

## Departmental Disclosure Statement

Accident Compensation (Interest on Instalment Plans) Amendment Bill
---

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

13 May 2024

**Contents**

Contents.....2

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information .....4

Part Three: Testing of Legislative Content.....6

Part Four: Significant Legislative Features .....8

## **Part One: General Policy Statement**

The broad purpose of the Accident Compensation (Interest on Instalment Plans) Amendment Bill (the Bill) is to:

- introduce a regulation making power that clearly allows the Accident Compensation Corporation (ACC) to charge debit interest on levies that are paid under instalment plans, and provide that in future the rate of interest payable will be set by regulations, and
- introduce a regulation making power that sets out the circumstances under which ACC can waive all, or part of, debit interest charges, and
- provide that, until regulations as described above are made, the interest rates will be the rates that ACC is currently charging those employers on instalment plans, and
- validate ACC's past and current practice of charging interest in some cases where levies are paid by instalment.

The Bill will retrospectively validate ACC's past practice in charging debit interest, while providing an explicit legal authority for ACC to continue to charge debit interest.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>NO</b>
--	-----------

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
--	-----------

<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>NO</b>
---	-----------

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>The Regulatory Impact Statement, titled 'Interest on Instalment Plans – ensuring that ACC can charge appropriately and addressing past practice' was authored by the Ministry of Business, Innovation and Employment, with input from ACC, on 12 April 2023. Portions of the RIS are being withheld due to containing Crown Law advice.</p> <p>A copy of the RIS can be found here: <a href="https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments">https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments</a></p>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
---	-----------

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
--	-----------

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
---	-----------

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
--

No specific issues were identified in the policy process that may have implications for New Zealand's international obligations.
--

### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
---

No specific issues were identified in the policy process that may have implications for the Government's Treaty of Waitangi Obligations
---

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>
---

NO
----

### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>
--

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
---

NO
----

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?
--

YES
-----

Part 5 validates past practices, clarifying that any debit interest charges have been made lawfully, and removes any right to seek refunds for any prior payments.
--

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>
---

YES
-----

The Ministry of Justice was consulted during the NZ Bill of Rights Act 1990 vet. It was at this stage that an opportunity to provide comment on the impact of the removal to the right to seek appeals under specific sections was discussed.
---

### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>
---

NO
----

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>
--

NO
----

## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p>The Treasury and Crown Law have been consulted during the development of the Bill. The Department of Prime Minister and Cabinet has been informed.</p> <p>ACC, as the operational agency, has been involved in, and consulted on, the development of the Bill.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>YES</b>
<p>Officials have worked closely with relevant agencies, mainly ACC, to ensure that the provisions in the Bill are workable and can be operationalised. Officials have discussed the next steps with ACC, following the passing of the Bill with ACC and will be working in conjunction to progress necessary consultation on interest rates through the 2025-2028 levy round.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>
--	-----------

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>YES]</b>
<p>The Bill amends sections 234 in the Accident Compensation Act 2001 (the AC Act), specifically providing ACC with the ability to charge debit interest on instalment plans issued for levy payments.</p> <p>Instalment plans are beneficial for those that use them, as it is likely to cost the levy payer less than alternative sources of finance. In ensuring ACC can continue to charge debit interest, this ensures other levy payers, who pay accounts in full, are not cross subsidising those on instalment plans.</p> <p>The Bill introduces a regulation making power in section 329 to authorise regulations that set interest rates in respect of levies paid by instalments.</p> <p>An additional regulation making power in section 329 has also been introduced to authorise regulations that set the circumstances under which ACC may waive all, or part of, the interest rate due on levies paid by instalments.</p> <p>Part 5 sets an interest rate for 10-month instalment plans, which will apply until regulations are made to set the rates. The interest rate being used is the one being currently applied to those plans, no interest rate is currently being applied to 3 and 6 month plans. It is intended that an interest rate will be consulted on as part of the 2025-2028 ACC levy round, which is intended to be completed in early 2025. For instalment plans over three and six month periods, Part 5 clarifies that no interest is applicable.</p>	

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<p>Clause 3 of the new Part 5 will retrospectively allow ACC to charge debit interest on instalment, this will mean that any right to appeal interest payments previously made will be removed.</p>	



## Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

## Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
---	-----------

## Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>NO</b>
--	-----------

## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>
---	-----------

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>Section 329 will introduce a regulation making power to authorise regulations that set interest rates in respect of levies paid by instalments.</p> <p>It is appropriate for the interest rates to be set in regulations. Levy rates themselves are set in regulations and, already, the rate applicable to overdue levies and overdue instalment payments (overdue for less than 210 days) is set in regulations e.g. Injury Prevention, Rehabilitation, and Compensation (Interest Rate for Late Payment of Levies) Regulations 2002.</p> <p>Section 329 will also introduce a regulation making power to authorise regulations to be set to allow ACC to waive all, or part of, the debit interest rate due in respect of levies paid by instalments.</p> <p>It is appropriate for these circumstances to be set in regulations given the interest rate will itself be set in regulations.</p>	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
--	-----------