

Questions and Answers

A: Background

A1. What are you consulting on?

In December 2010 the Government agreed in principle to the introduction of choice in the Work Account, as part of a package of measures to improve incentives for workplace safety, improve services for claimants and keep levies affordable both now and in the future.

(See www.beehive.govt.nz/release/next-steps-acc-announced)

We are now consulting on the detail of how to:

- extend the Accredited Employers Programme so that more employers and workers can experience the benefits
- introduce choice by giving employers a choice of purchasing work-related personal injury insurance for their workers from either ACC or a private insurer.

For more detail of these proposals, see the discussion document *Increasing choice in workplace accident compensation* at www.dol.govt.nz/consultation

A2. What's the timetable?

The Department of Labour is accepting submissions on the proposals until 15 July 2011. The Government will consider the views expressed during consultation and make final decisions before the election later this year.

A3. What other decisions did the Government announce in December?

The Government announced plans to introduce experience rating in the Work Account. This happened on 1 April this year and is a positive step towards motivating employers to become more focussed on workplace safety, by giving businesses the opportunity to have some influence over the levies they pay.

We also announced plans to remove Dispute Resolution Services Ltd from ACC ownership to make its independence explicit. This will happen from 1 July this year.

The Government also announced in December that we have asked officials to do work on considering choice in other ACC accounts. The Work Account is the best place to start opening ACC to choice because it is less administratively complex than it would be in other accounts, and because there is a demand from employers for this type of change. We will look further at choice in other accounts at a later stage if we think it would be beneficial and practical to do so.

A4. How does this announcement reflect National's 2008 election policy?

National's policy was to review the present scheme, investigate opening the Work Account to choice and improve dispute resolution.

B: Accredited Employers Programme

B1. What is the Accredited Employers Programme?

The Accident Compensation Act 2001 provides for the accreditation of employers to self manage and fund work injury claims arising out of their workplace. It was established by the previous Labour Government. The objectives of the Accredited Employers Programme are to:

- promote injury prevention and rehabilitation;
- reduce work-related personal injury claim costs and levies;
- provide benchmarks against which the extent and management of work-related personal injuries can be measured;

by allowing accredited employers to provide, at their own cost, entitlements in relation to work-related personal injuries suffered by their employees during a claim management period.

B2. Why is the Government proposing to extend the AEP?

We want to give more employers the choice of taking responsibility for costs and claims management, so they and their workers can experience better outcomes.

Research commissioned by the Stocktake Group concluded that, taking into account the different industries of the employers involved, accredited employers have a claims rate that is 12% lower than standard (non-accredited) employers, and 15% lower costs for medical treatment, compensation and rehabilitation.

There are also case studies of individual accredited employers available on the Department of Labour website www.dol.govt.nz/consultation

B3. How are you proposing to extend the number of accredited employers?

The discussion document sets out proposals to increase the numbers in the programme from 1 April 2012 by:

- providing a greater range of risk-sharing options including:
 - a greater range of claims management periods
 - lower levels of high cost claims cover and stop loss cover and a choice of provider

- reducing compliance costs faced by employers by:
 - providing more flexibility in meeting financial entry requirements
 - streamlining audits.

It also proposes offering risk-sharing options for employers outside the AEP in the form of claims excess options.

B4. What happens to workers' entitlements in the AEP?

The AEP operates within a legal framework that ensures workers' rights and entitlements are protected. Employers must meet strict criteria before they are able to enter the programme, including:

- having experience in managing occupational health and safety
- having appropriate claims management policies and procedures in place
- being financially sound
- consulting with employees and their representatives.

C: Introducing choice in the ACC Work Account

C1. What are you proposing?

The Government is proposing to give employers a choice of purchasing work-related personal injury insurance from either ACC or a private insurer, from 1 October 2012.

C2. Why are you introducing choice?

To improve the long-term health of the accident compensation scheme, by improving incentives for workplace safety and effective rehabilitation, and by keeping the pressure on ACC to be more effective and efficient in providing work-related personal injury cover. This pressure will come on ACC both in the quality of service it provides and in controlling its costs.

C3. Is this a decision to privatise ACC?

No. This is simply a decision to remove ACC's monopoly and allow employers the choice of obtaining work-related personal injury insurance from providers other than ACC. ACC is to remain a provider of workplace personal injury insurance and there are no proposals to sell ACC.

C4. How does this vary from the reform of ACC workplace insurance introduced by National in 1998?

The key difference to 1998 is that in this proposal ACC would remain a provider. In 1998, every employer had to choose an alternative insurer whereas under this proposal only those wishing to change will need to search out an alternative insurer.

C5. Why has the Government not accepted the Stocktake recommendation of ACC being removed from the workplace insurance market?

The advice we have received on the difficulty of ACC being a provider is somewhat contradictory. Some have argued that ACC is disadvantaged and will not be able to compete effectively as its cost structure is too high, it does not price risk well, and it is not able to provide packaged insurance products (i.e. fire and general, public liability and health insurance). Other advice is that ACC will have an unfair advantage from its scale, it not having to provide a return on capital or pay business income tax, and the risk of it cross subsidising from ACC's other accounts.

The Government has pragmatically decided that allowing both public and private provision is workable. There are many sectors of the economy where public and private compete alongside one another and a number of other jurisdictions where this occurs in workplace insurance. The proposals being put forward for consultation include measures to ensure that ACC does not cross subsidise or compete unfairly in the workplace insurance market.

C6. How will workers' rights and entitlements be protected?

New Zealanders' rights to treatment, rehabilitation and compensation for accidents, including those that happen at work, are written in the law. Employers and insurers will be required to meet these legal obligations. Dispute resolution processes will be available for people who feel they have not received their legal entitlements.

C7. What would happen if an insurer went into bankruptcy?

All insurers operating in New Zealand are subject to the Insurance (Prudential Supervision) Act 2010, which provides for rules and oversight by the Reserve Bank to encourage the maintenance of a sound and efficient insurance sector, reducing the risk of insolvency.

In the event that an insurer went into bankruptcy, ACC would take over claims management and any shortfall in funding the costs of these claims would be met by a levy on all workplace insurers.

C8. How will workers know who their insurer is?

The employer would be obliged to inform workers who their insurer is. In addition it is proposed that a central register would be kept, and a central claims lodgement unit would be set up, so that claims would be sent to the right insurer, even if the worker can't remember who that is.

C9. What will be the impact of choice on health providers?

To minimise the administrative burden for health providers, we propose setting up a central claims lodgement unit. All claims would go to this central unit, using a standard form, and the unit would distribute them to the relevant insurer. This unit would access the record of who employers are insured with.

Private insurers would be required to pay their share of public health acute service and emergency transport costs.

The health sector will be consulted on how to make the system work as efficiently as possible from its perspective.

C10. What will be the impact of choice on employers' costs?

We expect that choice would see prices charged by both private insurers and ACC more closely reflect the risk and safety record of individual employers. That would result in a wider range of prices (both higher and lower). Employers may be able to reduce their costs by improving workplace safety.

C11. Would the Government still set ACC levies?

Not in the Work Account. For ACC to be able to compete with private insurers, it would need flexibility to set prices/levies for the Work Account itself.

The Government would continue to set levies for other ACC accounts.

C12. Would self-employed people have a choice between ACC and a private insurer?

We are suggesting that self-employed people would be able to choose to purchase cover for both work and non-work accidents from either ACC or a private insurer. This is because ACC currently collects levies for both together.

C13. How will these proposals protect workers from pressure to misreport accidents (by saying they occurred somewhere other than work)?

There would be a market regulator who would monitor employers' and insurers' compliance with the law and be able to impose penalties such as fines. The regulator would look for any sudden or unusual changes in an employer's claims record, and be able to investigate.

Workers will have access to independent dispute resolution services and will also be able to raise issues with the market regulator.

Insurers would also have a strong interest in making sure accidents are reported correctly, because they base their pricing on an employer's safety record.

It has also been suggested that there is less incentive for workers to say accidents happened somewhere other than work, because for a non-work accident they do not get paid compensation for the first week off work.

C14. What would happen if there was another catastrophic event like the Christchurch earthquake? Would private insurers be able to limit their liability?

Private insurers are expected to have adequate funds and reinsurance to cover events, in line with prudential requirements.

C15. Would the Government be able to provide extra compensation for injured workers, as it did after the Christchurch earthquake?

Yes, the Government has the ability to legislate for extra cover. The details of how that might be done would depend on the circumstances.