Submission on:

ACC Levy Consultation 2017 - 19

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Prepared on behalf of Civil Contractors New Zealand Inc
by

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About the Submitter

Civil Contractors New Zealand Inc (CCNZ) is the national industry body representing Civil and General Contractors who carry out the country's civil infrastructure construction and maintenance work. We estimate that the civil construction sector carries out more than $12 billion of work annually and employs in excess of 60,000 workers.

Our Members undertake a wide spectrum of work including construction, operation and maintenance of;

Transport networks	including roading, bridges, tunnels, railways, airports and ports
Water infrastructure	including water storage and water reticulation, irrigation, drainage, waste and storm water services
Communications Networks	including underground and above ground networks
Disaster relief and protection	Flood and coastal protection and emergency response
Energy Infrastructure	including both generation and distribution;
Commercial and Residential Building	including site access, site works, foundations, car parks and installation of services;
Agriculture and Forestry work	including dairy conversions, tracks, drainage, effluent ponds, feed pads, building site preparation and forestry tracks and skid sites
Ground Stabilisation	including slips, subsidence and rock falls
Parks and sports fields	Construction and maintenance including vegetation control

Civil Contractors New Zealand was originally formed in 1944 as the NZ Contractors Federation and following the merger of New Zealand Contractors' Federation and Roading New Zealand in 2014 became Civil Contractors New Zealand.

Our primary roles are

1. Industry advocacy and representation
2. Supporting industry development, professionalism and safety
3. Providing information and advice

Civil Contractors New Zealand aims to:

- Create a safe, viable, and progressive sector meeting the needs of all its participants.
- Contribute to ensuring a healthy civil construction sector where skilled and qualified clients, consultants, and contractors produce outcomes that deliver value for money for all participants.
- It is the result of investment in people, forward planning, fair and consistent procurement strategies, competition in the supply chain, and growth opportunities for those willing and able to take up the challenge.

Introduction

1. CCNZ welcomes the opportunity to comment on the proposed levy rate changes set out in the ACC Levy Consultation documents for 2017 to 2019.

2. Employers and motorists will welcome the levy cuts proposed. Employees may not welcome the small increase in the Earners Levy.

3. A 10% reduction is proposed for the average Work levy (from $0.80 to $0.72 for every $100 of liable earnings); an increase of 3% for the Earners Account (from $1.21 to $1.25); with the Motor Vehicle account levy projected to drop by 13%.

4. ACC have stated that workplace claims have increased by 2.2% yet this is offset by higher than expected investment returns. What has not clear is the incident data for each industry that drives the average 10% reduction in the Work Account.

5. Notwithstanding the levy reductions proposed by ACC, CCNZ has concerns about fairness and consistency across the various accounts with a particular focus on the Work Account. Accordingly we make the following comments with respect to this submission and extrapolate on each of these points in this document.

    1. Work Levy: Change and impact on industry.
    2. Health and Safety scheme: Changes, impacts and alternatives.
    3. Experience Rating scheme: Changes, impacts and alternatives.
    4. Vocational Rehabilitation: Introduction of a new incentive scheme.
    5. Fleet Saver Programme: Changes, impacts and alternatives.
    6. ACC Payment Plans: Impact and alternatives.
    7. Superannuatant Entitlement: Impact and alternatives.
    8. Adverse Events: Impact and alternatives.

Work Levy

6. CCNZ members represent four key Levy Classification Units. The following table sets out the impact of the 10% average reduction.

		Work Levy Rates (per $100 payroll)		
Code	**Description**	**2017**	**2018 & 2019**	**% Change**
41220	Heavy Engineering	$1.82	$1.53	15.9%
42100	Site Preparation	$1.73	$1.59	8.1%
41210	Road Construction	$1.50	$1.17	22.0%
42101	Machinery Hire (cranes)	$2.48	$2.26	8.9%

7. As can be seen, the savings vary greatly across these levy classifications. ACC has not provided any detailed data to support their recommendation of reducing the work levy. As such we cannot determine whether this reduction is fair and equitable based on evidence.

Recommendation:

8. ACC to provide supporting claims data and analysis on the listed levy classifications.

Health and Safety Accreditations Schemes

9. From 1 April 2017, the Workplace Safety Discounts (WSD) and Workplace Safety Management Practices (WSMP) schemes will discontinue. ACC is providing the opportunity for all eligible businesses to apply to extend their contract through to 2019 (but no later than 30 June 2019).

10. ACC has indicated that a new scheme(s) will be introduced however has not provided any substantive information regarding this.

11. CCNZ understands the premise behind the change and agrees in principle. We do not agree with the process deployed or what appears to be a "last minute" rollout.

12. ACC has not got a new scheme(s) to replace these ones and there has been no indication given as to the timing of a new scheme.

13. This may be unfavourable to a number of our members who were looking to enter into the scheme. They now find themselves in a position where they cannot and do not have clarity of what the alternative will be or timeframes of when this will be introduced.

14. Under the old framework ACC tailored the WSD specifically for smaller employers. Is this likely to happen under the new scheme?

15. As pointed out by ACC the health & safety aspect should focus on outcomes rather than just compliance. This can be done via the proposed Safety Star Rating Scheme (SSRS) that has already been piloted. The SSRS incorporates aspects of the WSMP framework. This should give existing WSMP clients confidence that they do not have to make wholesale changes to their existing health & safety processes. It must be noted that the WSMP is based on the AS/NZS 4804:2001 standard which is already closely aligned to the Health & Safety at Work Act 2015.

16. CCNZ would benefit from being able to guide our members however we are unable to do so at this time. This is leading to a noticeable level of confusion and frustration by our members given the weighting the current incentive schemes have on tendering and operational processes.

17. There has not been any clarity provided on how a new scheme will operate in conjunction with the old framework. Is ACC's intent to run two schemes or migrate the old scheme into the new framework?

Recommendations:

18. ACC to provide clearer guidelines as to when a new scheme is likely to be introduced and how this will interact with the incumbent schemes.

19. ACC to provide clearer guidelines on how it intends to formalise a new scheme. For instance, is ACC anticipating that the Safety Star Rating Scheme (which has been piloted) will form the basis of a new scheme (which would use some of the existing WSMP framework)? Is ACC intending to create a completely new scheme?

20. There is merit in introducing a two stage accreditation scheme that splits the health & safety on one level and the return-to-work on another level.

21. The Return-to-Work component should focus on the process once a workplace accident results in a claim. The ACC Partnership model provides a useful guide to how this can be set up. Equally British Columbia have an

effective scheme in place which can be used to provide guidance. This recommendation is covered in more detail below.

Experience Rating

22. ACC's focus is on creating healthy and safe workplaces. As the wording suggests this will include occupational health as a key area.

23. ACC wants to align initiatives designed to stop workplace injuries happening with new incentives that will encourage businesses to invest in health and safety improvements. Furthermore ACC wants to reward business that reduce the number and severity of their workplace accidents.

24. The existing Experience Rating scheme came into place on 1 April 2011. A common downfall of this scheme is the lack of responsiveness on the rating as a result of businesses making changes to reduce the risk of injury. There is currently an 18 month time lag before a claim shows up on Experience Rating.

25. ACC is wishing to explore the following areas:

    - What is the right balance between claim frequency and claim severity i.e. how long it takes to return an injured worker back to work?
    - How can the discounts and loadings be used more effectively to encourage behaviour change in businesses?
    - Can ACC create an approach that is able to recognise changes businesses undertake to improve performance and reflect that in their levy rates faster than is currently possible?

26. The impact on our members has to be balanced by the lack of understanding of the existing scheme. Our experience is that most employers do not understand the Experience Rating framework well enough as it is. This challenges the premise on which the scheme was build being a motivating tool for business to take ownership over their claim activity. For this to be the case, business owners have to understand it before it becomes a motivator. Equally the current scheme is not transparent as ACC does not share the full data on how the Experience Rating is calculated.

27. ACC's wording that they wish to encourage businesses to invest more in health and safety can be interpreted that compliance costs will increase. What does this actually mean in practice? What specifically is ACC wanting businesses to invest in? A number of our members currently feel that their investment in health and safety practices is already at a significant level.

28. Changing the levy period (as proposed) can be both positive and negative. Positive because any positive behaviour in claims and claim duration will improve that business' rating. A negative is any adverse behaviour will directly relate to a worse rating. The net result is greater volatility in the rating which (where applicable) will have a direct impact on tendering.

29. Removing the Industry Modifier will provide businesses with a better indication of what their actual performance is.

30. For the Experience Rating scheme to be used as a motivation tool by ACC it does need to be modified (simplified). Businesses have to buy into the scheme in order for it to be a motivator. This means a business has to understand it.

Recommendations:

31. **The Experience Rating scheme needs to have clear rating bands whereby a business has clear expectations that if event A happens that this will result in outcome B on their Experience Rating.**

Rating bands will allow for clear objectives to be set (a requirement under the current WSMP and proposed Safety Star Rating Scheme) which can be measured and monitored.

32. **The Experience Rating scheme should have a greater focus on return-to-work (managing the claim). Businesses can then be more responsive to managing their claims by implementing simple cost effective measures.**

Using the recommended approach would hold ACC accountable (timeliness of interventions; compliance on employees to adhere to their rehabilitation plan; driving acute stage rehabilitation; etc.). This would encourage a culture change within ACC where the employer (levy payer) is a significant stakeholder in rehabilitation.

Managing the claim has a direct impact on not only the Experience Rating but also productivity, labour costs, recruitment and training costs, and minimise the opportunity cost involved with having workers off or being unproductive.

33. **The Experience Rating scheme should focus solely on the business without being compared to their wider risk group. A business has no control or influence on the wider risk group so why use it as a measurement tool?**

Vocational Rehabilitation

34. ACC manages claims through the Vocational Rehabilitation framework which covers clients' full spectrum of needs, from initial rehabilitation to getting a new job.

35. ACC's Vocational Rehabilitation offers four related service areas delivered by rehabilitation professionals:

   i. Standalone Workplace Assessment (which reviews the client's workplace to identify how they did their job prior to their injury);
   ii. Stay at Work service (which supports people to return to their job);
   iii. Work Readiness service (which rehabilitates people ready for new types of employment);
   iv. Job Placement (which helps people find new jobs).

36. International research shows the quicker people can return to the workforce, the better off they are medically, socially and financially following injury. Employers are recognised as the "gate keepers" to effective rehabilitation given most claims involve working people.

37. Employers are reliant on ACC for driving the Vocational Rehabilitation framework for workplace claims and although are encouraged by ACC to take responsibility as per the Experience Rating framework are still impacted by ACC's internal processes.

38. These processes can create significant delays in rehabilitation and response times which in turn will impact the Experience Rating level (current and proposed). If the delays for example are a result of non-compliance from the employee; poor communication processes between ACC, the employee, the employer and any third party (i.e. specialist, vocational rehabilitation provider, etc.); poor triage; wrong

diagnoses; etc. the employer will end up underwriting these through the extended time off on ACC by the employee and in most cases incurring medical costs exceeding $500.

39. The Accredited Employer Scheme provides a worthwhile self-insurance model that is driven in large by volume of ACC levies i.e. it is only suitable for larger employers. The Accredited Employer Scheme boasts 17% efficiency over ACC managed claims, which in a large part is due to timely communication with the employee and implementing the return-to-work framework at an early juncture.

40. Employers outside the Accredited Employer Scheme have minimal ability to create 17% efficiencies given ACC is the controlling entity and have minimal impact on the actual rehabilitation process.

41. Our members would benefit from being able to underwrite a greater cost of claim management. This will place greater responsibility on them to manage the claim process in their business. This would of course be in return for a discount on their levies.

42. Providing incentives to employers outside the Accredited Employer Scheme in claim management will assist in ACC to drive durable return-to-work outcomes and improve on bettering its benchmarks such as the 70 day and 273 day weekly compensation paid benchmarks.

Recommendation

43. Introduce a new incentive scheme to encourage employers to take ownership over the return-to-work process. British Columbia has a model that could be studied.

Fleet Saver Programme

44. ACC Fleet Saver is for businesses that own five or more goods vehicles weighing more than 3.5 ton each and can demonstrate strong safety management practices. Those in the programme can reduce their Motor Vehicle levies by 10% (Bronze), 25% (Silver) or 40% (Gold).

45. The scheme incorporates the (critical) elements of the WSMP which we have noted in this document is stopping from 1 April 2017.

46. ACC is aiming to update the Fleet Saver audit standards to better reflect the aims of the Health & Safety at Work Act. Please note that this is in contradiction to the pending changes to the WSMP framework. Specifically ACC will:

- Amend areas of the audit to align with the Health and Safety at Work Act. For example incorporating references to worker engagement and participation, incorporating requirements to ensure the safety of people in the workplace including consultation with other PCBUs who owe duties to the same people.
- Re-organising of the audit components into more logical groups, for example, moving all requirements relating to training into one element.
- Introducing the concept of workplace illness by using the term harm rather than workplace injury or illness (in-line with the wider focus on occupational health).

- Strengthening adherence to the standards with additional evidence requirements and/or verification.

47. The impact on CCNZ members that are in the Fleet Saver Programme is that their current discounts will continue.

48. The audit criteria will be amended and will end up sitting outside of the WSMP. How this will look once a new discount scheme is put in place is unknown.

49. The introduction of Occupational Health wording is common with the National Government's focus in this space. This will be evident through all incentive schemes.

Recommendation:

50. Provide confirmation, from ACC, on how the Fleet Saver Programme will interact with any new discount scheme i.e. is it anticipated that employers will need to run two separate frameworks or will the schemes be amalgamated.

ACC Payment Plans

51. The current payment plans provide for three options namely paying outright; paying over 4 – 6 months with no fees; and paying over 7 – 10 months incurring a flat 5.4% administration fee.

52. CCNZ members can face significant cash flow challenges over the December and January periods given that workloads are high leading into Christmas resulting in overtime without receiving the direct revenue to offset that.

53. Members can close down over Christmas and the first half of January resulting in no payments being made by their clients. Debtor Payment cycles are extended over this period resulting in a domino effect

54. As a result of these challenges ACC in turn will be negatively impacted due to the increase in collection costs which in turn challenges the current level of debt write off and maintaining costs as a proportion of levy revenue.

55. The current Direct Debit Authority (ACC 1768) provides the parameters of the payment plan options which for the 7 – 10 month plan includes when it is to commence i.e. "the first deduction date must fall within the month after your due date".

56. The same parameter is not provided for the no fee 4 – 6 month option and similarly is also not included in the terms as supplied on the reverse side of the ACC 1768 form.

57. Employer and Shareholder invoices are for the most part distributed by ACC during July and October. The 7 – 10 month option would at the most extreme run from November to August if the employer received their invoice in October and opted for the ten month option. The 4 – 6 month plan would as it stands at the most extreme finish in April under the same premise.

58. If employers were able to choose the 4 – 6 month option to commence in February the maximum time this would run to would be July which coincides with the first batch of invoices being released.

59. The 7 – 10 month plan is the only option that will automatically roll over each year if the employer does not make contact with ACC. The other two payment plans require the employer to proactively liaise with ACC.

60. Given the financial impact of the 5.4% collection fees employers need to be clearly made aware of the payment options especially the no fee 4 – 6 month plan. As such, for ACC to provide a balanced position that is fair and equitable it needs to apply the same rules across all three payment options.

Recommendations:

61. Allow the 4 – 6 month payment plan option to commence in February of the following year.

62. Prevent the 7 – 10 month payment plan from automatically renewing and make employers have to select which payment plan they wish to enter into each year.

Superannuatants

63. The workforce is aging and both employers and employees are now working well past 65. This provides ACC with additional income that previously it has not received. Equally ACC also has to cover additional work claims.

64. Statistics NZ data shows people aged 65 and over are working for longer. In 2013, 22.1 percent of the age group were employed which equates to 129,513 people. It is unclear what number are self-employed or shareholders in companies.

65. Notwithstanding that claims will be subject (at times) to degenerative issues, as a whole the increase in aged workers will also increase both the short-term and the long-term claim liability.

66. As supported by ACC's own evidence, rehabilitation is greatly enhanced when the client has access to the right support structures including a willing employer, entitlement, the right treatment, clear communication and a timely return-to-work plan.

67. Currently people in receipt of superannuation operate under a different framework with respect to accessing weekly compensation. Assuming the claim is accepted the superannuantant in the first year of claim is eligible to receive both Super and the full ACC entitlement as based on 80% of their income. In the second year the client has to choose between Super and ACC compensation; and in the third year will automatically revert back to Super only. This is irrespective of the Work and Earners' levies they had been paying prior to the claim.

68. This variance is negatively impacting on Superannuatants in a number of ways namely:

- Discriminates in giving them less entitlement based on age
- Challenges the return-to-work framework by creating psychosocial issues around their financial stability
- Charges levies through the Work Account for which they in effect have no or minimal cover given the Earners' account is there to fund the elderly
- Superannuatants are not advised at any point (through levy invoicing or through the claim process) that they have limited entitlement.

69. Working Superannuatants should be made aware of their ACC entitlement (or lack thereof).

Recommendations:

70. That ACC provide education to the over 65's about their limited entitlement.

71. That ACC provide a fair and equitable framework for all levy payers regardless of age.

72. We encourage ACC to explore different product solutions for over 65's with a corresponding levy payment framework.

73. Engage in a whole of Government conversation to recognise that society has significantly shifted with respect to over 65's still needing / wanting to work and that the legislative framework has not kept abreast.

Adverse Events

74. The Minister for ACC has sole discretion to determine an event to be an Adverse Event as set out in legislation.

75. ACC does not have a publicly visible process as to how ACC escalates a particular event to the Minister for consideration.

76. In May 2014 The ACC Minister at the time declared a Tornado in Hobsonville that claimed three lives an Adverse Event only on the back of significant lobbying by industry. Through that process it became very clear that ACC did not have a framework in place covering Adverse Events.

77. There has been a noticeable increase in Tornado's in New Zealand and other weather systems, earthquakes, etc. CCNZ members will benefit from ACC providing clear guidelines on Adverse Events and what the escalation process is to the Minister.

Recommendations

78. ACC to provide clear guidelines on Adverse Events and the escalation process to the Minister.

79. ACC to align the definition and ruling of an Adverse Events to that of the Health & Safety at Work Act 2015 i.e. should WorkSafe NZ determine that an event is an Adverse Event that ACC automatically adopts the same position.