

Eligibility for weekly compensation for accidental death claims Policy v6.0



Summary

Objective

If a deceased person was an earner at the date of death, then weekly compensation can be payable to a surviving spouse, child or other dependant. The amount payable is a proportion of the compensation that would have been paid to the deceased if they had survived with full incapacity.

Establishing eligibility for weekly compensation for accidental death claims is similar to normal weekly compensation claims. The main difference is that the person who receives compensation is the surviving dependant, not the deceased.

See Entitlements – weekly compensation.

This document covers the additional considerations that apply when dealing with weekly compensation for accidental death claims.

- AC Act 2001, Schedule 1, Clause 48 sets out the weekly compensation entitlement for a person who suffers a new injury resulting in death
- AC Act 2001, Schedule 1, Clause 66 covers weekly compensation for a surviving spouse
- AC Act 2001, Schedule 1, Clause 70 covers weekly compensation for a child
- AC Act 2001, Schedule 1, Clause 71 covers weekly compensation for an other dependant.

Owner Name withheld

Expert Name withheld

Policy

1.0 Eligibility criteria

a A spouse, partner, child or other dependant of the deceased is eligible for weekly compensation if all the following apply:

- ACC has accepted a claim for cover under the AC Act for the accidental death
- the surviving accidental death claimant has applied for weekly compensation, with regards to the accidental death claim
- the survivor qualifies as a spouse, child or other dependant of the deceased
- at the date of death the deceased:
 - was an earner or potential earner
 - was receiving weekly compensation
 - had purchased earner status (ACC Timeout)

A claim can be made by more than one surviving accidental death claimant, eg a surviving spouse may make a claim on their own behalf and any surviving children of the deceased.

See Entitlements – weekly compensation.

- Entitlements – weekly compensation
<https://go.promapp.com/accnz/Process/3898de90-28ab-4c2e-8b7f-71bf8df2299f?force=False>
- Eligibility criteria for weekly compensation for an accidental death client

2.0 Dependants living overseas

a A surviving accidental death claimant who lives overseas may still be eligible for weekly compensation if the deceased had earnings that were taxable in New Zealand.

3.0 Ineligible survivors

a An accidental death claimant is not entitled to any payments if:

- they are imprisoned
- the deceased died as the result of suicide or a wilfully self-inflicted injury.

See Disentitlement for more information.

- Suspension & disentitlement
- Murder accused must not be paid fatal claim entitlements Policy
- Suspending weekly compensation for an imprisoned accidental death client

4.0 Compensation for several dependants

- a** Weekly compensation payable to a surviving accidental death claimant is based on a proportion of the weekly compensation, subject to indexation, that would have been paid to the deceased client had they survived with full incapacity. Abatement does not apply.

If there are a number of dependants, the total compensation payable for all dependants must not exceed the compensation that would have been paid to the deceased. In this situation, a pro-rata calculation is performed. AC Act 2001, Schedule 1, Clause 74 specifies the pro-rata calculation, if total compensation would exceed the maximum.

 AC Act 2001, Schedule 1, Clause 74

<https://www.westlaw.co.nz/maf/wlnz/app/document?docguid=I67902013e03211e08eefa443f89988a0&isTocNav=true&tocD>

 How to calculate maximum payments – weekly compensation for accidental death Policy


5.0 Establishing number of eligible surviving accidental death claimants

- a** We must establish how many surviving accidental death claimants may be eligible for weekly compensation. If we start paying weekly compensation to accidental death claimants and then discover another accidental death claimant exists, the weekly compensation must be recalculated using the new information.

Once the entitlements are recalculated, ACC has to consider recovering any possible overpayments.

 Definition of a spouse of a deceased client


 Definition of a child of a deceased client

 Criteria for a person to be an other dependant of a deceased client

 Definition of a partner to a deceased client

6.0 Date that weekly compensation is paid from

- a** Weekly compensation is payable to surviving accidental death claimants from the date of the deceased's death. There is no first week stand down period, even if the deceased suffered a non-work injury. Compensation is always based on the long-term calculation of weekly earnings. There is no short-term period of eligibility.

 Start date for accidental death weekly compensation
