for all those injuries:
 - (d) As soon as practicable after **1 July 1999** the manager must require a person described in **subsection (1) (aa)** to be reassessed in accordance with **paragraph (c)**.

Clause 398: To omit the expression “**398**” (page 309, line 13), and substitute the expression “**397**”.

Clause 420 (1): To insert, after the word “name” (page 318, line 23), the words “and address”.

Clause 428 (2): To add to the clause (page 322) the following subclause:

- (2) Where the employer or self-employed person is not in business for the entire 1998/1999 premium year, the calculation under **subsection (1)** must be adjusted accordingly.

Schedule (1): clause 1 (1): To omit the expression “**subclause (2)**”, and substitute the expression “**subclauses (2) and (3)**”.

Schedule 1: new clause 1 (3): To add the following subclause:

- (3) The insurer’s liability under this clause in respect of a particular treatment is subject to the insured complying with any condition properly imposed under **clause 3** in relation to that treatment or that type of treatment, non-compliance with which would unreasonably prejudice the insurer’s ability to effectively manage the claim and any entitlement.

Schedule 1: clause 2 (3): To insert, after the word “nursing,”, the words “pharmaceuticals prescribed by a treatment provider who has statutory authority to prescribe pharmaceuticals,”.

Schedule 1: clause 3 (3) (b): To omit the expression “**sections 48G**”, and substitute the expression “**sections 48I**”.

Schedule 1: clause 6 (2): To insert, after the words “weekly compensation”, the words “for each employment for which he or she is incapacitated”.

Schedule 1: cross-headings: To omit, from the cross-headings above clauses 7 and 9, the words “*Earnings as an*”.

Schedule 1: new clause 10 (3): To add the following subclause:

- (3) For the purposes of this clause, “earnings” does not include earnings from any employment—
 - (a) That the insured had immediately before his or her incapacity commenced; and
 - (b) That was not permanent employment; and
 - (c) That the insurer determines, under **section 65**, the insured is able to engage in.

Schedule 1: clause 14 (3): To omit the words “is working 30 hours or more a week as a self-employed person”, and substitute the words “is

in the category of earners liable to pay the minimum premium set in regulations made for the purposes of **section 260**".

Schedule 1: cross-heading: To insert, above clause 16, the following cross-heading:

Shareholder-Employee

Schedule 1: clause 18 (1) (a): To omit the paragraph, and substitute the following paragraph:

- (a) Was, immediately before his or her incapacity commenced,—
- (i) In the category of earners liable to pay the minimum premium set in regulations made for the purposes of **section 260**; or
 - (ii) An earner in full-time employment; and

Schedule 1: clause 18 (1) (b): To omit the expression "12B".

Schedule 1: clause 23: To omit the clause, and substitute the following clauses:

23. Earnings definitions for purposes of clause 23A—(1) In clause 23A (1), (3), and (4), "earnings" does not include weekly compensation or any other entitlement payable under this schedule.

(2) "Earnings", in those subclauses, includes any payment (other than a payment for work actually undertaken by the insured) made by the insured's employer or the employer's insurer during the insured's incapacity that exceeds the difference between—

- (a) The level of the insured's actual earnings immediately before his or her incapacity commenced; and
- (b) The level of the insured's weekly compensation.

(3) "Earnings", in those subclauses, also includes any earnings from employment that the insured is incapacitated for, as determined under **section 65**, and that he or she continues to engage in after the incapacity commences.

(4) "Earnings", in those subclauses, also includes any earnings from any other employment that the insured was engaged in immediately before his or her incapacity commenced and that he or she continues to engage in after the incapacity commences, but only to the extent calculated using the following formula:

$$a - b$$

where

- a is the insured's weekly earnings from that employment during his or her incapacity
- b is the level that his or her weekly earnings from that employment would be, had those earnings been, first, calculated for that employment at the commencement of the incapacity as if the insured had been incapacitated for that employment for more than 5 weeks and, second, adjusted in the manner provided in **section 80**.

(5) In clause 23A (2), "earnings" includes earnings, as calculated under this Part and adjusted in the manner provided in **section 80**, from every employment in which the insured was engaged immediately before his or her incapacity commenced, whether or not the insured is incapacitated, as determined under **section 65**, for every such employment.

(6) "Earnings", in clause 23A (1) to (4), includes any payment made on or in respect of the termination of employment (other than as redundancy or superannuation). The insurer must treat such a payment as being received at such weekly rate, and for such period, as the insurer determines, having regard to—

- (a) The period to which the payment relates; and
- (b) The amount of the payment; and
- (c) The nature of the payment; and
- (d) Any other factors the insurer considers relevant.

23A. Abatement of compensation (including provision on subsequent injury)—(1) In calculating weekly compensation under this Part, the insurer may reduce the amount of weekly compensation paid to an insured by—

- (a) 24 cents for every \$1 of earnings derived during the period of incapacity in excess of \$55.25 a week but not in excess of \$88.36 a week; and

(b) 56 cents for every \$1 of earnings derived during the period of incapacity in excess of \$88.36 a week.

(2) The insurer may also reduce the amount of weekly compensation paid so as to ensure that the total of the insured's weekly compensation and earnings after his or her incapacity commences does not exceed the insured's earnings (including weekly compensation) immediately before his or her incapacity commenced.

(3) Subclause (4) applies to an insured who, while receiving both weekly compensation and earnings, has a subsequent injury within the meaning of section 86b.

(4) Such an insured receives the greater of—

(a) The weekly compensation to which he or she would currently be entitled for the previous personal injury if he or she had no other earnings; or

(b) The weekly compensation to which he or she was entitled immediately before the subsequent injury, plus 80% of his or her earnings at the time of the subsequent injury.

(5) The 3 amounts in the phrase "in excess of \$... a week" in subclause (1) must be adjusted in the manner provided in section 80.

Schedule 1: clause 31A (2): To omit the word "file", and substitute the word "bring".

Schedule 1: clause 51A: To omit the clause, and substitute the following clause:

51A. Hierarchy of considerations—(1) In deciding whether to provide vocational rehabilitation, the insurer must have regard to the matters in clause 52 (1).

(2) In deciding what vocational rehabilitation is appropriate for the insured to achieve the purpose of vocational rehabilitation under clause 51, the insurer must consider—

(a) Whether it is reasonably practicable to return the insured to the same employment in which the insured was engaged, and with the employer who was employing the insured, when the insured's incapacity commenced; and

(b) If it is not, whether it is reasonably practicable to return the insured to an employment of a different kind with that employer; and

(c) If it is not, whether it is reasonably practicable to return the insured to the employment in which the insured was engaged when the insured's incapacity commenced, but with a different employer; and

(d) If it is not, whether it is reasonably practicable to return the insured to a different employment with a different employer, in which the insured is able to use his or her experience, education, or training; and

(e) If it is not, whether it is reasonably practicable to help the insured use as many of his or her pre-injury skills to obtain employment as possible.

Schedule 3A: To omit from the left hand column the words "Personal injury caused by medical misadventure that is a work-related personal injury".

To omit from the right hand column the words "If self-employed with an accident insurance contract, the insurer under the contract.", and substitute the following words:

If self-employed with an accident insurance contract and not also an employee, the insurer under the contract; or

If self-employed with an accident insurance contract and also an employee, either the manager or the insurer under the contract that is liable to provide the greatest amount of weekly compensation.

Schedule 6: Judicature Act 1908: To omit the words "Accident Compensation Corporation or".

Schedule 6: Statutory Land Charges Registration Act 1928: To insert, in its appropriate chronological order, the following item (page 393):

1928, No. 18—The Statutory Land Charges Registration Act 1928 (R.S.Vol. 11, p. 403)	By repealing paragraph (a) of section 3 (2), and substituting the following paragraph: “(a) Charges created in favour of the prudential supervisor of an insurer in accordance with section 179 of the Accident Insurance Act 1998.”
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Schedule 6: District Courts Act 1947: To omit, from the first item, the words “Accident Compensation Corporation”, and substitute the word “insurer”.

To omit, from the first item, the words “or the insurer in respect of the judgment debtor”.

Schedule 6: Summary Proceedings Act 1957: To omit subparagraphs (i) to (iii) of paragraph (b) of the definition of the term “salary or wages”, and substitute the words “weekly compensation (within the meaning of section 13 of that Act)”.

Schedule 6: Social Security Act 1964: To omit, from the third item, the words “Part 5 or Part 13”, and substitute the words “Part 13 or Part 4 of Schedule 1”.

To omit, from *new section 71A (3) (a)*, the words “by the Accident Compensation Corporation or”.

To omit, from paragraph (a) of *new section 80D*, the words “The Accident Compensation Corporation or”.

To omit, from subsection (1B) of section 86A, the words “the Accident Compensation Corporation or” and the words “Corporation or an”.

To insert, in that subsection (1B), after the words “to the debtor”, the words “by the insurer”.

Schedule 6: Disabled Persons Community Welfare Act 1975: To omit from paragraph (f) of section 4 the words “the Accident Compensation Corporation or”.

To omit, from paragraph (f) of section 4, the word “their”, and substitute the word “its”.

Schedule 6: Family Proceedings Act 1980: To omit paragraphs (b) and (c) of the definition of the term “employer”, and substitute the following paragraph:

“(b) The insurer (within the meaning of the Accident Insurance Act 1998) in relation to weekly compensation payable to the respondent under that Act.”

To omit, from paragraph (b) of the definition of the term “salary or wages”, the words “Part 5 or earnings related or weekly compensation under Part 13 of”.

Schedule 6: Privacy Act 1993: To omit the second column of the new item being inserted into the Third Schedule (page 410), and substitute the following item:

“Sections 313, 314, 327, and 327AA”.

Schedule 6: Medical Practitioners Act 1995: To omit from paragraph (d) of section 83 (3) the words “the Accident Compensation Corporation or”.

Schedule 6A: Income Tax Act 1994: To omit paragraph (ba) of section CC 1, and substitute the following paragraph:

“(ba) All payments made, under the Accident Insurance Act 1998, by an insurer (within the meaning of that Act) of weekly compensation (within the meaning of that Act) that are not recovered or recoverable under section 279 of that Act:

To insert in section KC 3 (3) (aa) (i), after the word “under”, the expression “section 376 (2), section 377 (2), or”.

To insert in section KC 3 (3) (aa) (ii), after the word “under”, the expression “section 393, section 394, section 395, or”.

To omit, from the second item relating to paragraph (a) (v) of the definition of the term “full-time earner” in section OB 1, the words “payable under Part 2 or clauses 63, 66, or 67 of Schedule 1, or compensation payable under sections 376, 377, 384, 386, 396 (d), and 400 of the”, and substitute the words “within the meaning of section 13 of the”.

To omit paragraph (ia) of the definition of the term “salary or wages” in section OB 1, and substitute the following paragraphs:

“(ia) All payments made, under the Accident Insurance Act 1998, by an insurer (within the meaning of that Act) of weekly compensation (within the meaning of that Act); and

“(ib) Any other payments made by an insurer, under any policy of personal accident or sickness insurance to which section 154 (1) (a) of the Accident Insurance Act 1998 applies, of compensation for loss of earnings or loss of potential earning capacity in so far as it relates to a work-related personal injury within the meaning of that Act:—”.

Schedule 6A: Tax Administration Act 1994: To insert in section 81(4) (fa) (ii), after the expression “section 327”(page 441), the expression “or section 327AA”.

To omit the item relating to section 139A(1), and substitute the following item:

By inserting in section 139A (1), after the expression “1992”, the words “or any successor to that regulation made under the Accident Insurance Act 1998”.

EXPLANATORY NOTE

The main changes made to the Bill by this SOP are—

- including optometrists as treatment providers (*clause 13*)
- providing for payment out of the Non-Earners’ Account of education-related support for children requiring special assistance as a result of personal injury covered by the Bill (*clause 250*)
- allowing for circumstances in which the penalties in respect of unpaid premiums may be less than 3 times the amount of the unpaid premium (*clauses 255(5), 279B (2), and 357*)
- enabling the Regulator to obtain information from IRD about the time at which a person became an employer or ceased to be an employer (*clause 327 (3)*)
- enabling the Regulator to obtain information from IRD for the purpose of setting the penalty for a failure to insure by an employer (*clause 327AA*)
- providing that *clause 327A(1)* (insurer cannot recover payments simply because a decision is revised) only applies to a revision on medical grounds. The provision is intended to prevent insurers reclaiming money only following the making of a retrospective medical re-diagnosis. *Clause 327A (2)* applies to other payments made in error
- enabling regulations to specify the minimum (3 months) and maximum (6 months) period for which a transitional insurance contract must remain in force (*clause 360A (3) (g)*)
- enabling regulations to allow a nominated insurer to require employers to provide information that is reasonably required for premium setting purposes (*clause 360A (3) (h)*). A fine of up to \$10,000 may be prescribed
- exempting the mandatory first charge from the provisions of the Statutory Land Charges Registration Act 1928 (which relates to the priority of the charge, as against later security holders, being dependant on registration) (*Schedule 6*).

The other changes made to the Bill are technical changes or correct drafting errors.