

# NEW ZEALAND HEARING INDUSTRY

## Proposed Injury Prevention, Rehabilitation and Compensation Amendment Bill *as it relates to hearing loss*

### 1.0 What is proposed in Clause 6?

- 1.1 It amends the definition of 'personal injury' to state that "*personal injury does not include any degree of hearing loss that is less than 6 percent of binaural (both ears) hearing loss*".
- 1.2 It is the first time, in the history of the Scheme, that a threshold for cover has been introduced into the Scheme.
- 1.3 Through no fault of their own, those suffering from hearing loss as a result of working in an unsafe work place will be denied ACC cover if Clause 6 in the Bill is passed.
- 1.4 In addition, those currently covered maybe denied ongoing rehabilitation when hearing aids are replaced (typically every 6 years or so).

### 2.0 Why is this an issue?

- 2.1 Noise damage causes permanent hearing loss that will never be recovered.
- 2.2 It is a retrospective move to deny cover to people who have already suffered an injury.
- 2.2 6 percent hearing loss does not mean a person has 94 percent hearing; it means the loss attributed to noise damage loss, after deductions for the effect of ageing and other causes, is less than six percent total hearing loss. See Case Studies attached.
- 2.3 **This is not a minor level of loss; a 6 percent noise-induced hearing loss is significant.** It means a person is unable to hear clearly consonants like "s", "t", "f", "th" which are critical for speech understanding, especially in noisy environments.
- 2.4 Noise damage can destroy up to 50 percent of that part of your sense of hearing specifically required to understand speech. This has a profound impact on a person's ability to work and to relate with families and friends and colleagues.

### 3.0 Who will be affected if Clause 6 is passed into law?

- 3.1 New Zealander **workers** currently working in industries such agriculture, forestry, manufacturing, construction and engineering who, through no fault of their own, are subjected to noisy and unsafe workplaces.
- 3.2 The **elderly** who have had their hearing damaged in these industries in the past through no fault of their own.
- 3.3 **Employers**, who will now be faced with the employee's right to sue for work-related hearing loss at thresholds less than "6 percent".
- 3.4 **Families** of those with damaged hearing who have to live with the negative impact of hearing loss. For every one person suffering from injury-related hearing loss it has been estimated that this loss will negatively impact on an additional ten people.
- 3.5 **Maori** who are over-represented in people injured with noise-induced hearing loss and under-represented in injury-related claims.

- 3.6 The **public health system** which will have to pick up the cost estimated at approximately \$3-5 million pa, exacerbating the current average 12 month waiting list.
- 3.7 The **legal system** which will now need to accommodate litigation by injured workers against employers for injuries received but not covered by legislation.

#### 4.0 Why is the 6 percent threshold being proposed?

- 4.1 ACC has admitted that the 6 percent figure has no clinical or rehabilitation underpinning and was **selected solely for reasons of cost cutting**
- 4.2 In proposing the '6% threshold', ACC stated that hearing loss thresholds are, "...in many of the Australian State Schemes and in the UK."
- 4.3 What was not made clear is that Australia has a **compensation** (i.e. lump sum) threshold not a **rehabilitation** threshold. Entitlement to rehabilitation (hearing aids) is not determined by reference to the threshold but rather by determination of *clinical need*.
- 4.4 The adoption of the 6 percent threshold in, say NSW, *only* determines whether the claimant is eligible to receive financial compensation for his/her injury. It does not determine eligibility for hearing aids which is determined based on need and clinical evaluation on a case by case basis.
- 4.5 The Hearing Industry strongly opposes the introduction of this 'threshold'; their views were not considered in drafting the legislation.

#### 5.0 What is the cost issue for ACC?

- 5.1 ACC estimate a 6 percent threshold will save \$3 - \$4 million pa.
- 5.2 The cost savings are *more* than offset by cost shifting:  
  
"The Ministry of Health anticipate additional costs of \$3m in the first year progressing to \$5m in out years if the IPRC Bill proposal to introduce a 0-6% threshold... (is) implemented.."  
(MoH email 17.11.09)
- 5.3 These costs do *not* include well understood additional healthcare costs (e.g. treatment of depression) and economic costs (e.g. lost productivity) relating to untreated hearing loss.
- 5.4 In addition, the overarching long term cost pressure ACC refers to with respect to the hearing program is based on stale assumptions. This is a short-term cost issue, as a result of an ageing population, who worked in unsafe workplaces in the past and who are now being penalised by this Bill.
- 5.5 In the main, workplaces are safer now and the number of claimants with work-related hearing loss should significantly decline in the future. This is indicated by ACC's funded research conducted by Prof Peter Thorne, Auckland University.
- 5.6 In addition there is a well understood movement of workers from traditionally high risk industries (e.g. manufacturing) to more service based industries. i.e. the use of historical demand to set future projections overstates the likely demand on the hearing program.
- 5.7 Growth in costs have *already* declined markedly from the level of expenditure originally forecast by ACC as recently as 2006. FY09 costs were projected in December 2006 to be circa \$78 million. Due to an Accord being entered into between the Hearing Industry and ACC, an underlying slowing of growth, actual ACC payments for hearing for FY09 are estimated to be \$55 - \$65 million.

- 5.8 Unlike other healthcare sectors where growth rates are continuing to climb, the growth rate in hearing expenditure has fallen off markedly.
- 5.9 Growth in hearing costs over the last three years has been 3.6 percent pa, compared to 19 percent in for the time period 2004-2006.
- 5.10 The ACC's view on long term liability (and hence its desire for further cost reductions through imposition of a 'threshold') is predicated on now stale growth assumptions which do not reflect the change in per claim costs as a result of the Accord.

## **6.0 How can the hearing industry assist with the current cost issue?**

- 6.1 Costs have increased over the last three years simply because more people have been successfully treated for noise damage they have suffered. This has arisen due to increased awareness and availability of audiological testing services.
- 6.2 The cost of hearing claims comprises the clinical fees to ENT Specialists and audiologists and the price of the hearing aid.
- 6.3 Audiology fees have remained flat for eight years and in real terms have decreased by 19 percent.
- 6.4 The sector has been working collaboratively with ACC over the last two years to address the cost issue with considerable success. As a result of this voluntary Accord, average hearing aid prices have fallen over \$500 from \$2,200 to \$1,700 saving ACC \$10 million over the last 18 months. The track record is there.
- 6.5 The impact on long term Fund liability is a saving of \$150 - \$160 million.
- 6.6 The Hearing Industry, is keen to continue to work with Government and ACC to continue to address the current cost issue in order to avoid this crude and subjective threshold tool being enshrined in law, to the detriment of New Zealanders and in particular, the elderly.

## **7.0 Summary**

- 7.1 ACC proposes that the threshold is beneficial as it will save ACC \$3 - \$4 million pa. The figure ignores the cost shifting to the Ministry of Health in the order of \$3.0 - \$5.0 million pa as well as the well-documented costs on the rest of the economy. There is no cost saving to Government.
- 7.2 The cost saving rationale is based on a now stale assessment of long term growth in claims and liability which is not borne out by trends evident in the last three years.
- 7.3 The "6" percent hearing loss threshold:
- undermines the integrity of the no fault principles enshrined in the ACC scheme,
  - will deny thousands of New Zealanders rightful cover for injury-related hearing loss they have suffered in the past, and
  - by redefining 'personal injury', exposes employers to potential litigation
- 7.4 The hearing industry is committed to continuing to work with ACC to address current cost pressures on the Scheme, and support significantly more emphasis on hearing loss prevention while ensuring that current and future generations are not disadvantaged by an arbitrary hearing threshold regime.

**Case Studies**  
**All would be excluded cover under proposed amendment**

Symptoms	Indicated Hearing Loss
<p><b>Building construction consultant (Age 45)</b>  Works on building sites and in open plan office; cannot hear well with background noise at meetings and on site. Suffers occasional tinnitus (ringing in the ears)</p>	4.7%
<p><b>Customs officer (Age 56)</b>  Works at the airport in a reverberant customs hall. He works with dogs and has to use an RT. He has tinnitus and finds it difficult to hear at work when there is background noise and in reverberant rooms. He attends training seminars and has difficulty hearing. His kids won't repeat what they say if he cannot hear the first time.</p>	4.5%
<p><b>Husband (Age 62)</b>  Cannot hear the sermon at Church or dialogue on TV. He gets things wrong at meetings. With hearing aids, all voices are clearer. He can now participate in group settings and when there is background noise.</p>	4.8%
<p><b>Boat builder and Coast Guard Volunteer (Age 62)</b>  Needs good communication at work and when doing coastguard rescues. He has tinnitus, and has trouble hearing speech.</p>	Less than 6%
<p><b>Merchandiser (Age 51)</b>  Needs to communicate with staff, in meetings and in training sessions. But he has trouble hearing when there is background noise, which is always present in supermarkets and warehouses</p>	4.8%
<p><b>Aircraft engineer (Age 65)</b>  He finds it difficult to hear at work when there is competing noise in the workshop, and in group situations. His wife is softly spoken and he cannot hear her when her back is turned. He is unable to enjoy music.</p>	5.6%
<p><b>Grandmother (Age 60)</b>  She cannot hear clearly in social situations, especially when there is background noise. Her social contact and enjoyment of everyday life has decreased as a result. She is embarrassed at getting people to repeat things, and unhappy that she cannot hear her grandchildren clearly. With hearing aids, however, she reports a huge improvement when there is background noise. She can now hear her grandchildren clearly.</p>	5.6%