

To: *The Transport and Industrial Relations Select Committee*

Injury Prevention, Rehabilitation, and Compensation
Amendment Bill

- SUBMISSIONS -

Access Support Services Ltd

Submissions on proposed changes to:

1. Interpretation - OPPOSED

(2) The definition of vocational independence in section 6(1) is amended by omitting “35 hours” and substituting “30 hours” [in relation to the claimant’s ability to engage in work]

2. Clause 25 - OPPOSED

Subclause (1A): omit “must” and substitute “may”. [in relation to taking into account the claimant’s pre-incapacity earnings]

Submissions prepared by:

*David Wadsworth (Principal)
Access Support Services Ltd,
PO Box 439, Motueka*

Ph: 03 52872381

Email: david@accesssupport.co.nz

About Us:

Access Support Services Ltd is a Nelson-based nationwide ACC claimant advocacy service. This service includes providing advice and representation to claimants:

- When ACC plans vocational and social rehabilitation*
- ACC Reviews*
- Appeals to the District Court*

Our organisation has been operating since 2001. For further information, please visit our website: www.accesssupport.co.nz

I request that I be given the opportunity to speak to my submissions at the select committee hearing.

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SUBMISSIONS

1. I submit the proposed changes (above) are inherently unfair because:
 - There is no requirement for the occupational assessor to consider the claimant's pre-incapacity income when identifying suitable job types for vocational rehabilitation.
 - There is no requirement for the occupational assessor to consider the claimant's pre-incapacity income when identifying suitable job types as part of the of the vocational independence assessment process.
 - The medical assessor only has to consider the claimants ability to engage in work for 30 hours a week as part of the of the vocational independence assessment process when most workers engage in full time work.

2. If these changes come into effect it will mean the Corporation can determine a claimant who had earnings, for example, of \$40,000 per annum before incapacity will lose their entitlement to weekly compensation if they can earn \$19,500 p.a. as a Sales Assistant (30hrs @ 12.50/hr x 52 weeks).

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In other words, an injured worker who cannot return to their pre-injury employment, say as a truck driver, could go from:

- Pre-injury earnings of \$40,000, to
- Weekly compensation (80%) of \$32,000, to
- Vocational Independence as a sales assistant - \$19,500

3. Many long term weekly compensation claimants receive more than \$600 per week in weekly compensation – see ACC’s strategy document for long-term claimants [appendix 2].

4. Of course, the higher the income the greater the unfairness. For example; if the Right Hon. Dr Nick Smith (Minister for ACC) suffered a head injury and could no longer function as a Member of Parliament, he would go from a base income of over \$200,000 p.a. onto weekly compensation of \$78,000 pa (the maximum payable). However, he would lose entitlement to weekly compensation if ACC determined he could work as a Sales Assistant for 30 hours on the minimum wage - \$19,500 p.a. (being less than 10% of his pre-injury income and 25% of his weekly compensation).

Obviously, Dr Smith’s case would be an extreme example, one an average levy payer may not have much sympathy with. However, many of the claimants we represent typically have pre-incapacity earnings of between \$35,000 to \$40,000 pa. They would still be faced with a potential 50% reduction in income if ACC determine they can work in a low paid employment for 30 hours a week. This reduction is significant. It is the difference between an injured worker paying the mortgage and not paying the mortgage. The impact on the claimant and their family is significant.

5. Furthermore, I submit the proposed changes will seriously impact on the claimant's willingness to engage in vocational rehabilitation. This has long been a concern expressed by injured workers to both our organisation and ACC. ACC may care little, but we do. We are the ambulance at the bottom of the cliff.

Claimants quite rightly have difficulty buying into a rehabilitation plan that has an outcome of rehabilitating a claimant into a job type where they would earn significantly less than their pre-injury earnings, if fact less than their level of entitlement to weekly compensation.

This has been the case historically, which has contributed to the ACC schemes' ballooning future liabilities (in accounting terms). This is no accident.

6. The ACC scheme is not full of malingerers. By definition, injured workers receiving weekly compensation were engaged in employment and earning immediately before sustaining a serious personal injury by accident.

However, ACC has consistently failed to engage claimants in meaningful rehabilitation in the past. ACC admitted to the systemic flaw at a Consumer Outlook meeting in 2008 [see appendix 1] and is now implementing a "tough love" strategy to compensate [see appendix 2]. The proposed change to the legislation is simply reinforcing this approach.

The Government and the Corporation are literally beating up on injured workers because both have failed these people in the past.

7. We submit it is unreasonable to expect an injured worker who, after having paid levies for some 30 years, finds that when they do have an accident and cannot continue in their employment, must accept working reduced hours in a low paying job without adequate compensation to meet their expenses.
8. The proposed changes turns the ACC scheme into an insurance policy that no right-minded person earning more than the minimum wage would voluntarily buy into (would you?).

It becomes a scheme being run on the cheap, a “claytons” insurance scheme for earners.

The only logical conclusion any informed person can arrive at is that if these changes are passed into law, workers earning more than the minimum wage would be wise to purchase additional private insurance. One has to question if this is the agenda behind these changes.

Unfortunately, the uninformed levy-paying worker will only find out about unfairness of these changes when it is too late – after they have suffered a debilitating personal injury.

9. In conclusion, I submit the proposed changes are unfair and unreasonable and, in my opinion, betray the very essence of the scheme. We submit this is contrary to the purpose of the Scheme set out in Section 3 of the Injury Prevention, Rehabilitation and Compensation 2001 Act.

Access Support Services strongly opposes the proposed changes to the occupational and medical assessments.

David Wadsworth (Principal)

Dated: 19 November 2009

Access Support Services Ltd

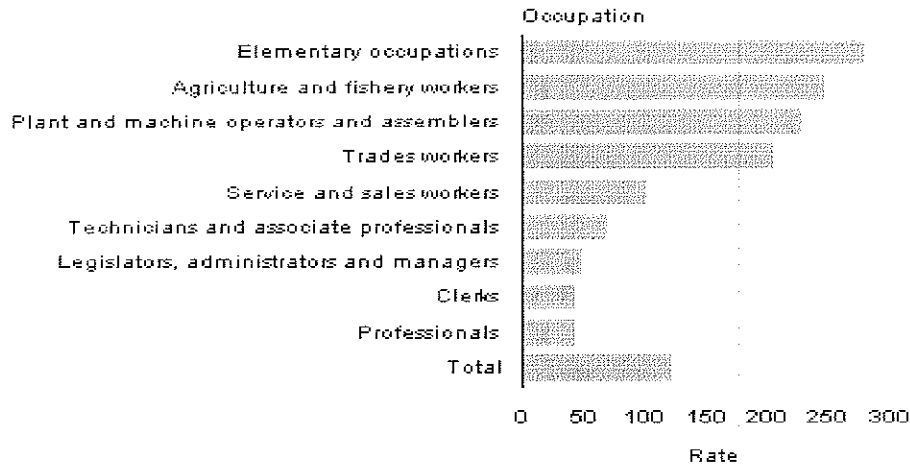
Attachments

- Appendix 1 – Reference Material
- Appendix 2 – ACC’s strategy document for long term weekly compensation claimants

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Reference material [Appendix 1]

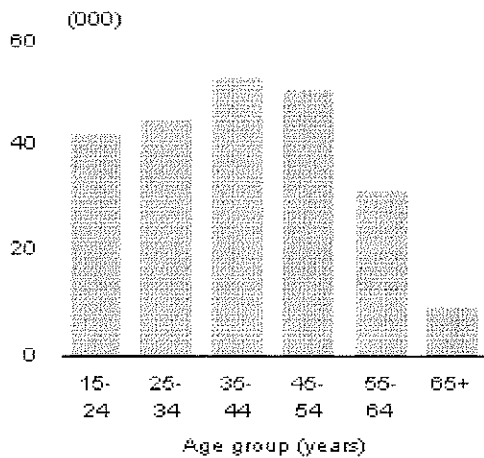
**Incidence Rate⁽¹⁾ of ACC Work-related Claims
By occupation
2007**



(1) Claims per 1,000 full-time equivalent workers.

Number of ACC Work-related Claims

*By age group
2007*



<http://www.stats.govt.nz/~media/statistics/browse%20for%20stats/injurystatistics/hotp07/injurystatisticsworkrelatedclaims2007revised.aspx>

Occupations	Median Weekly Income \$	Median Annual Income \$
Elementary Occupations	530	27,560
Agriculture and Fishery Workers	600	31,200
Plant and Machinery Operators and Assemblers	720	37,440
Trade Workers	773	40,196
Sales and Service Workers	360	18,720
Technicians and Associate Professionals	748	38,896
Legislators, Administrators and Managers	1,055	54,860
Clerks	619	32,188
Professionals	967	50,284

Figures taken from Statistics NZ – 2007

References: COG Committee minutes for December 2008 - Item # 5.

Funding for representation in developing an IRP and follow up on IRP document- Neville Satchell and Ben Strickland.

Neville spoke to a briefing paper provided to COG members before the meeting. He reviewed 144 plans in June and found that 38% met the standard. Following some staff training a review in September found that 68% met the standard and a further review a week prior to this meeting of 372 plans found that 80% met the standard and a further 11% had shortcomings that did not affect the validity of the plan. Only one case was found to have been incorrectly deemed. The issue was raised with the Team Leaders with the reminder that staff have been dismissed in similar situations. Neville will be preparing a process document to help Team Managers check the quality of plans prepared by their staff. Neville will obtain stats re outlier dates.

http://www.acc.co.nz/making-a-claim/for-advocates/consumers-outlook-group-minutes/PRD_CTRB096173