

24 February 2020

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Tēnā koe ██████████

Your Official Information Act request, reference: GOV-003485

Thank you for your email of 24 January 2020, asking for the following information under the Official Information Act 1982 (the Act):

Hi there, I am having difficulty finding any information about your compensation policies for casual workers on your website. Could you please send a link to this information or the associated documents related to casual workers?

We have interpreted your request as information regarding whether a worker engaged in casual employment is entitled to weekly ACC payments if they have an accident.

Weekly compensation under the Accident Compensation Act 2001

The criteria for determining entitlement to weekly compensation is provided under sections 103 and 105 of the Accident Compensation Act 2001 (AC Act). Under these sections, ACC considers an earner's incapacity for employment to determine entitlement to weekly compensation. The term 'earner' is broadly defined in section 6 as '...a natural person who engages in employment,' and could be interpreted to include anyone in paid employment.

Casual worker definition

ACC defines a 'casual' worker as an employee who has occasional or irregular employment with no fixed hours. They may be on an employer's books and offered employment when work becomes available. They can be an employee or self-employed.

Compensation for casual workers

Casual workers can access weekly compensation following an accident or injury if they were in employment immediately before their accident, and also at the time of their injury (this applies to both work and non-work-related injuries). However, if the accident or injury occurs between periods of work, they must satisfy the extension of employment criteria under clause 43 of Schedule 1 of the AC Act. Under this provision they must fit one of the following scenarios:

1. They received a termination payment on ceasing employment that equates to a certain number of days pay; this number of days is added to their employment cease date and they become unable to work within this extended period.
2. If they become unable to work due to the injury within 28 days of ceasing employment and if they were not for the inability to work, they would have been employed as an employee within either:
3. Three months after the date they became unable to work, had entered an employment agreement or had arranged to enter an employment agreement before they became unable to work.

4. Twelve months after the date they became unable to work, if the client is a seasonal worker and the employer - who must have employed the client for the last two seasons - confirms there is a reasonable expectation they would have re-employed the client in the next season.

Self-employed casual workers generally do not qualify for compensation under the provisions listed above, unless they received a termination payment after ceasing work which extended their employment up to the time of their incapacity.

Self-employed clients whose pattern of employment is casual in nature, or who are in receipt of schedular or withholding income (including labour-only contractors) must be engaged in employment immediately prior to their accident or when they became unable to work in order to be considered an 'earner' and eligible for weekly compensation.

Who to contact

If you have any questions, you can email me at GovernmentServices@acc.co.nz.

Nāku iti noa, nā



Sasha Wood
Acting Manager Official Information Act Services
Government Engagement & Support