

Supplementary Departmental Disclosure Statement

Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill

A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- 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.

The original disclosure statement for the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill, dated 17 November 2021, can be found at this link <http://disclosure.legislation.govt.nz/assets/disclosures/bill-government-2021-103.pdf>

This supplementary 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.

20 July 2022

Contents

Contents 2

The Main Areas of Change to the Original Disclosures 3

Part One: General Policy Statement 4

Part Two: Background Material and Policy Information 5

Part Three: Testing of Legislative Content 7

Part Four: Significant Legislative Features 9

The Main Areas of Change to the Original Disclosure

This is a supplementary disclosure statement for the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill (the Bill).

A supplementary disclosure statement supplements the original disclosure statement for the Bill by reporting the additions and changes that would need to be made to the original disclosure statement to accurately reflect the Bill with the proposed government amendments incorporated.

Where the Bill now also incorporates changes made by a select committee of the House, the supplementary disclosure statement will note these if relevant but will not explain them further.

The main areas of change to the original disclosure statement include:

In 2022, the Select Committee considering the Bill made the following amendments to the Bill:

- Inserted additional maternal birth injuries to the Bill:
 - obstetric anal sphincter injury tears and urethral tears
 - anterior wall and posterior wall prolapses
 - post-partum uterine inversion
 - coccyx fracture or dislocation
 - pubic ramus fracture
 - symphysis pubis capsule or ligament tear
- Inserted a formal review clause of the listed maternal birth injuries which:
 - commences as soon as practicable after the bill had been operating for 3 years
 - includes the Minister for ACC consulting with appropriate parties
 - includes the Minister for ACC reporting to the House as to whether amendments.

The Supplementary Order Paper amends the Bill as reported back by the Select Committee

This Supplementary Order Paper (SOP) aligns the timing of increases to the minimum rate of ACC weekly compensation to increases to the minimum wage.

Part One: General Policy Statement

This SOP amends the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill.

The Bill makes six policy changes to the Accident Compensation Act 2001 (the AC Act) and seven technical changes, intended to make AC Scheme cover more equitable, provide greater clarity to claimants, and better give effect to the policy intent of the AC Act. The SOP contains a further amendment which builds on the Bill's intent to make AC Scheme cover more equitable.

Policy rationale for this SOP

Currently, the minimum rate of ACC weekly compensation is set by reference to the minimum weekly adult rate prescribed under the Minimum Wage Act 1983 or to 125% of the relevant supported living payment under the Social Security Act 2018 (whichever is higher of the two). As the minimum wage is currently higher than the supported living payment, the annual increases to the minimum wage which usually take effect in April each year have not been reflected in ACC's minimum weekly compensation until 1 July of that year. This means there is often a gap where ACC claimants who receive the minimum rate of ACC weekly compensation currently have to wait to receive an increase to their ACC weekly compensation.

There is no policy rationale for this difference. This SOP seeks to address this issue by aligning the timing of increases to the minimum rate of ACC weekly compensation with increases to the minimum wage.

Part Two: Background Material and Policy Information

Published reviews or evaluations

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?	NO
--	-----------

Relevant international treaties

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

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?	NO
---	-----------

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
A Regulatory Impact statement was not required for the SOP, however please refer to the original departmental disclosure statement for the Bill which lists the Regulatory Impact Statement <i>Extending the Accident Compensation Scheme Cover to Obstetric Injuries</i> , MBIE, 30 July 2021, available at: https://www.mbie.govt.nz/dmsdocument/17157-regulatoryimpact-statement-extending-the-accident-compensation-scheme-cover-to-obstetric-injuriesproactiverelease-pdf	

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?	NO
The Treasury did not assess the Regulatory Impact Statement <i>Extending the Accident Compensation Scheme Cover to Obstetric Injuries</i> (30 July 2021).	

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?	NO
--	-----------

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Analysis on the potential costs and benefits for the SOP is detailed in the Cabinet paper for this SOP, which will be published on the Ministry of Business, Innovation, and Employment's website, once the SOP is tabled to the House of Representatives.	

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

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

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?
None. The policy to be given effect by the SOP is not expected to impact on any international obligations.

Consistency with the government's Treaty of Waitangi obligations

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?
None. The policy to be given effect by the SOP is not expected to impact on the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

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?	NO
There has not been advice provided to the Attorney-General on the SOP. Assessments for compliance with the New Zealand Bill of Rights Act 1990 (the NZBORA) are not required for SOPs.	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(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)?	NO

Privacy issues

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?	NO
---	-----------

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
--	-----------

External consultation

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?	YES
ACC was consulted on the development of the SOP.	

Other testing of proposals

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?	YES
There has been ongoing engagement with ACC to ensure that the SOP is workable and can be operationalised.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

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

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
---	----

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
--	----

Strict liability or reversal of the burden of proof for offences

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

Civil or criminal immunity

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

Significant decision-making powers

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?	NO
---	----

Powers to make delegated legislation

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?	NO
--	----

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
---	----

Any other unusual provisions or features

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