

**Reprint
as at 6 December 2002**



**Injury Prevention, Rehabilitation,
and Compensation (Code of ACC
Claimants' Rights) Notice 2002**

(SR 2002/390)

Pursuant to section 44 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, the Minister for ACC gives the following notice.

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Notice

- 1 Title**
This notice is the Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This notice is administered by the Accident Compensation Corporation.

2 Code of ACC Claimants' Rights approved

The Code of ACC Claimants' Rights set out in the Schedule is approved.

Schedule Code of ACC Claimants' Rights

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Part 1: Introduction

1.1: Background This Code of ACC Claimants' Rights (this **Code**) has been established under sections 42 to 44 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the **Act**).

This Code confers rights on claimants and imposes obligations on ACC in relation to how ACC should deal with claimants.

This Code comes into force on 1 February 2003, and a complaint can be made under this Code from that date. A complaint cannot be made under this Code about any dealings ACC had with a claimant prior to 1 February 2003.

1.2: Purpose of Code The purpose of this Code is outlined in section 40(1) of the Act. The Act states that the purpose of this Code is to meet the reasonable expectations of claimants (including the highest practicable standard of service and fairness) about how ACC should deal with them. This includes—

- (a) conferring rights on claimants and imposing obligations on ACC in relation to how ACC should deal with claimants; and
- (b) providing for the procedure for lodging and dealing with complaints about breaches of this Code by ACC; and
- (c) providing for the consequences of, and remedies for, a breach of this Code by ACC; and
- (d) describing how and to what extent ACC must address situations where its conduct is not consistent with, or does not uphold, the rights of claimants under this Code; and

- (e) explaining a claimant's right to a review of a decision made under this Code about a claimant's complaint.

Section 40(2) of the Act provides that:

The rights and obligations in the Code—

- (a) *are in addition to any other rights claimants have and obligations the Corporation has under this Act, any other enactment, or the general law; and*
- (b) *do not affect the entitlements and responsibilities of claimants under this Act, any other enactment, or the general law.*

This means that claimants' obligations, responsibilities, and entitlements, as set out in the Act, do not change. In addition, claimants retain their rights and responsibilities under any other enactment or the general law, including that which governs the Health and Disability Commissioner, the Human Rights Commission, the Office of the Ombudsmen, and the Office of the Privacy Commissioner.

In summary, the purpose of this Code is to meet the reasonable expectations of claimants about how ACC should deal with claimants. This Code is not about cover, or the type and level of entitlements that ACC is obligated to provide, as these continue to be prescribed by the Act.

1.3: Spirit of Code

This Code encourages positive relationships between ACC and claimants. For ACC to assist claimants, a partnership based on mutual trust, respect, understanding, and participation is critical. Claimants and ACC need to work together, especially in the rehabilitation process. This Code is about how ACC will work with claimants to make sure they receive the highest practicable standard of service and fairness.

- 1.4: *Application of Code* In all its dealings with claimants, ACC must ensure that its actions are consistent with, and uphold, the rights of claimants as provided for in this Code by applying the highest practicable standard of service and fairness.
- Accredited employers, and persons acting as agents of ACC or on behalf of ACC, must also comply with this Code in their dealings with claimants.
- The provision of treatment services is not covered by this Code, and continues to be covered by the Code of Health and Disability Services Consumers' Rights. In addition, any treatment and disability services purchased by ACC are covered by the Health and Disability Sector Standards and the Health and Disability Services (Safety) Act 2001.
- Complaints about the quality of health and disability services continue to be covered by the Code of Health and Disability Services Consumers' Rights.
- Any disputes about cover and entitlements, including treatment and compensation, are not covered by this Code, and continue to be addressed by the mechanisms under the Act.
- 1.5: *Definitions* In this Code—
- ACC** means the Corporation as defined in section 39 of the Act, and **we** and **us** have a corresponding meaning
- Corporation**, as defined in section 39 of the Act, includes—
- (a) an accredited employer
 - (b) a person acting as an agent of the Corporation
 - (c) a person who provides services (excluding treatment) to claimants on behalf of or authorised by the Corporation
- you** means a claimant, as defined in the Act, and **your** has a corresponding meaning.

Part 2: Rights and obligations of this Code The 8 rights of claimants, with ACC's corresponding obligations, are as follows:

- Right 1* You have the right to be treated with dignity and respect.
- (a) We will treat you with dignity and respect.
 - (b) We will treat you with honesty and courtesy.
 - (c) We will recognise that you may be under physical, emotional, social, or financial strain.
- Right 2* You have the right to be treated fairly, and to have your views considered.
- (a) We will treat you fairly.
 - (b) We will listen to you and consider your views.
 - (c) We will take into account, and be responsive to, any impairment you may have.
- Right 3* You have the right to have your culture, values, and beliefs respected.
- (a) We will be respectful of, and responsive to, the culture, values, and beliefs of Māori.
 - (b) We will be respectful of, and responsive to, all cultures, values, and beliefs.
- Right 4* You have the right to a support person or persons.
- (a) We will welcome you and your support person(s) provided that the safety of all involved can be assured.
- Right 5* You have the right to effective communication.
- (a) We will communicate with you openly, honestly, and effectively.
 - (b) We will respond to your questions and requests in a timely manner.
 - (c) We will provide you with an interpreter when necessary and reasonably practicable.
 - (d) We will provide information in a form which you can access, and in a timely manner.

- Right 6* You have the right to be fully informed.
- (a) We will provide information on how to make a claim for cover and entitlements.
 - (b) We will keep you fully informed.
 - (c) We will provide you with full and correct information about your claim, entitlements, obligations, and responsibilities.
 - (d) We will inform you if your entitlements change.
 - (e) We will give you information about how we provide services, and how to access them.
 - (f) We will discuss expected time frames with you.
 - (g) We will inform you of your review and appeal rights under the Act.
- Right 7* You have the right to have your privacy respected.
- (a) We will respect your privacy.
 - (b) We will comply with all relevant legislation relating to privacy.
 - (c) We will give you access to your information, in accordance with legislation.
- Right 8* You have the right to complain.
- (a) We will work with you to address problems and concerns.
 - (b) We will inform you about options available for resolving problems and concerns.
 - (c) We will inform you about the complaints process, and the normal time frames for dealing with complaints.
- Part 3: Addressing problems and concerns; and lodging and dealing with complaints** This Code sets out a framework for addressing and resolving problems and concerns at the local level, and then a process to be followed for complaints, in the event that any problem or concern cannot be resolved at the local level.

- 3.1: *Overview* A claimant can either—
- (a) raise a problem or concern at the local level, which will be addressed and resolved at the local level without a decision being made; or
 - (b) lodge a complaint with the complaints service at any time, regardless of whether a problem or concern has been raised at the local level, and in that case a decision will be issued.
- 3.2: *Procedure for addressing and resolving problems and concerns* A claimant can raise a problem or concern about ACC's compliance with this Code. The problem or concern should be raised at the local level with the person the claimant is dealing with at ACC, or that person's manager. ACC will work with the claimant to address and resolve problems and concerns, and to find a way forward. At this point, ACC will advise the claimant of—
- (a) what steps have been taken in relation to the claimant's problem or concern; and
 - (b) the procedure for lodging a complaint if the claimant is not satisfied with the resolution.
- The claimant can decide whether to lodge a complaint.
- 3.3: *Procedure for lodging a complaint* A complaint concerning this Code should be lodged with the complaints service. The complaints service is part of ACC, and will deal with, and make decisions on, these complaints. The complaints service will act in a fair and impartial manner, taking the evidence, and the claimant's and ACC's views into consideration. A complaint can be lodged with the complaints service at any time, regardless of whether the claimant previously raised a problem or concern with the person the claimant is dealing with at ACC, or that person's manager. The claimant may complain orally or in writing. ACC may decline to investigate where a complaint is correctly dealt with by another agency, such as the Health and Disability Commissioner. In these

circumstances, ACC will advise the claimant of appropriate agencies that may be able to assist.

Any dispute about cover and entitlements, including treatment and compensation, is not covered by this Code, and continues to be addressed by mechanisms under the Act.

- 3.4: *Procedure for dealing with a complaint* The complaints service will—
- (a) acknowledge receipt of the complaint in writing; and
 - (b) advise the claimant about the complaints process and normal time frames for dealing with the complaint; and
 - (c) comply with all of the other relevant rights in this Code when dealing with complaints; and
 - (d) investigate the complaint; and
 - (e) advise the claimant of any issues, such as entitlements, that are not matters for this Code and advise who the claimant should contact to seek resolution of these issues.

If, in the course of investigating a complaint against ACC, issues of the performance of an employee or employees of ACC arise, these will be dealt with under the normal human resources policy and processes within ACC, having due regard to employment law. These issues will *not* be dealt with under the auspices of remedies available under this Code.

- 3.5: *Making a decision* The complaints service will issue a decision on the complaint. The decision will be in writing and will advise—
- (a) whether ACC has breached this Code; and
 - (b) the reasons for that decision; and
 - (c) if a breach has occurred, what, if any, of the remedies or actions identified in Part 4 are appropriate.

In addition, the decision will specify that the claimant has the right to a review of that decision, as in Part 6.

- Part 4: Remedies available under this Code** Upon a finding that there has been a breach of this Code, the complaints service may, where appropriate, direct ACC to—
- (a) provide a written or oral apology;
 - (b) forward a written explanation of the situation;
 - (c) meet with the claimant to consider the claimant's views and achieve resolution, accompanied by the claimant's support person(s) where requested;
 - (d) forward information to the claimant, in an appropriate form, which explains—
 - the claim and related entitlements
 - review and appeal rights
 - any appropriate legislation, services, and the expected time frames;
 - (e) provide the claimant with access to the claimant's file;
 - (f) facilitate communication by ensuring a response is given to questions and requests;
 - (g) provide interpretation services.
- In addition, the complaints service may, where appropriate, recommend other remedial actions as required.
- Part 5: Addressing situations** In addition to the remedies in Part 4, ACC will address the wider implications of breaches that arise by—
- (a) analysing and monitoring issues arising from the complaints process; and
 - (b) identifying concerns with operational policies and processes; and
 - (c) subsequently undertaking and remedying concerns associated with operational policies and processes as appropriate; and
 - (d) informing the claimant that the situation has been addressed.

- Part 6: Claimant's right of review** If a claimant disagrees with any decision made by ACC under this Code about a complaint, the claimant can apply for a review of that decision. ACC will provide information about the review process to the claimant. The review process is set out in sections 133 to 148 of the Act. The Act includes, among other things,—
- (a) the manner in which an application must be made; and
 - (b) the manner in which ACC must deal with the application; and
 - (c) ACC's duty to secure an independent reviewer; and
 - (d) the role of the reviewer; and
 - (e) the reviewer's duty to act independently; and
 - (f) conduct of the review hearing; and
 - (g) decisions the reviewer can make.
- Part 7: An appeal cannot be lodged to the District Court** Under the appeal provisions in the Act, there is no right to appeal a review decision made under this Code because section 149(3) of the Act provides that:
- However, neither a claimant nor the Corporation may appeal to the District Court against a review decision on a decision by the Corporation under the Code on a complaint by the claimant.*
- Any rights of review and appeal, in relation to cover and entitlements, continue under the Act.
- Part 8: Status of Code** Section 46 of the Act provides that this Code is a regulation for the purposes of the Regulations (Disallowance) Act 1989. Under section 44 of the Act, this Code must be presented to the House of Representatives.

Dated at Wellington this 4th day of December 2002.

Ruth Dyson,
Minister for ACC.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which is given by the Minister for ACC, approves the Code of ACC Claimants' Rights. The Code comes into force on 1 February 2003.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 5 December 2002.

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Notes**1 *General***

This is a reprint of the Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002. The reprint incorporates all the amendments to the notice as at 6 December 2002, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
