

# **Submission**

by

**Business|NZ**

to the

**ACC**

on the

## **ACC Premium and Levy Regulations Discussion Papers**

**17 September 2001**

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**DISCUSSION PAPERS**  
**ACC PREMIUM AND LEVY REGULATIONS**  
**DRAFT SUBMISSION BY BUSINESS NEW ZEALAND**  
**17 SEPTEMBER 2001**

**1. Introduction**

- 1.1 This submission is made on behalf of Business New Zealand, incorporating regional employers' and manufacturers' organisations. The regional organisations consist of the Employers and Manufacturers Association (Northern), Employers and Manufacturers' Federation (Central), Canterbury Manufacturers' Association, Canterbury Employers' Chambers of Commerce, and the Otago-Southland Employers' Association. Business New Zealand represents business and employer interests in all matters affecting the business and employment sectors.
- 1.2 Business New Zealand welcomes the move to further lower premiums for employers and to better target premiums towards businesses with high claims levels. We believe this will have long-term impacts on reducing the overall level of injuries, with gains much broader than simply a reduction in premiums. However while we support the principle of adjusting premiums for sector risk groups to reflect injury levels we are disappointed by the lack of information to support the significant rise in premiums for the self-employed. We also have concerns about the continued impact of the high prudential margin on premium volatility.

**2. PRUDENTIAL MARGIN**

- 2.1 We understand the argument for applying a prudential margin to expected premiums and levies and support the concept that the margin should provide for greater stability in premiums. We also recognise there is some uncertainty about the level of future costs because of the impact of the Bill currently before Parliament. We note, however, that over the last eight years there has only been one year when claim costs in the employers account were higher

than anticipated. In some years there was a significant gap between expected costs and actual costs when actual costs fell from the previous level.

2.2 We consider a margin to the level proposed is inappropriate for the following reasons:

- (a) experience has shown that the level of actual costs has more consistently been below forecast costs so a high positive margin is inappropriate;
- (b) building in a high margin on forecasts is in itself risky because of the concern that forecasting will be treated less seriously; and
- (c) a high positive margin means there are no incentives for ACC to act proactively to ensure claim costs are minimised.
- (d) ACC is now a monopoly insurer so has the power to tax employers if a forecasting mistake is made.

2.3 It is also critical that there be significantly increased transparency applied to monies collected and monies actually expended for residual claims purposes. The dynamics of the variables on which estimates are made for residual levies may result in significant movements that should be apparent to all stakeholders. Without such transparency there will be no intrinsic support for any future increase in funding. Equally, windfall gains should be returned to employers.

2.4 The application of the high prudential margin to the employers account appears to be resulting in greater volatility in premium levels because the over-collection of premium in previous years has resulted in this year's proposal that premiums be set below expected costs. Volatility in premiums creates uncertainty over long term claims costs and make financial planning more difficult for employers.

### **3. WORKPLACE SAFETY MANAGEMENT PRACTICES**

3.1 An average loading of \$0.05 per \$100 of payroll is applied to fund premium discounts of between 10% to 20% in recognition for meeting and maintaining workplace standards. We have previously expressed concern that the compliance costs in meeting the audit requirements would mean only a small

proportion of companies will be in a position where the level of discount available will be greater than the cost of meeting the audit requirements. This has been recognised with the proposal to exclude smaller companies (ACC premium entry point of \$10,000) from the programme and making these companies pay for the costs of audits if they still want to enter the Workplace Safety Management Practice programme. These small to medium sized companies will still be levied to fund the discounts and audit costs for larger firms.

- 3.2 We consider that small to medium sized companies should also have access to discounts through the development of workplace standards more suited to small businesses. Small firms are interested in suitable tools that help them to assess risks in their workplace but find the current standard inappropriate.

#### **4. LEVY REGIME FOR EMPLOYERS WITH UNSAFE WORKPLACES**

- 4.1 We support the proposed levy regime targeting employers with unsafe workplaces and the processes proposed for auditing firms before the levy is applied. We also strongly support the intention to use the additional income generated by the levies to reduce premiums in the relevant premium risk group. We believe this targeted approach will positively impact on the overall level of workplace claims and will help to reduce average costs for employers.
- 4.2 We still support the introduction of an experience rating scheme as it would also provide stronger incentives for firms close to the industry average to improve their accident performance. The new levy regime will provide a useful discipline for a small group of poor performers but will do little to change the overall performance of the business sector.

#### **5. SELF-EMPLOYED ACCOUNT**

- 5.1 The average premium for the self-employed is proposed to increase by 25% to \$1.69 per \$100 of earnings compared with \$1.35 for the 2001/02 financial year. We understand this is based on an increase in claim costs and the number of claims by the self-employed but there is nothing to support the wide variation in increases in different risk premium groups. While we support

the intention of matching premium levels with claim costs we believe there needs to be much more information on the basis for the premium changes proposed.

- 5.2 A further major concern of self-employed people is the lack of any recognition in premiums for periods for which they have not made any claims. We recognise that most self-employed people are unlikely to have a claim in any 12-month period but it would be appropriate to provide discounts for cumulative periods without a claim.

## **6. RESIDUAL LEVY**

- 6.1 The Residual Claims Account still has a significant component of non-work accidents that occurred prior to 1992 and which are still being funded by employers. We submit these claims should be moved to the Earners Account or fully funded by the Government.
- 6.2 The residual levy is a major cost for industry sectors where there has been a substantial decline in business activity, numbers employed or a large number of new entrants. In some cases the reduction in activity has been the result of Government policy. An example is the removal of import licensing and tariff protection for the apparel and textiles sector. Total employment in this sector has fallen from 41,919 (full-time equivalents) in February 1995 to 20,641 in February 1999, a fall of 51%. Further falls are expected as imports continue to take a greater share of the domestic market.
- 6.3 This fall in employment and business activity is increasing the level of ACC costs for remaining employers as they now have to cover the cost of claims incurred by firms that have gone out of business. The impact of this is shown in Statistics New Zealand data from the Labour Cost Index. The index was established in 1992 and shows that ACC employer premiums comprised 1.7% of total labour costs but by 1998 the share had increased to 2.2%, an increase of 30.7%.
- 6.4 In the Textile and Apparel sector, ACC employer premiums were 1.8% of total labour costs, very close to the economy wide average. By December 1998

they had increased to 3.2%, a 76% increase from 1992. The average ACC employer premium labour cost for the sector is now nearly 50% higher than the average for the total economy.

- 6.5 Employment in the sector is expected to continue to decline even though the current tariff freeze is expected to result in a slower growth in imports. The sector is therefore going to face greater difficulty in funding the cost of past accident claims. It is also a further competitive disadvantage for the TCF sector and could hasten its demise. This sector is not alone, with similar parallels, for example, as seen in the meat industry consequent to the removal of supplementary minimum prices.
- 6.6 There is a clear case for the Government to fully fund the residual account, recognising the above concerns and the transition costs to the business sector from the movement from a pay-as-you-go to fully funded scheme.

## **7. NZCTU PROPOSAL RE COST OF DOCTORS' VISITS**

- 7.1 Business New Zealand understands that the New Zealand Council of Trade Unions has suggested that instead of there being a reduction in Employer Account Levies, that the same amount should be collected, but should be used by ACC to pay the full amount of any and all medical costs charged by a provider arising from injuries that occurred in the workplace. We further understand that, as an alternative position, the NZCTU may well suggest that if the levies are reduced (or even if they are not), then individual employers should pay the difference between the amount set by ACC and what the provider actually charges.
- 7.2 Business New Zealand totally rejects both these scenarios. This requirement, it is asserted, would bring New Zealand into conformity with ILO Convention No. 17 – Workmen's Compensation for Accidents. However, it must be recognised that Article 9 of the Convention states that such aid "... as is recognised to be necessary" is to be provided, with the cost of such aid to be "defrayed" by the employer or insurance company.

- 7.3 New Zealand legislation has always provided a qualification to the level of payment provided for medical treatment. The Convention was ratified in 1938, at which time the 1922 Workers' Compensation Act provided for the payment of "reasonable" medical expenses to a capped monetary amount. This provision was continued in the Consolidated Workers' Compensation Act 1956.
- 7.4 The Accident Compensation Act 1972 expressed the limitations to the amount to be paid by the Commission as being "reasonable by New Zealand standards" – a definition continued in the consolidating 1982 Accident Compensation Act. Regulations were permitted pursuant to the Accident Compensation Acts of 1972 and 1982, which could (and did) provide for payment limits. So too, the Accident Rehabilitation and Compensation Insurance Act 1992 merely continued to determine by way of Regulations made pursuant to it, maximum amounts in certain circumstances that were determined to be reasonable in the context of New Zealand's overall health provision services.
- 7.5 To expect either the ACC or indeed employers to meet the full cost of any amount the medical providers might choose to impose would be quite unacceptable. There would be little accountability in such a system and, if it were only applied to injuries arising from the workplace, would create inequities dependent on where a particular accident occurred and could create an incentive for injuries to be wrongly coded.
- 7.6 The Government has recently reviewed the Accident Insurance (Insurers' Liability to Pay Cost of Treatment) Regulations 1999 and has instructed ACC to continue its rollout of contracts to purchase accident and medical clinical services and expand its trial of direct purchase of physiotherapy services to further sites.
- 7.7 Business New Zealand supports the direct contracting initiatives by ACC and considers the endorsed provider network framework to be the most appropriate in meeting the needs of those injured as well as those funding the accident compensation scheme. It is Business New Zealand's submission that

this issue should be dealt with separately from the current focus on ACC Premium and Levy Regulation.

## **8. RECOMMENDATIONS**

- 8.1 That no prudential margin be applied to Employers' Account and Residual Claims Account premiums.
- 8.2 That there be significantly greater transparency applied to monies collected and actually expended to enable all stakeholders to identify the costs and estimated costs of residual claims. Windfall surpluses beyond a prudent margin should be returned to payers.
- 8.3 We support the introduction of an additional levy for employers with unsafe workplaces as long as the additional levy income generated is used to reduce average premiums in the relevant premium risk group.
- 8.4 That ACC develop a workplace standard or standards suitable for small to medium sized employers
- 8.5 That ACC provide more information for the self-employed to justify the premium increases proposed for the 2002/03 premium year.
- 8.6 That ACC introduce non claims discounts for the self employed.
- 8.7 That non-work claims for injuries prior to 1992 be moved from the Residual Levy Account to the Earners Account or fully funded by the Government.
- 8.8 That the Government fund the residual levy account.
- 8.9 We reject the NZCTU view that ACC or employers should pay the full amount of any and all medical costs charged by a provider arising from injuries that occurred in the workplace.