



**PSA Submission on the  
Accident  
Compensation  
(Maternal Birth Injury  
and Other Matters)  
Amendment Bill**

**February 2022**

# PSA Submission on the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill

February 2022

## About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 80,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including for departments, Crown agents and other crown entities, and state-owned enterprises; local authorities; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

We are committed to advancing the Tiriti o Waitangi of partnership, protection and participation through our work. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA membership. The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions, Public Services International and UniGlobal.

## About this submission

This submission responds to the proposals made for amendments to: coverage of maternal birth injuries; and policy changes proposed for the Accident Compensation Act 2001 (the Act).

## Summary of PSA recommendations

PSA supports the extension of ACC coverage for a range of maternal birth injuries. However, we believe there are further improvements that could be made as part of this Amendment Bill to provide wider and more equitable outcomes for our communities.

We recommend:

- All birth injuries (both maternal and to babies) be covered by ACC;
- Mental health injuries (as a result of birth injuries and/or traumatic births) be covered by ACC;
- A Te Ao Māori view and Te Tiriti o Waitangi are embeded in ACC legislation and practice;
- The Maternity Action Plan include initiatives to support the mental health of women and their whānau following maternal birth injuries and traumatic childbirth;
- ACC provide comprehensive information about the s 30 policy changes to ensure understanding;
- ACC undertake more work around occupational disease and convene an advisory panel;
- The threshold for compensation for work-related hearing loss be removed entirely;
- The ACC Board includes representatives of workers and claimants;
- Suicide disentitlement provisions be fully removed;
- The legislation be applied retrospectively;
- Workers and their representatives have a voice in decision-making, operational implementation and resourcing.

# PSA response on the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill

## Maternal Birth Injury

---

As a union committed to gender equity, the PSA welcomes the covering of maternal birth injuries as a move towards improving gender balance, fairness and equity in healthcare. It is also very welcome as women with birth injuries struggle to cope during what is already a stressful and tiring time with a new baby. It will mean that affected women will now qualify for the home help and the treatment they need to recover and be enabled to live healthy lives which benefits their children and whānau also.

However, the proposed amendments look to include seven birth injuries only. This will mean that not all birth injuries will be covered by this law change and some people who need it, will not be able to access the support they require as a result. Many injured people will end up feeling the scheme is about saving money, not their needs.<sup>1</sup>

**We strongly support all birth injuries being covered** by ACC, including, for example, broken bones and fractures (tailbone, hips spine for instance) to ensure equity for people who suffer injuries from the same root cause – childbirth.

While the Bill focusses on maternal birth injuries, **we believe that birth injury should cover injuries sustained by babies** during the birthing process also. A child who has suffered an injury during the birthing process should not be treated differently to a child who had a treatment injury during birth, yet the status quo would provide cover for the latter but not for the former. We believe this is an unnecessary and inequitable distinction that should no longer be made.

**Birth injuries do not just have physical consequences.** Some studies overseas<sup>2</sup> suggest maternal birth injuries can also lead to mental health problems such as Post-natal depression (PND) and Post-natal Traumatic Stress Disorder (PTSD). Such conditions have many consequences, including the inability to return to work and the PSA believes they should be covered by ACC. Mental injury from

---

<sup>1</sup> St John, S. (2022). *Woodhouse vision for ACC lost*. <https://www.auckland.ac.nz/en/news/2022/01/14/woodhouse-vision-for-acc-lost.html>.

<sup>2</sup> Kaye, D.K., Kakaire, O., Nakimuli, A. et al. Lived experiences of women who developed uterine rupture following severe obstructed labor in Mulago hospital, Uganda. *Reprod Health* 11, 31 (2014). <https://doi.org/10.1186/1742-4755-11-31>; and Persson, S. (2018). Experiences of Maternal Birth Injuries : How Gender and Sexuality Norms Affect Diagnostics, Everyday Life and Healthcare in Sweden (Dissertation). Retrieved from <http://urn.kb.se/resolve?urn=urn:nbn:se:uu:diva-376733>.

a traumatic childbirth should also be covered so that affected women can receive the support they need to recover even when there hasn't been a physical injury.

This view is further supported when seen through a Te Ao Māori lens, where **health cannot be considered from a purely physical perspective**. Te Whare Tapa Whā,<sup>3</sup> referenced on the Ministry of Health's website, encompasses the four cornerstones of health from a Māori perspective, including Taha hinengaro (mental health) which describes the interconnectedness of the mind and the body. **We note that the Act in its current form does not give due consideration to Ao Māori worldviews or Te Tiriti o Waitangi.** We would argue that this is not only crucial to ensuring equitable outcomes for Māori who are less likely to be referred to ACC by a health practitioner or receive help from ACC, but also provides a rich opportunity to embed deeper more holistic concepts of health and wellbeing into the legislation.

While we welcome the ACC coverage for physical injury from childbirth, **we believe mental injury should not be excluded from ACC support whether it results from the physical injury sustained during childbirth or whether it results from a traumatic childbirth experience.**

We acknowledge a review of The Maternity Action Plan is underway and that this includes scope for a 'Maternal Mental Health Stocktake' to inform further initiatives in 2021-2023; however, it is not clear that psychological effects of childbirth and maternal birth injuries will be included here. It is our view that **mental injuries should be core to a refreshed maternity action plan.**

## Other Matters

---

### Policy Changes

We regard the five proposed policy changes as largely positive and offer further commentary as follows:

- The changes to s 30 of the Act around gradual process injuries are a good step and we encourage ACC to provide comprehensive information and education for workers, representatives, medical practitioners and WorkSafe on how the new provision operates and how to claim. We wish to draw attention to the statistics around occupational disease which is responsible for between 750-900 deaths and many more serious injuries in New Zealand every year and a worker is 15 times more likely to die from occupational disease

---

<sup>3</sup> Durie, M. (1988). *Whaiora: Maori health development*.

than acute injury.<sup>4</sup> Most of these workers are not covered by the ACC Scheme. **More work should be undertaken on health monitoring and ensuring that major occupational exposures to harmful substances and processes are noted on medical records.**

**Additionally, an expert advisory panel should be convened to review the list of occupational diseases** for which presumptive cover is given (Schedule 2 of the Act) and ensure the list is up to date and accords with the latest science.

- PSA supports the change to require occupational assessors to consider pre-injury earnings so as to prevent the vocational independence test leading to massive and unnecessary income scarring.
- It is our view that the **threshold for compensation for work-related hearing loss should be removed entirely**. People who experience hearing loss should be given the maximum possibility of return to function as possible. Issues of apportionment of cost between ACC and the general health system should be worked out separately and should not affect the question of cover.
- Increasing the size of the ACC Board to facilitate a wider range of representation is good but **should come also with requirements for the Board to ensure that it includes representatives of workers and claimants.**
- **We believe that suicide disentitlement provisions should be fully removed.** These represent a punitive approach to often serious mental health problems and mean that grieving families have less much needed support following the trauma of a sudden death.

#### **Other considerations**

The proposal for the legislation change to apply to birth injuries from 1 October 2022 unfairly excludes people already living with injuries, as well as those that may suffer injuries that emerge later in life. **We believe the legislation should apply retrospectively so that everyone who needs immediate or ongoing treatment can access support to meet their needs in an equitable way.**

**We are concerned that our members working at ACC and their colleagues may not be properly resourced to implement changes resulting from the amendments.** A PSA survey of members

---

<sup>4</sup> WorkSafe. (n.d.). *Work-related health estimates and burden of harm*. Retrieved 10 February 2022 from <https://www.worksafe.govt.nz/topic-and-industry/work-related-health/work-related-health-estimates-and-burden-of-harm/>.

working for ACC last year<sup>5</sup> highlighted some troubling issues for members around job satisfaction and workload. Our view is that meaningful engagement with people doing the work provides the best outcomes for workers and the public alike. **We strongly urge ACC to involve workers and their union representatives in all aspects of the implementation work ahead, including decision-making around how work is to be organised, to enable effective implementation with well-trained staff and adequate resourcing.**

The Accident Compensation Act was premised on principles that would allow for the needs of the injured to be at the centre; it is imperative that this remain at the forefront for any future amendments to the Act.

**For further information about this submission, please contact:**

Carla Batista  
Senior Advisor, Policy and Strategy  
New Zealand Public Service Association | Te Pūkenga Here Tikanga Mahi  
PO Box 3817  
Wellington 6140  
Phone: 027 4660001  
Email: [carla.batista@psa.org.nz](mailto:carla.batista@psa.org.nz)

---

<sup>5</sup> Bradley, A. (2021). *Overwhelmed ACC staff 'dropping like flies' after changes*. Retrieved 10 February 2022 from: <https://www.rnz.co.nz/news/national/448784/overwhelmed-acc-staff-dropping-like-flies-after-changes>.