

## Summary

### Objective

An overseas claim is where a client already has cover for a personal injury and qualifies for support and now lives outside of New Zealand. Overseas claims do not apply to clients ordinarily resident in New Zealand who incur an injury while overseas and seek cover for their injury on their return to New Zealand.

1. Rules
2. Types of support
3. Short-term absences
4. Taxation and Double Tax Agreement (Australia)
5. Medical Certificate, Privacy and Information
6. Abatements

Owner

[Name withheld]

Expert

## Policy

### 1.0 Rules



- a** Overseas clients include overseas visitors who have worked in New Zealand and who may need further rehabilitation after they've left New Zealand.

Overseas clients are required to continue to participate in their rehabilitation and may also be required to return to New Zealand and at their own expense for assessments in order to maintain any weekly compensation payable.

### 2.0 Types of support

- a** Under current legislation we can continue to pay overseas clients weekly compensation or independence allowances/lump sums. The client must provide a medical certificate from their overseas medical practitioner confirming their inability to work as a result of their injury, unless Serious Injury certification exemption applies.

See Medical Certification for Serious Injury Claims

-  Medical Certification for Serious Injury Claims
-  Make an International Client Payment

- b** ACC can pay for or contribute towards client rehabilitation goods overseas where:

- the product is delivered in New Zealand and
  - payment for the rehabilitation is made from a New Zealand bank account and
  - ACC quality control requirements, for specific goods, are met.

This means that ACC may be able to pay the costs related to:



- overseas clients when they return to New Zealand for that rehabilitation (clients would be required to meet travel costs themselves) and then return overseas with the rehabilitation product, eg a client returns to New Zealand to be fitted with a new wheelchair
- overseas clients who have a New Zealand delivery address, when the products don't need to be fitted, eg stump socks and medical consumables

- c** ACC will usually not pay for or contribute towards client rehabilitation services where either the provider or the client is not in New Zealand at the time the service is provided. See section 128 of the Accident Compensation Act 2001.

This means that ACC will usually not pay for or contribute the costs related to:



- clients in New Zealand receiving rehabilitation from overseas providers, eg overseas surgeons who provide treatment for ACC clients in New Zealand
- services from a New Zealand-based provider to an overseas client, eg counselling and teacher aides via email, telephone and Skype. This excludes attendant care. See providing attendant care overseas for guidance.

Depending on the circumstances of the client, ACC may provide limited support to the clients. See the Overseas Claims Guidance document

-  Overseas Claims Guidance document
-  Assessing Overseas Clients For Non-contracted Care Service Page

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### 3.0 Short term absences

- a** If a client is in receipt of weekly compensation and is on holiday or living overseas for less than three months:
- you must manage them as if they were on holiday within New Zealand.
  - we'll only pay them weekly compensation or IALS. You must pay any amounts into a New Zealand bank account. See Payments to clients outside NZ
  - we do not pay for any GP visits, treatment, rehabilitation or social rehabilitation. See Accident Compensation Act, Section 128.
  - they're still required to participate in any vocational rehabilitation outlined in their Rehabilitation Plan, but at their own expense.
-  Payments to client outside NZ policy
-  Accident Compensation Act, section 128 - Payment for rehabilitation to claimant outside New Zealand  
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101809.html>
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### 4.0 Taxation and double taxation agreement (Australia)

- a** Clients living in countries outside of New Zealand may also be subject to taxes in that country. They may also apply for a refund on taxes paid here in NZ and TS accounting can advise further on this.

Clients were asked to provide tax return information annually in 2018 and you will note it has been included in some action plans. This request cannot be enforced under non compliance (Section 72) if not provided without good and sufficient reason such as suspicion of other income but can however be requested.

The DTA is an agreement between New Zealand IRD and Australia ATO so that our clients residing there do not pay taxes in both countries. After six months living in Australia they are deemed as resident for taxation purposes. They should therefore file a tax return and declare ACC payments as 'Foreign Income'. This also assists ACC to determine if there are unknown earnings in Australia.

Those with tax exemptions should be monitored by IRD but this does not appear to be the case. Those who also work in Australia, should provide a copy of their tax return each year which should show both ACC and PAYE income. The Australian tax year runs from 1st July to 31st June and CM can supply a payment summary from Infact for this period.

If you have any questions about this, please contact the Technical Accounting Specialist (TAS) team.

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### 5.0 Medical certification, privacy and information

- a** Correct certification is essential for management of these claims. Please ensure the correct letter has been sent and send again if the medical certificate does not meet the certification requirements.

If the medical certificate does not meet ACC requirements, the client may need to return to their doctor to have the certificate amended. Technical Specialist (TS) advice in this situation is to add an extension of 4 weeks only to allow this to happen.

If the doctor supplies a letter in place of certificate, it must still include –

- Client's name, address, date of birth
- Date of injury
- Pre-injury role (unfit to perform)
- Diagnoses/symptoms
- Timeframe up to 13 weeks
- Treatment plan
- Details and signature of treatment provider
- Signature of client

This information is to ensure that the certifying treatment provider has a treatment plan, is aware of work type they are signing off as unable to perform and what the covered injuries are. This should not be provided just at client's request.

 Request Clinical Records

- b** PRIVACY – The ACC6300 does not extend beyond New Zealand. Therefore, ACC cannot request information directly from treatment providers. Obtaining medical reports and information for ACC are the client's responsibility. This can be more difficult if they are being treated via a public health system. Requesting consultation notes from the doctor may also need a supporting letter from ACC as patients don't have the same access to these as we do in New Zealand. It is important that if you include that any cost for these are the client's responsibility on the letter.

Psychologist reporting is not objective based from overseas providers. One solution is to provide clients with ACC forms (ACC266/267/268) amended to remove 'Recovery Team Member' approval and funding comments so their provider has an understanding of the information we require or may elect to use these.

Be sure to check the qualifications of the provider, as some are not psychologists but counsellors or social workers.

- c** We are required under the Privacy Act to ensure that personal information sent overseas is subject to privacy safeguards that are similar to those in New Zealand.

If you need to send personal or health information to an overseas health provider or other third party, and you are unsure whether they are subject to privacy laws that provide comparable safeguards to the Privacy Act, you must obtain the client's permission.

The client must be expressly informed that their information may not be given the same protection as provided by the New Zealand Privacy Act.

If you are unsure, please contact the Privacy Team for guidance.

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## **6.0 Abatements**

- a** Overseas earnings are abated using payslips.

Exchange rate information should be taken from the Crown Revenue website – <https://www.rbnz.govt.nz/statistics/b1>

The last day of the abatement period rate should be used as these vary over a week. As these are weekdays only, use most previous if working week ends on weekend.

Task is entered in comment box as – 15/3/19 – 21/3/19 20 hours \$400aud = \$429.12 .9521 (applicable exchange rate for 21/03/19)

Some have rolling abatements which is easier if their hours do not change significantly but a wash up is recommended if not amended when payslips available. Self employed abatement is as above but elect self employed as per standard practice.

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