

Comparative Review of Workers' Compensation Systems in Select Jurisdictions

JURISDICTION: NEW ZEALAND

ENVIRONMENT

Population Size 3.6 million (March 31, 1995)

Labour Force 1.73 million (March 31, 1995)

Demographic and Economic Indicators Though its land mass is one-third of the area of British Columbia, New Zealand's population and labour force is almost identical to British Columbia. New Zealand has a relatively diversified economy headed by food processing, wool production, forest products, textiles, machinery and a burgeoning services and tourism sector. Its GDP is about \$55 billion, as compared to British Columbia's roughly \$100 billion. However per capita statistics (levels of home and car ownership, phone and appliances) indicate that the general standard of living of an average middle class New Zealand family is similar to a B.C. family.

About 12 years ago, New Zealand went virtually bankrupt. Drastic measures were taken: many government services were privatized, social services -- health, welfare, pension and unemployment benefits -- were slashed, the top income tax rate was reduced from 67% to 33% and a 12.5% GST introduced. Trade with the Pacific Rim was promoted to replace the lost trade with Europe. The economy is now recovering and the current coalition government expects to have a balanced budget and to have the debt down to 20% of GDP by 2004.

The unemployment rate as of March 31, 1995 was 6.9% (down from 9.5% in 1994 and 10.2% in 1993). Average weekly earnings at February 1995 were \$578.10.

**GOVERNANCE &
ADMINISTRATION**

Nature of System Workers' compensation in New Zealand is part of a compulsory, national, no-fault accident insurance compensation system¹.

All accidents², whether they occur at work, at home, on the road, or the sport field, regardless of who is at fault, are covered by the general accident insurance system.

Principles and Mandate "No fault, affordable and fair accident rehabilitation and compensation insurance 24 hours a day to all New Zealanders."

Access to Litigation New Zealand is an exclusive remedy jurisdiction. No person has the right to sue for damages for personal injury caused by any accident covered by the accident insurance system.

However, in recent years, since the removal of the lump-sum awards, there have been instances of court settlements for exemplary damages.

¹ Effective April 1, 1974, New Zealand established the Accident Compensation Corporation that replaced: 1) a workers compensation, 2) a third-party liability based motor vehicle insurance scheme, 3) a criminal compensation tribunal that provided compensation to victims of criminal acts, 4) a common law fault system that applied to all other accidents. New Zealand retained its separate social security system which cover health and medical care and benefits for sickness, disability and unemployment.

The *Accident Compensation Act, 1972*, was replaced in 1992 with the *Accident Rehabilitation and Compensation Insurance Act*.

² Medical misadventure is covered in the accident compensation scheme. This includes both medical error (malpractice) and medical *mishap* (proper treatment resulting in a severe consequence). Mental or nervous shock or conditions are also considered accidents if caused by behaviour for which criminal charges could be laid (such as sexual abuse and assault).

Scope of System

Who is Covered?

The benefits of the broad accident insurance scheme are available to all residents of New Zealand, including children, adults (including people over 65 years of age) and wage earners³ and non-earners and to visitors to New Zealand.

What is Covered?

Work accidents or illnesses "arising out of and in the course of employment" are covered. This includes an event or a series of events (possibly over a period of time) resulting in an injury or an illness, including falls, strains, cuts, breathing or swallowing a harmful substance, exposure to extreme temperature or environment, a burn or radiation exposure, skin absorption of a chemical and a heart attack or stroke as a direct result of excess physical effort. Occupational injury or illness caused by a gradual process, disease or infection is also covered⁴. With respect to stress, where stress is directly related to physical injury the scheme may fund counseling services, however, stress itself is not a compensable condition.

An accident or injury that occurs when the person is on a break, or traveling in the course of employment between work sites, is considered a work accident. An injury incurred where an employee is contravening a rule or regulation, is disregarding warnings, is working under an illegal contract, is skylarking or is the victim of a natural disaster is also covered. However, an accident that occurs while the worker is participating in a recreational event sponsored or paid for by the employer is specifically excluded from coverage, unless it occurs at the person's place of employment. An accident that occurs while traveling to and from work, unless it is in a company vehicle, or an accident that occurs in accommodations paid for by the

³ New Zealanders working overseas are also covered if before last leaving New Zealand they were personally present in New Zealand for a period of more than 183 days and since last leaving New Zealand they have not been absent (and do not intend to remain absent) from the country for more than six months. Cover is also provided to New Zealanders working overseas for a New Zealand taxed company or for six months following the completion of the period of such employment outside New Zealand (provided the person returns to new Zealand).

⁴ This includes such things as occupational overuse syndrome, silicosis and noise induced hearing loss, as well as occupational diseases. [NOTE: only occupational diseases are covered by the accident compensation scheme. Determination of whether the disease is work related is therefore an important distinction.]

company, unless it occurs during work hours, is also not covered under the scheme.

Volunteer workers receive work accident compensation if an accident that occurred during their volunteer work prevents them from returning to their paid job for over a week (if they are not in paid employment there is no weekly compensation paid under the work accident scheme, but they could still receive compensation for non-work injuries).

Medical expenses are covered, at New Zealand rates, for work related injuries that occur outside of New Zealand.

Self Insurance

The Accredited Employer Program which began in April 1995 provides a form of self insurance option to employers who demonstrate that they have the capacity to perform the injury management functions and responsibilities of the corporation. The program allows accredited employers to manage their own work injury claims for the first 12 months after the injury. Accredited employers provide the same coverage and benefits as the corporation provides to workers injured on the job.

As of December 1997, 39 employers, covering 90,000 employees, were accredited under the program (and 54 new applications, covering 92,000 employees are being processed to determine acceptance)⁵.

⁵ A review of the program indicates that some of the benefits of the program are: reduction in the duration of claims and quicker return to work; reduced cost of claims; employer and claimant satisfaction.

**Organizational
Framework**

Accident compensation is administered by the Accident Rehabilitation and Compensation Insurance Corporation (ARCI). The corporation is a crown corporation created by statute, responsible to a government appointed board of directors and the Minister for the ARCI. The corporation's full-time managing director, who is a member of the board of the corporation, is responsible for day to day administration.

The objectives of the corporation are:

- the reduction of the social, economic and physical impact of personal injury on individuals and the community;
- the provision of comprehensive 24 hour, no fault cover for people who are injured by accident;
- to administer the scheme so that injured people receive prompt, sustainable and cost-effective return to independent living an employment to the maximum degree possible and at an affordable price.

Service delivery is decentralized; there are about 40 branch or field offices of the corporation located throughout New Zealand.

**Governance
Structure**

The corporation is headed by a board of directors, consisting of up to eight individuals whom are appointed by the Minister for Accident Rehabilitation and Compensation Insurance. The Chief Executive, who is responsible for the day to day operations of the corporation, is appointed by the board of directors.

Policy Development

The corporation has a policy unit whose responsibilities include providing advice to government on new legislation and assisting in the development and drafting of new legislation and responding to ministerial letters and parliamentary inquiries and general requests for information.

Accountability

The board of directors is subject to policy direction by the government. The corporation must "comply with any directions relating to the policy of the Government that are given by the Minister" responsible for the corporation in writing to the corporation. The ARCI reports annually to parliament through the Minister for the ARCI.

An annual service agreement between the board of the corporation and the Minister for Accident Rehabilitation and Compensation Insurance sets out and clarifies matters relating to premium setting, the functions and powers of the minister and the board, and aspects of accountability for the performance of the corporation. This was introduced with the 1996 amendments to the Act.

**Performance
Assessment**

The annual service agreement sets out the expected performance of the corporation for the subsequent period.

**Claims Adjudication
Process**

The corporation decides whether a personal injury or an illness is the result of a work accident. The corporation's decision is made on the basis of input from the injured person's physician and employer⁶. The corporation is then responsible for establishing the claimant's entitlements under the Act and ensuring, through comprehensive case management policies and procedures, that all care providers (physicians, home care workers, occupational and physical therapists) provide exactly what the claimant needs within those entitlements.

Complicated or long-term injury cases are assigned to specialized case managers, or managers of recovery and rehabilitation.⁷

⁶ Physicians are also responsible for determining whether an injury or a condition has ceased. In 1995 a medical review system was also introduced which allows claimants to be referred to case reviewers (designated general practitioners or specialists) for a second opinion at certain intervals. Many claimants return to work as a result of this process or benefit from a revised treatment plan.

⁷ The change to a case management model and the implementation of a coordinated plan of care with a greater emphasis on recovery and rehabilitation worked out with the claimant and the claimant's family, physician, therapist and employer was begun in 1994. The new model is a clinically based rather than a clerically based approach.

Dispute Resolution
*Mediation/
Conciliation*

An independent complaints department, the office of the complaints investigator, established in 1984 as a cost-free and independent alternative to making a complaint to the minister or the ombuds, plays an important role in providing mediation services between complainants and the operational units of the corporation. Though the department has no formal authority to bind the corporation, generally the corporation has accepted the recommendations of the department when an investigation determines that the complaint has substance⁸. Complainants unhappy with the result of this process, may proceed to have the issue or matter considered under the formal appeal provisions, or through the ombud's office.

Appeals Process

Decisions of officers of the corporation on entitlement to benefits or acceptance of an accident claim may be appealed first to a corporation review officer and second to an independent Appeal Authority (two members of the district court judiciary).

There is a right of appeal of the decision of the Appeal Authority to the District Court⁹. Questions of law may be further appealed to the High Court and decisions of the High Court may in turn be appealed to the Court of Appeal.¹⁰

The corporation is responsible for paying the costs of appeals to the district courts as determined by agreement between the Minister for the ARCI and the Minister for Courts.

⁸ For the year ending June 30, 1996, the complaints department handled 803 complaints. 54% (438) were resolved to the satisfaction of all parties; 41% (321) there was no resolution possible because the legislation had been properly applied by corporation staff; and 5% of case were still under investigation.

⁹ Where an appeal to the District Court raises a medical question, two medical assessors appointed as lay members of the court by the Governor General will sit with the judge to hear the case and determine the question.

¹⁰ A total of 344 appeals were made to the Appeal Authority -- 126 appeals allowed; 209 appeals dismissed; 9 sent back or interim decisions -- and a total of 135 appeals were made to the District Courts-- 42 appeals allowed; 86 appeals dismissed; 7 appeal sent back or interim decisions. The High Court heard five appeals in 1995/96 and six in 1994/95. There were no appeals to the Appeal Court in either of those years.

**ASSESSMENTS /
FINANCING**

**Assessment or
Premium Setting
Process**

On April 1, 1996, the corporation introduced a risk based employer premium classification system based on the Australian and New Zealand Standard Industrial classifications¹¹. The risk based premium rates are calculated by grouping 500 premium classification units into 55 premium groups based on the claims cost of each premium classification in relation to its earnings base. Because the new rates were significant for some employer groups, the rates were phased in with a maximum increase or decrease each year of 25% (in 1997, the limit on decreasing the premium rates was removed because 86% of the classification units had reached their true risk rate). It is planned that the premium grouping will be reviewed annually. The experience rating formula continues to be adapted to reflect the changing patterns of premium income and claim expenditure.

**Assessment/Premium
Rates**

Currently the system is funded on a "pay as you go" basis. However, the New Zealand government has indicated that within the next few years the system will be required to operate on a fully funded basis.

There is a separate Employers' Account that finances compensation for work accidents¹². The current average employer premium rate for 1997/88 is \$2.35 per \$100 wages (a fall from the 1996/97 average of \$2.61); earner premiums will be \$1.20 per \$100 of liable earnings (a rise from \$0.70). [There is also a 6 cents per \$100 health and safety levy.]

¹¹ The previous system had 27 board activity based premium classes. This system was problematic in that some employers had been paying premiums based on the wrong classification and there was a high degree of cross subsidization between the premium classes.

¹² There is also an Earners Account to cover non-work injuries to wage earners (the current earner premium is 70 cents (including GST) on each \$100 of earnings, a Non-earners Account to cover general accidents to all non-earners funded by general taxation (until the 1992 changes this fund was covered by assessments paid by employers), and a Motor Vehicle Account to cover automobile accidents funded by 2 cents a litre tax of gasoline and an annual vehicle relicensing fee of \$90.

**Second Injury Funds
/ Disaster Funds**

The Subsequent Work Injury Account, funded from the Employers' Account, covers the cost of workplace injuries which are a recurrence or exacerbation of a previous workplace injury. The later injury must take place within the first 12 months of employment, in order for the injury to be covered. The return to employment does not have to be with a different employer; it can be to the original workplace even if the person has returned to alternative work duties. There were 169 claims registered during the year ended June 30, 1996 under this Account and 68 new entitlement claims registered and compensated.

COMPENSATION
BENEFITS

Claim Rate For the year ending June 30, 1996, there were 292,206 claims registered under the Employers' Account and 45,361 new entitlement claims registered and compensated.

Medical Aid

Nature of Aid

The accident compensation system covers the cost of medical care provided to accident compensation claimants by health practitioners and through public health facilities. However, because there are often long delays in the public health system for certain types of treatment, and in recognition that early intervention and treatment may facilitate the rehabilitation of a claimant, and thus reduce the duration of disability cash benefits, the corporation has the flexibility to purchase elective medical care or treatment from private sources who specialize in disability and injury cases¹³. Certain services not covered under the national health care system, such as aids and appliances necessary for the claimant's treatment and rehabilitation are also covered up to prescribed limits.

Choice of Provider

The injured person has free choice respecting their choice of physician. However, the corporation is moving to an "approved practitioner model" as a way to get better "value for money" service [see below].

¹³ Under the Health Service Contract physicians, physiotherapists, chiropractors, radiologists are paid directly for their services by the corporation. A bulk payment is made to the crown to cover the cost of public health services to claimants injured in automobile accidents and work accidents. In 1995, this payment was \$124,000,000 with \$80 million for automobile accidents and \$43 million for work injuries. The corporation has little control over public hospitals and health facilities and the issue of purchasing private services is a contentious one because in effect the corporation has to pay twice for the service. It is understood that the corporation favours moving to a fee for service approach.

***Medical Cost
Containment
Initiatives***

As part of the case management approach, the corporation is implementing a system of approved practitioners and through this system will fund corporation-supported treatment only. Preferred providers would offer packaged services based on a specific fee for service and would manage a set of patients according to the costs assessed by the corporation for particular injuries and their management. Preferred providers would be selected on the basis of their willingness to accept the set fee for service and fee schedule, and the audit processes that would be part of the contract.

Rehabilitation

***Physical/
Occupational/
Vocational***

The corporation does not provide physical and occupational rehabilitation services directly, it only funds rehabilitation through payments to service providers on a fee for service basis. Case managers will provide "vocational" rehabilitation counseling only.

Though rehabilitation has always been a goal of the system, since 1994, the corporation has devoted greater priority and resources and effort to rehabilitation. Building on the introduction of a case management approach and managed care, the corporation is introducing a number of initiatives to encourage the development of partnerships with "health practitioners and employers to have injured people to return to work or independence as rapidly as possible, an outcome which benefits everyone" (corporation's 1996 Annual Report)¹⁴.

The 1996 amendments also strengthened the rehabilitation provisions in the Act (case managers have more flexibility to arrange vocational rehabilitation to help people return to their old jobs or use existing skills to find a new job) and it is now possible to extend the vocational period to three years - formerly the rehabilitation period was one year with the ability to extend for another year under certain circumstances.

¹⁴ Some initiatives directed at rehabilitation for return to work include: the development of Workwise , an occupational medical service designed to achieve early intervention, assists employers in identifying and developing processes that will help injured workers workplace rehabilitation; the creation of a health and rehabilitation strategies division in the corporation, and the Return to Work communications program, designed to encourage claimants to take responsibility for their own return to work and to encourage general practitioners and employers to play a proactive role in this process.

Social

Claimants with accepted claims are eligible to apply for a wide variety of social rehabilitation benefits. These include: attendant care (help with personal care, dressing, feeding and bathing); home help (laundry, cooking, cleaning, if responsible for these task pre-accident); child care; housing and automobile modification (not more frequently in general than each five year period); educational support (such as a teacher's aide and transport to and from school); and training for independent living. Eligibility criteria for these services are set out in regulation.

***Rehabilitation
Incentives***

There are no statutory requirements in New Zealand that require employers to reinstate injured workers. A worker's reinstatement to their former job is dependent upon the employment contract between that employee and their employer¹⁵

***Trends in
Treatment of
Subjective
Complaints***

In 1996, a policy respecting the prevention and management of occupational overuse syndrome (OOS)¹⁶ was implemented. A study was piloted in 1995 with ten employers and is now being more widely implemented. The corporation is confident that this program can reduce the number of new OOS claims.

¹⁵ The next legislative review of the ARCI Act will examine the possibility of requiring employers to hold positions for injured workers for 12 months. The issue is complicated by the coverage of non-work injuries for which the employer has no responsibility or control over.

¹⁶ OOS, sometimes referred to as repetitive strain injury is the umbrella term for a number of conditions in New Zealand such as carpal tunnel syndrome and tennis elbow.

Disability Benefits

Short-Term Benefits - Temporary Disability

Weekly "loss of earnings or wage loss" compensation:

Rate: From the second week through the fourth week, the accident compensation system is responsible for paying weekly benefits equal to 80% of the claimant's total pre-injury earnings made immediately before the injury prevented a claimant from working to a set maximum and minimum. If an injury prevents a claimant from returning to work after five weeks, weekly earnings are assessed on the basis of the claimant's total earnings in the 52 weeks before incapacity¹⁷ up to a set maximum and minimum (currently maximum of \$1,246.27. per week of \$265.41)¹⁸.

Indexed: Minimum and maximum weekly compensation rates are indexed by regulation.

Duration: Until the person has been judged to be permanently disabled. To continue to receive temporary benefits, workers must provide regular certification from their physician that they are unable to work because of a continuing disability¹⁹.

Taxable: Yes.

¹⁷ To provide flexibility for those people employed less than 52 weeks and for self-employed people with volatile earnings levels, the 1996 amendments provide that the earning period for calculating wages can be as short as 13 weeks.

¹⁸ In some cases, an injured low-income worker would be better off on a Department of Social Welfare invalid benefit, than on accident compensation because of the earnings related nature of the accident compensation rate. A claimant can choose to receive a social welfare benefit rather than earnings related compensation under the accident scheme, and in this case, the amount of their earnings related compensation would be reimbursed by the corporation to the Department of Social Welfare to offset the cost of the benefit.

¹⁹ Pre-1992 legislation included a provision that effectively allowed a claimant who had been cleared fit to resume work to continue to receive compensation for as long as there was no appropriate work available for the claimant. This was abolished in 1992, and consistent with the goal of the system that benefits are provided to injured workers and not unemployed workers, workers with a capacity for work greater than 85 percent were ineligible to receive earnings-related compensation beyond 12 months (though they may be eligible for other assistance such as unemployment insurance). 1996 amendments to the legislation further strengthened these provisions by introducing a work capacity test to allow for the assessment of a claimant's capacity to return to their pre-injury employment or another suitable job (this assessment will only be undertaken after the claimant has completed any vocational rehabilitation plan). If a claimant is determined capable of returning to work, on the basis of this independent assessment by a physician, the claimant is given three months to search for a job and if following this three month period they have not found employment then the corporation can discontinue benefits.

Comparative Review
New Zealand

Employer's Excess / Waiting Periods: For work related injuries, the first week of benefits is paid for by the employer.

Comparative Review
New Zealand

**Long-Term
Benefits -
Permanent Partial
and Total
Disability**

Economic "loss of earnings or wage loss" awards or pensions:

Rate: See above.

Indexed: See above.

Duration: Until the claimant reaches 65 years of age.

Taxable: Yes.

Offset Against Other Social Security Benefits: Earnings-related compensation will normally cease once the claimant reaches 65 years, the age of eligibility for Guaranteed Retirement Income.

Award for permanent physical impairment:

Periodic (pension or annuity): Permanently injured workers, similar to any person permanently disabled in an accident, are eligible to receive a disability or "independence" allowance to cover the ongoing additional costs of their disability. The disability allowance is in addition to any other benefit or pension the person may be receiving²⁰. It is not earnings related or income tested and is adjusted annually for inflation. The threshold for payment of the disability allowance is 15%. The maximum disability allowance is \$60 a week tax free scaled by degree of disability.

Lump-sum: As of 1992 lump-sum benefits were discontinued²¹.

Covers Disfigurement: No.

Impairment Schedule: AMA Guides, 4th edition.

Supplemental Awards: See above "Award for permanent physical impairment".

²⁰ People receiving a disability allowance qualify for other capital items and social rehabilitation services such as home and care alterations or adaptations, appliances and attendant care.

²¹ Under the pre-1992 legislation, there was a lump-sum payment for loss of faculty (bodily function), up to a maximum of \$17,000. Awards were based on a schedule in the Act, similar to the Table of Maims. There was a 5% threshold of loss to qualify. As a result of the 1992 reform process lump-sum payments for impairment were discontinued in favour of compensating for loss of function through a disability allowance. This was based on the view that compensation for loss of function is designed to enable those with a permanent disability to meet the additional life cost associated with that disability. Whereas a lump-sum award may be quickly dissipated, it was felt an ongoing disability allowance would ensure continued support. The reform process also concluded that a disability allowance approach is fairer in that it takes into account the age of the recipient and will allow for flexibility for the allowance to be adjusted if circumstances or conditions change. The lump-sum payment for pain and suffering and loss of life was also discontinued in 1992.

Hearing Loss

Gradual hearing loss is specifically recognized and covered by the accident insurance system as a work-related injury.

Death Benefits

Funeral Expense Benefits

Funeral Costs: The scheme will provide a funeral grant equal to the actual cost of the funeral or \$3,060, whichever is less (1997 rate).

Emergency Lump-sum: Lump-sum grants are provided to meet the specific additional costs associated with death: \$4,000 to a surviving dependent spouse (if there is more than one surviving spouse, the amount is divided equally between them); \$2,000 to each dependent child under 18 years; and \$2,000 to any other dependent (1997 rates).

Survivor Benefits

<u>Survivor Category</u>	<u>Lump-sum</u>	<u>Pension</u>
Surviving spouse who has no personal income, and who is an invalid, is over age 45 or has dependent children	None.	Equal to earnings related pension that deceased would have received if P.T.D ²² until the earliest of: 5 years, no longer has care of dependent child or child turns 18 years, or no longer cares for any dependent of the deceased. Ceases on remarriage, but benefits can be resumed if marriage fails
Surviving spouse, who is not an invalid, who is under 45 years and no children under 7 years	None.	"Transition to work" allowance equal to one year's benefit.

²² Similar to injured workers, a survivor has the option of selecting the social welfare benefit rather than benefits under the accident compensation system, in order to have access to supplementary benefits under the social welfare system.

Comparative Review
New Zealand

Dependent
children

None.

Equal to 20% of
deceased's P.T.D.
pension, until 18 or 21
if a student; if both
parents deceased, 40%.

**HEALTH & SAFETY
& PREVENTION**

**Organization
Structure**

*Agencies
Responsible*

The Occupational Health and Safety Service (OSH), Department of Labour, is responsible for workplace health and safety in New Zealand. The OSH is responsible for the *Health and Safety in Employment Act, 1992*, the goal of which is to "provide for the prevention of harm to employees at work". The OSH also administers the *Dangerous Goods Act, 1974*, *Explosives Act, 1957*, and the *Machinery Act, 1950* (the *Hazardous Substance and New Organisms Act, 1996*, which will come into force on April 1, 1988, repeals and replaces the *Dangerous Goods Act* and the *Explosives Act*).

The OSH assists employees, employers and others affected by work to actively manage safety and health in the workplace. The OSH offers a range of interventions and services to workplaces such as inspections, assessments, provision of information and advice.

The ARCI itself places a priority on injury prevention programs and initiatives. The position of director of Injury Prevention was recently established "reflecting the high priority that the corporation places on this part of the business".

The OSH and the corporation operate, as of December 1, 1996, under a set of protocols covering such issues as the sharing of information, joint projects and respective responsibilities for early intervention, prevention and health and safety in the workplace.

Source of Funding

OSH is funded by a levy on employers' payrolls and the taxable earnings of self-employed people. This levy is currently set at a rate of 6 cents per \$100 payroll and taxable earnings. This levy is collected with and as part of accident compensation insurance premiums (although under a separate statutory authority).

Accident Reporting

All serious workplace accidents or injuries must be immediately reported to OSH by the employer.

OHS Representatives and Committees There is no requirement in New Zealand for OHS committees or workplace safety representatives. OSH does however recommend that employers establish OHS committees or safety representatives, where appropriate.

Offenses & Penalties
Contraventions of the Legislation

Types of Offenses and Maximum Fines:

The Act provides for three types of offenses:

1. any person found guilty of taking an action or failing to take an action knowing that the action or inaction is likely to harm a person is subject to a fine of up to \$100,000 and/or imprisonment of up to one year;
1. any person found guilty of failing to comply with a provision of the Act and causes serious harm is subject to a fine of up to \$50,000;
1. any person found guilty of failing to comply with a provision of the regulations or a provision of the Act, but which did not cause serious harm, is subject to a fine of up to \$25,000.

Convictions:

1996/97 - 165 convictions and fines (8 convicted and discharged and 16 cases dismissed); total fines - \$862,250.

1995/96 - 254 convictions and fines (22 convicted and discharged and 45 dismissed); total fines - \$1,068,800.

[Though there has been a significant decline in the total number of convictions, average fines have increased substantially.]

Administrative Penalties

New Zealand legislation does not provide for administrative fines for failure to comply with OHS standards and regulations.

OHS Legislative Review

There is no specific legislated or mandate process in New Zealand for the review of OHS legislation.

In 1995/96, a Parliamentary Select Committee carried out a review of the administration of OHS policy and made several recommendations for change to OHS legislation.

**Health and Safety
and Loss Prevention
Initiatives**

As of July 1, 1997, OSH has adopted as its strategic focus "Together to Zero - Eliminating Workplace Death". The immediate priorities under this initiative are those workplaces known to have a high incidence of fatal and other serious accidents, in particular the agriculture, construction, and forestry industries and workplaces using hazardous substances. Many of these are small businesses and OSH is developing strategies to ensure that small businesses are able to comply with OHS law.

The corporation undertakes a number of one-off and ongoing initiatives related to injury prevention and workplace health and safety, such as the Back Pack program designed to promote back injury management and benefits of safer work systems to small businesses; farming safety programs; and programs to prevent and manage occupational overuse syndrome. They also work with the OSH to undertake specific joint initiatives such as seminars and workshops on lifting methods and management of low back pain.

FRAUD
PREVENTION

The corporation has an active Fraud unit with 11 full time equivalent staff. In the last three years, the corporation has significantly upgraded its fraud control measures. In 1996/97, 322 cases were referred to the Crown Solicitor for court action to be taken. Of these 248 resulted in conviction and \$1.1 million was awarded through the courts.

Based on research that estimates that 10% of claims are fraudulent, fraud costs the corporation up to \$100 million a year. The corporation estimates that it has saved about \$24.6 million through the Fraud unit's initiatives.