



Submission

By

Employers and Manufacturers Association (EMA)

to the

Accident Compensation Corporation

on the

2022-2025 Levy Rate Consultation Documents

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**2022-2025 ACC LEVY RATE CONSULTATION DOCUMENTS
SUBMISSION BY EMA**

INTRODUCTION

1. EMA welcomes the opportunity to comment on the 2022-2025 ACC Levy Rate Consultation Documents.
2. We welcome levies being forecast for 3 years out as this helps business forecast and budget their costs in these uncertain times.
3. We welcome the revised levy rate for Workplaces to \$0.63 for the next levy year. This will be welcome from business as they attempt to trade out of Covid 19 restrictions and uncertainties.
4. We are very concerned however with the expected increases to workplace costs as described on page 8 and 13 of the Work Account Pricing for Consultation documents.
On page and within the table is identifies “longer rehabilitation for weekly compensation claims, \$0.09. and then again on page 13 it states under “Claim severity”. the average cost per claim which is predominantly driven by rehabilitation rates for weekly compensation”. We note there has been a recent change to the rehabilitation (claims management process) system which has not gone well. We understand that changes are being made to this new system. As employers are funders of the Work Account, we find it incredible that we are not part of the new claims management process at all. Indeed, all the ACC public communications regarding this new system do not mention employers once. If ACC wants and needs rehabilitation rates to improve, they must involve employers at the earliest opportunity. They are a significant stakeholder and the funder of such processes. We **recommend** that the *Supporting our Clients* process be reviewed to specifically include employers for any workplace claim that is lodged with ACC from the earliest time possible.
5. We note the forecast of workplace claim costs as almost doubling in some provider accounts e.g., physiotherapy and radiology among others. While we do not wish to limit treatments to patients there must be a point where the costs outweigh any real benefit to the rehabilitation process. We suggest that ACC review their treatment regimes and normative tables on treatment in an attempt at least to limit or slow the increasing costs of workplace claims.
6. We understand the absolute need for reducing claims and severity of claims. It makes good sense. We have though been pursuing this goal for years with what it seems to be with little effect. We note there are more businesses and employees however this alone would not cause the constant trend. Modern businesses are usually high tech and need fewer staff. We note also the increase of labour-intensive

primary industries where high tech means huge capital outlay. This often does not happen.

7. As ACC is an insurer and it is normal for the insurer to mitigate its risks. Employers are required to register with ACC as a mandated national insurer. We **recommend** that ACC use their extensive data base and the Worksafe NZ data to specifically identify businesses that are high risk and then enter into a one-on-one joint risk mitigation regime. We find that relying on public campaigns and national grants and subsidies is not that helpful to employers. They often are not aware of such schemes. The role of ACC and Worksafe working together with a business will compound the effect and produce sustainable and positive results.
8. We note that over \$100 mill has been spent on injury prevention across all accounts. It is not known how was allocated to the work account. The consultation document indicates that ACC get a \$1.80 return for every dollar spent on injury prevention. This is a good return on monies spent.
9. Statistics NZ indicate that as of August 2021 there were 552,408 enterprises in NZ. Given the \$100 Mill is divided across other accounts lets assume Workplace gets \$40 Mill. This then would equate to around \$72.00 for every workplace. Granted many workplaces and sectors would not receive dedicated injury prevention funding that still is not a lot to spread around. The \$100 mill compared to the levies take of \$3.24 Billion is 3.09%. and for workplaces it equates to 1.23%. If ACC are determined to work with Worksafe NZ and business to reduce claims and claims severity this allocation needs to increase. Businesses often spend between 4 – 10% plus on injury prevention.

Experience rating.

10. We note ACC is proposing to increase the penalties from 75% to 100% as a means to drive changes in workplace prevention behaviours. On top of this there is proposed a Fatality Modifier of a further 20% loading on the first year's levy followed by a 10% for the second year. The rationale is to drive a behaviour change.
11. We seriously challenge this logic as the large majority of businesses have no contact with ACC until an accident event occurs. ACC is done to them, and their accountants pay the levies. It is a very passive relationship.
12. Given the Regulator, Worksafe only prosecute less than one third of fatal accidents at work after a thorough investigation is does lead one to the conclusion that there was no breach of the duties within the Health and Safety at Work Act 2015. If this is correct, then how now can ACC proceed to require a penalty levy when no breach of

law has occurred. By definition it was an accident for which the ACC as the insurer covers under its Act and Regulations. It is perverse to allow an employer to be found guilty when no breach has occurred. We **recommend** that both the increase in Experience Rating amounts and the Fatality Modify be withdrawn completely.

13. ACC processes are often designed to the exclusion of employers, who fund the work account.
14. Indeed, with the current new rehabilitation system employers are totally not represented within the scheme, at the same time ACC is increasing levy costs for which employers have no ability to change.
15. Under the HASW Act where penalties are much higher this has not led to dramatic injury reductions, so for ACC to now use this a tool we believe is mistaken.
16. Experience rating to them is a process done to and for them by ACC and in reality, has little effect on small employers. The plus or minus of \$1000.00 is small and in most cases will be absorbed. No one is using this discount figure as an income stream and therefore it has little incentive or disincentive value.
17. Continuing to use weekends to calculate total rehabilitation days when deciding experience rating is not wrong.
18. Given the 70-day regime using 7 days equates to 10 weeks whereas using the actual compensation days of 5 days equates to 14 weeks. We note the Act requires a rehabilitation plan to be in place by 13 weeks.
19. The paradox is once one day is lost to compensation the 10% discount is lost. This lost day maybe at the direction of the GP with no employer input at all.
20. The Experience Rating Regulation 2016 define weekly compensation as “weekly compensation day” means a day or part-day within a period recorded by the Corporation as the period, or a period, of weekly compensation on a qualifying claim”.
21. We believe to continue to use weekends when there is no compensation payable is wrong. Having weekends taken out is already possible as it is done when calculating weekly compensation.
22. We feel small businesses are being disadvantaged by this process. We again ask if weekly compensation can be calculated on a daily basis, then it should not be difficult to calculate compensation days also based on days where compensation was actually paid.

23. We **recommend** ACC to rethink the inclusion of weekends when calculation experience rating for the less than \$10k employers.
24. We note the current system is unknown and hidden within the ACC system. There is little an employer can do in real terms to effect medical outcomes once the injury has occurred. The real gate keepers are the medical profession.
25. In earlier experience rating systems that were totally transparent employers could undertake real time financial planning re rehabilitation. They could see a real cause and effect relationship to interventions they could programme and implement.
26. We **recommend** the Experience rating scheme be reviewed to make it more employer/rehabilitation focused on the same time making employers a key stakeholder. The medical profession does not fund the employers account, yet they have the ability to affect the employers account by what they do or don't do in terms of rehabilitation and medical treatments/interventions.
27. Experience rating must measure what the business can actually do rather than what is done to it. The point being made is the medical treatment providers are key to any workplace accident and follow up, but these people are distant from the business and the ability of the business to influence them is limited. Thus, measuring rehabilitation outcomes is often not a process the business has much control over. They merely are a stakeholder in a system where they have little influence.

Yours sincerely
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