



Canterbury Earthquake (Accident Compensation Act 2001) Order 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 8th day of March 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 6 of the Canterbury Earthquake Response and Recovery Act 2010, His Excellency the Governor-General makes the following order acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the relevant Minister made in accordance with section 6(2) of that Act.

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Order

1 Title

This order is the Canterbury Earthquake (Accident Compensation Act 2001) Order 2011.

2 Commencement

This order is deemed to have come into force on 22 February 2011.

3 Expiry

This order expires on the close of 31 March 2012.

4 Effect

The exemptions, modifications, or extensions to the Accident Compensation Act 2001 made by this order do not affect the text of the Act but require it to be read as if it had been amended in the manner indicated in this order.

5 Interpretation

(1) In this order,—

Act means the Accident Compensation Act 2001

aftershock means the Canterbury earthquake aftershock on 22 February 2011

claimant means a person who—

- (a) has an incapacity resulting from a personal injury for which he or she has cover; and
- (b) suffered the personal injury on 22 February 2011 as a direct result—
 - (i) of the aftershock; or
 - (ii) of trying to rescue and recover victims of the aftershock; or
 - (iii) of the activities of other persons trying to rescue and recover victims of the aftershock; and

- (c) is incapacitated for a period longer than the first week of incapacity; and
- (d) was an earner immediately before his or her incapacity commenced

Schedule means Schedule 1 of the Act

section means a section of the Act.

- (2) A term used in this order that is defined in the Act has the meaning given to it in the Act, except that—
 - (a) the definition of “claimant” in subclause (1) is additional to the definition of “claimant” in the Act; and
 - (b) a term whose definition in the Act is inapplicable or inappropriate in this order does not have that definition in this order.

6 Corporation pays compensation for first week

Claimants the Corporation pays and does not pay

- (1) The Corporation must pay a claimant compensation for loss of earnings in the first week of incapacity, except a claimant described in subclause (2).
- (2) The Corporation must not pay compensation to the following claimants:
 - (a) a claimant who has received first week compensation for his or her injury from his or her employer;
 - (b) a claimant whose incapacity results from a work-related personal injury suffered in the claim management period of the accredited employer employing the claimant.

Self-employed and shareholder-employee parties to agreements

- (3) The amount of compensation payable to a claimant who is a party to an agreement made under section 208(2) is the amount of weekly compensation specified in the agreement.

Other employees and their employers

- (4) Subclauses (5) to (8) do not apply to a claimant to whom subclause (3) applies.
- (5) The employer in whose employment the claimant suffered the injury is exempt from the duty in section 98 to pay first week compensation to the claimant.

- (6) If the employer nevertheless pays first week compensation to the claimant, the employer may ask the Corporation to pay the amount of the compensation to the employer and the Corporation must do so.
- (7) The amount of compensation payable, either to the claimant under subclause (1) or to the employer under subclause (6), is the amount described in subclause (8) up to the maximum specified in clause 46 of Schedule 1.
- (8) The amount is 80% of the claimant's weekly earnings calculated under the following clauses of Schedule 1:
 - (a) the applicable one of the following:
 - (i) for a claimant to whom clause 34 applies, clause 34(1) and (3):
 - (ii) for a claimant to whom clause 36 applies, clause 36(1), (3), and (5):
 - (iii) for a claimant to whom clause 38 applies, clause 38(1)(a) and (2) to (5):
 - (iv) for a claimant to whom any of clauses 38A, 39, and 40 applies, the applicable clause; and
 - (b) any of clauses 41 and 43 to 45 that are applicable.

7 Extension to definition of “decision”

References to a decision, or Corporation's decision, in the Act must be read as including decisions about—

- (a) whether or not the Corporation will pay compensation under clause 6; and
- (b) to whom the Corporation will pay compensation under clause 6.

8 Extension to definition of “first week compensation”

References to first week compensation in the Act, except sections 97, 98, and 99(a) and (e), and in sections 14 and 71 of the Holidays Act 2003 must be read as including compensation payable under clause 6.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

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

This order provides for the Accident Compensation Corporation to pay the first week's compensation to workers injured as a direct result of the Canterbury earthquake aftershock on 22 February 2011.

The order is deemed to have come into force on 22 February 2011.

The order is made under the Canterbury Earthquake Response and Recovery Act 2010 and its effect is temporary.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 10 March 2011.

This order is administered by the Department of Labour.
