Submission

By

Business NZ
The voice of business

to the

Transport and Industrial Relations Select Committee

on the

Accident Compensation (Financial Responsibility and Transparency) Amendment Bill

June 2015

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ACCIDENT COMPENSATION (FINANCIAL RESPONSIBILITY AND TRANSPARENCY) AMENDMENT BILL
SUBMISSION BY BUSINESSNZ[1]

1.0 INTRODUCTION

1.1 BusinessNZ welcomes the opportunity to make a submission on the Accident Compensation (Financial Responsibility and Transparency) Amendment Bill ("the Bill").

1.2 BusinessNZ supports the general thrust of the Bill which will provide much greater clarity around the setting of ACC levies than has been the case in the past.

1.3 BusinessNZ has for many years made submissions to ACC pointing out the deficiencies of the annual ACC levy consultation round and it is pleasing that finally, this Bill has made it to Parliament.

1.4 New binding principles will be introduced to ensure the scheme is adequately funded to withstand economic volatilities, while keeping levies as low as possible and relatively stable over time. Importantly, ACC will also be required to report publicly on the long-term implications of the Government's levy decisions.

1.5 Notwithstanding its strong support for the thrust of the Bill, this submission makes a number of recommendations which BusinessNZ considers will help to improve the Bill (see below).

RECOMMENDATIONS

BusinessNZ **recommends** that:

1. The Bill proceeds.

Notwithstanding the above, BusinessNZ **recommends** that:

2. Clause 166A(c), which currently states "large changes in levies must be avoided", be changed to "large changes in levies should be avoided unless required as a result of extraordinary circumstances" (or words to that effect).

[1] Background information on BusinessNZ is included as Appendix 1.

3. Before releasing a funding policy statement (clause 166B), the Minister be required to refer the proposed policy to an appropriate independent agency for review to ensure consistency with sound insurance principles, recognising that ACC, as a state-monopoly provider, is able to lower or increase the levies imposed on its various account funders. The Minister will be required to publicly release the outcome of an independent review and prior to policy implementation, indicate how concerns raised, if any, are to be addressed.

4. The funding policy statement (Clause 166B) contain a specification of the role (if any) of cross-subsidisation in relation to the various ACC accounts to ensure transparency in government policy making.

Alternatively, and without prejudice to Recommendation 4:

5. If, in the opinion of the Government, there is a sound public policy reason for the continued cross-subsidisation of motorcyclists (although no obvious reason occurs to BusinessNZ), the nature of this subsidisation be made transparent and the funding come from general taxation instead. The funding will then clearly show in the government accounts, allowing the quality of the expenditure to be judged alongside all other areas of government expenditure.

6. The state of the Government's fiscal position (as expressed in the Government's accounts), should not be a consideration when setting ACC levies.

7. All references to the residual claims levy component in levy setting be deleted given that the Work, Earners and Motor Vehicle Accounts are now all fully-funded, making the continued use of the term "residual levy" redundant.

8. Section 2(1) should be amended to remove the words "Except as provided in subsection(2)," Section 2(2) would now read *"This Act comes into force on the day after the date on which it receives the Royal assent."*

9. Section 2(2) should be deleted.

2.0 ACC Funding Policy

2.1 It is important for the ACC Board, and ultimately the Minister, to be held to account for setting premium rates which reflect sound commercial practice and minimise the risk of on-going interference to meet political objectives.

2.2 While levy stability is a desirable objective, it should not take precedence over the important signals which levy payers ought to receive about the true costs associated with accidents (whether the result is a reduction or an increase in premiums over time).

2.3 BusinessNZ notes that under current law, ACC levy recommendations are not binding on the Minister (of ACC) who can “accept, reject, or modify the Corporation’s recommendations”. While the Minister should be able to change ACC’s premium rate recommendations if new information comes to hand that suggests ACC’s actuarial advice was flawed, there has been a tendency over the years for ACC Ministers to tinker with ACC’s recommendations and to make recommendations of their own.

2.4 While it is possible ministerial changes will be soundly based on actuarial analysis, there is a danger of their reflecting wider political judgements as to what ACC premiums should be. For example, the Government’s 2014 decision to, in general, retain ACC levies at levels well above those recommended by the ACC Board, reeked of political interference and made the public consultation on levy proposals something of a farce. However, since its inception in the early 1970s, and spanning a wide range of governments, the scheme has always been subject to political manipulation when it comes to premium setting.

2.5 BusinessNZ is therefore pleased that this Bill will require successive governments to abide by a sound set of principles when making ACC levy adjustments. This should give premium payers much more confidence in the integrity of the ACC levy setting process.

BusinessNZ **recommends** that:

1. **The Bill proceeds.**

3.0 Clause 166A Principles of financial responsibility in relation to Accounts

3.1 BusinessNZ strongly supports principles (1) and (2)(a) and 2(b). However, principle (2)(c) is problematic as currently worded given that it states that large changes in levies *must* be avoided.

3.2 While BusinessNZ is very supportive of ensuring significant levy fluctuations are avoided wherever possible, there may be situations where large changes are necessary. First, one of the major benefits of a fully-funded model is that any policy changes which affect the scheme’s costs are immediately reflected in premium rates. If the Government makes changes to the scheme which add to (or reduce) costs, it is important that these are immediately reflected in premiums so that the changed policy decisions are transparent to the funders of the various ACC accounts. Second, there may be occasions when large premium changes (either up or down) may be necessary if an extraordinary event occurs, such as a catastrophic natural disaster resulting in massive claims’ costs or an economic event which sees ACC assets seriously eroded through financial loss.

3.3 Given the above, BusinessNZ considers that large changes should be avoided unless there are extraordinary circumstances which would justify large increases (or reductions).

BusinessNZ **recommends** that:

2. **Clause 166A(c) which currently states "large changes in levies must be avoided", be changed to "large changes in levies should be avoided unless as a result of extraordinary circumstances" (or words to that effect).**

4.0 Clause 166B Funding Policy Statement

4.1 This clause requires the Minister to issue a funding policy statement outlining a number of requirements.

4.2 BusinessNZ is concerned that while the funding policy statement must be consistent with, and explain how it is consistent with, the financial responsibility principles in section 166A, there would appear to be the potential at least for different Ministers (and potentially different governments) to make changes to the funding policy statement to meet political ends. For example, the policy statement could be altered to allow for significant and unjustified cross-subsidisation within the various ACC accounts, although not necessarily inconsistent with meeting the life-time costs of claims within each account. The significant cross-subsidisation of motor cyclists within the Motor Vehicle Account is a case in point.

4.3 Current cross-subsidisation between transport modes is both considerable and unjustified. The nature of insurance is to pool similar risks within similar risk categories (and as a result some cross-subsidisation is inevitable) but little progress has been made to address the issue of unjustified cross-subsidisation.

4.4 The nature of the subsidisation was well explained in the ACC Levy Consultation Document 2015/16 Proposed Rates (May 2014). In short, just over $100 million will need to be collected to pay for expected motor cyclist claims in the year to June 2016. Under the proposed levy rates motor cyclists will contribute just $27 million and owners of other vehicles will contribute about $77 million i.e. motor cyclists will pay about 25% of the actual cost of motor cycle accident claims.

4.5 The ACC Levy Consultation Document tried to justify this cross-subsidisation by stating (on p.96) that if the true cost of motorcycle injuries were reflected in motorcycle levies, then owning a motorcycle could become prohibitively expensive. BusinessNZ considers this a cop-out.

4.6 BusinessNZ is not aware of any other New Zealand insurance market where a wide group of individuals is explicitly subsidised, beyond normal insurance principles which pool risk within similar risk categories. Individuals considered to be in need of taxpayer assistance (usually income-related) generally receive assistance via various tax measures and income support to enable them to purchase essential goods and services.

4.7 If the Government decides that for some rigorously determined public policy reason motorcyclists should continue to be subsidised (although BusinessNZ cannot think of any), such subsidies should be transparent and funded out of general taxation, with the subsidy explicitly recognised in the government accounts as is currently the case with government (taxpayer-funded) assistance to low income earners, the elderly (via NZ Superannuation payments) and so on.

4.8 BusinessNZ's concern is that the current Bill does not necessarily address the cross-subsidisation issue. If the Government is serious about improving the transparency of levy setting based on sound insurance principles, surely a consistent, across the board approach must be taken and current cherry picking avoided.

4.9 It may be desirable to include in the funding policy statement a specification of the role (if any) of account cross-subsidisation. Premium payers might then be able to understand the rationale (if any) for allowing current cross-subsidisation to continue.

4.10 Another concern in relation to levy setting is the incentives on Government to try and achieve other objectives, unrelated to ACC levies per se. For example, the Government's objective of achieving a surplus has been cited in the past as a possible reason for not lowering premiums more rapidly.

4.11 In the view of BusinessNZ such a position is not tenable since while ACC operates as an insurance-based scheme it is also a state-sanctioned monopoly with the power to tax employers should unexpected costs arise. Perhaps more importantly, funds in the ACC scheme are obtained from those required to pay into the scheme and are ring-fenced to prevent cross-subsidisation between the various ACC accounts and are not available to fund any other areas of government activity.

BusinessNZ <u>**recommends**</u> that:

3. **Before releasing a funding policy statement (clause 166B), the Minister be required to refer the proposed policy to an appropriate independent agency for review to ensure consistency with sound insurance principles, recognising that ACC, as a state-monopoly provider, is able to lower or increase the levies imposed on its various account funders. The Minister will be required to publicly release the outcome of an independent review and prior to policy implementation, indicate how concerns raised, if any, are to be addressed.**

BusinessNZ **recommends** that:

4. **The funding policy statement (Clause 166B) contain a specification of the role (if any) of cross-subsidisation in relation to the various ACC accounts to ensure transparency in Government policy making.**

Alternatively, and without prejudice to Recommendation 4:

BusinessNZ **recommends** that:

5. **If, in the opinion of the Government, there is a sound public policy reason for the continued cross-subsidisation of motorcyclists (although no obvious reason occurs to BusinessNZ), the nature of this subsidisation be made transparent and the funding come instead from general taxation. The funding will then clearly show in the government accounts, allowing the quality of the expenditure to be judged alongside all other areas of government expenditure.**

BusinessNZ **recommends** that:

6. **The state of the Government's fiscal position (as expressed in the Government's accounts), should not be a consideration when setting ACC levies.**

5.0 Residual Claims Levy

5.1 There is no longer any good reason for ACC continuing to collect the residual claims levy given that that ACC scheme is now fully funded across the 3 major accounts – Work, Earners and Motor Vehicle. There is no need to collect a residual work levy or residual earner's levy as all levy rates are now solely reflective of the claims liability for each ongoing period.

5.2 Continuing with a residual claims levy has wider implications, including making the use of experience-rating less effective.

5.3 While the Bill provides for residual claims levies to be discontinued by Order in Council, there is no defined timeline in place for this to happen. In the view of BusinessNZ, the residual claims levy should cease when the amendment Act comes into force.

BusinessNZ **recommends** that:

7. **All references to the residual claims levy component in levy setting be deleted given that the Work, Earners and Motor Vehicle Accounts are now fully-funded, making the continued use of the term "residual levy" redundant.**

BusinessNZ **recommends** that:

8. **Section 2(1) should be amended to remove the words ”Except as provided in subsection(2),”**

    Section 2(2) would now read “This Act comes into force on the day after the date on which it receives the Royal assent.”

BusinessNZ **recommends** that:

9. **Section 2(2) should be deleted.**

APPENDIX 1

BACKGROUND INFORMATION ON BUSINESSNZ

BusinessNZ is New Zealand's largest business advocacy organisation.

Through its four founding member organisations – EMA Northern, Business Central, Canterbury Employers' Chamber of Commerce (CECC), and the Otago-Southland Employers' Association (OSEA) – and 74 affiliated trade and industry associations, Business NZ represents the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

In addition to advocacy on behalf of enterprise, BusinessNZ contributes to Governmental and tripartite working parties and international bodies including the International Labour Organisation (ILO), the International Organisation of Employers (IOE) and the Business and Industry Advisory Council (BIAC) to the Organisation for Economic Cooperation and Development.

It should be noted that the Motor Industry Association of NZ (Inc) does not support recommendation 5 in this submission by BusinessNZ.