



Statutes of New Zealand

## Accident Compensation Act 2001

### Part 3

#### Code of ACC Claimants' Rights, and claims



Commentary - Personal Injury in New Zealand

#### Note

The Injury Prevention, Rehabilitation, and Compensation Act 2001 has been amended, as from 3 March 2010. Please refer to the commentary at HA13.06 for a summary of the substantive changes. Please note: the name of the principal Act has been repealed by s 5 of the Accident Compensation Amendment Act 2010. The title of the Act has changed from the "Injury Prevention, Rehabilitation, and Compensation Act" to the "Accident Compensation Act 2001". Henceforth, and retrospectively, all references in any enactment, agreement, deed, instrument, application, notice or other document must, unless the context otherwise requires, be read as references to the Accident Compensation Act 2001.

#### ACPt3.01 Introduction

Part 3 of the Accident Compensation Act 2001 makes provision for the development of a Code of ACC Claimants' Rights. The development of the Code puts into statutory form the complaints investigation mechanism that has existed for the last five years. Under s 40, the purpose of the Code is stated to be "to meet the reasonable expectations of claimants (including the highest practicable standard of service and fairness) about how the Corporation shall deal with them". The Code confers rights on claimants and imposes obligations on the Corporation in relation to how the Corporation must deal with claimants. It also provides how and to what extent the Corporation must address those situations where its conduct is not consistent with or does not uphold the rights of claimants under the Code.

Under s 45, the Corporation must make the Code accessible to claimants and members of the public generally, and promote awareness of the Code among claimants and members of the public generally.

The rights and obligations in the Code are in addition to any other rights and obligations in the Act or in any other enactment, and do not affect entitlements provided under the Act (s 40(2)). This means that the Code of ACC Claimants' Rights under Part 3 does not affect the review provisions in Part 5.

Under s 42 the Corporation prepared the Code in consultation with persons nominated by the Minister. Following agreement by the Minister, there has been public consultation, and final approval of the draft code by the Minister under ss 43 and 44. The Code came into force on 1 February 2003. Accordingly, Part 3 as it stands merely sets out the purpose of the Code and the process to obtain the Code. The Code is contained in Chapter 3.

Crucial to the understanding of the purpose of the Code is that it relates to processes, rather than actual decisions of the Corporation on cover and statutory entitlements that carry review rights. Section 40 refers to how the Corporation shall "deal with" claimants.

The Code of ACC Claimants' Rights has established desirable practices but is essentially a "toothless tiger" with no sanctions, enforcement mechanisms or the ability to amend a decision of the Corporation.

Comparable codes include the Code of Health and Disability Services Consumers Rights set out in the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996, and the Health Information Privacy Code.

