



SUBMISSION:

The Injury Prevention, Rehabilitation and Compensation Amendment Bill No 2

TO THE TRANSPORT AND INDUSTRIAL
RELATIONS SELECT COMMITTEE

This submission is lodged for and on behalf of the
members of the Support Network For The Aldehyde
And Solvent Affected (NZ) Incorporated,
SNFTAAS (NZ) Inc.

Phillippa Martin **Coordinator**
Graham Willson **Editor**

The group seek opportunity to speak to the
submission, represented by their Elected
Officers as above.

Submissions Support:

We wish to commend to the Committee's attention, the Submission of Mrs Maragret Sainty. Your attention is drawn to her commentary on the injurious affects of Dioxin-related chemistries.

Submission regarding amendments proposed to work-related gradual process, disease and infection and the addition of further occupational diseases and their corresponding agents to Schedule 2 of the Injury Prevention Rehabilitation and Compensation Act 2001

INTRODUCTION

SNFTAAS (NZ) Inc., formerly SNFTAAS, is a nationwide and international group of men, women and children affected by chemical solvent exposure. As well as a 300 plus New Zealand membership, we have members in Australia, Canada, USA, UK, and Europe.

We share with our overseas members, a single and pervasive problem – having been, in most cases, taxed without choice of provider or premiums for accident cover by captive insurance systems, we have been denied cover, rehabilitation and/or entitlements as provided in Law or in Policy Documents that sought our consent.

From this broad perspective, we have witnessed the once internationally recognised “no-fault” concepts of the Woodhouse rationale, inexorably going down the road of the profit-driven model. On that model, ACC has developed a Culture of Denial. It is something that goes much further than the common-sense and supported position of avoiding invalid claims. It goes to an attitude of taking valid claims and looking for any excuse to deny cover - up front on primary diagnosis and retrospectively through re-diagnostic purges. Even if only a temporary denial, they appear motivated by “the use of money” principle¹. All of it is supported by a bonus system for staff which militates against excellence in caring for our injured citizens. Naturally, such criticisms of the organisation are rejected and those making them, dismissed as cranks.

For the past decade and a half in New Zealand, thousands of individuals and their families have been physically, emotionally and financially wiped out by these practices, many ended their own lives in frustration – often confused, from inappropriate medication. For others, “life” consists of living the nightmare of “ACC-in-your-face” should they have the temerity to claim their lawful entitlements, especially rehabilitation for some quality of life and dignity in employment related to their skills and injuries.

There are double standards too. On one hand, there are sufficient data for the government to conclude a causal relationship between certain chemicals and a chronic disease or condition. They impose draconian (but unpoliced) standards of care and safety on employers with the expressed purpose of preventing “known” toxic effects in handling, using, storage and disposal of chemicals hazardous to human and environmental health. These result in a liability to pay for industrial groups requiring supervision – taxes and fines are collected. The relevant Statutes are identified by the HNOS Act and Hazardous Substances (Identification) Act 2001, the Hazardous Substances (Classification) Regulations 2001, by the Environmental Risk Management Authority (ERMA), Occupational Safety and Health (OSH) and numerous other Acts, regulations thereto and Orders in Council, as Hazardous to Human Health.

On the other hand, should a person become accidentally and irreversibly damaged by their exposure, that same data along with other quasi-clinical information and “contrived” test or standards, will be used to “deny” causality and thus liability to pay on claims. When Claimants inevitably cry foul and are forced to fight their cases in a spiritually and financially exhausting manner through the Courts, they are demonised as grasping, greedy and ungrateful. Demonised deliberately and publicly as holding out a hand for “benefits” rather than as insured persons trying to obtain the rights to rehabilitation as the entitlements given in their policies under the Act and in Law. Claimants having to contest their entitlements are referred to as “Beneficiaries” and not “Claimants” in newspapers and on TV. And this is not discouraged when ACC staff are using

¹ Paying interest retrospectively at 7.5% and investing st 20% is an incentive to deny claims.

such concepts in their everyday dealings with the public. ACC engage in management by propaganda. Is that an overstatement? We think not. Should some of their techniques of denial occur in some other part of Government, the Crimes Act would be immediately invoked. This Bill, while addressing some anomalies, does nothing to address this behaviour. On the contrary, it endorses it and, we believe, some changes will be necessary.

The greatest disappointment we have had since the late 1980's is in the management of the Act(s) by ACC and the persistent failure of Government to address many unsavoury practices they use to achieve "Levels of Performance" rather than honest effort in "Standards of Excellence". Despite the (largely forgotten) prosecution of Senior Officers, the Trapski Report on practices and methods (largely ignored) and transparently contrived "Audits" of recent times, this one vital component of the system – Management Practices – has not been addressed. It does not require Legislation to make the necessary changes, it requires moral commitment and the political will to enforce compliance. The "mind set" of management must change from finding every means to deny paying out on valid claims to finding every means to affirm a claim honestly. Only then can we be convinced that changes to Schedule II will be made to work.

BACKGROUND

The following submission is based upon facts and evidence accumulated over two decades. The issues have been traversed by many Ministerial and Committee enquiries and Ministerial Workgroups. There have been difficulties in "Integrating" the organisations responsible because they have become less occupied with the Big Picture than with the size of their individual responsibilities. Thus it appears that the recommendations of the Ministerial Panel Inquiry into the Management of Certain Hazardous Substances in Workplaces (HNOS), which was released in July 2003, and the recommendations published in the National Occupational Health and Safety Advisory Committee's (NOHSAC) Report to the Minister of Labour in 2006, are not properly addressed in the proposed amendments in the Bill. SNFTAAS is therefore concerned at occupational diseases and/or their corresponding agents which have been omitted. We are, and always have been, also concerned about injuries which already have clear cover in Schedule 2, that are not being interpreted in compliance with the Act.

Legal Standards And Proof

We are concerned with what we see as the subtle focus given to "causality" and "cause and effect" drifting away from the important standard of proof denoted by "caused or contributed to" to just "caused" in its literal sense. ACC, Review Officers and the Courts are giving weight, being diverted, to the idea of "contributory negligence" and taking into account notions about an injured persons "contribution to" his or her injuries when that is irrelevant in a "no fault" system. To illustrate the point; it does not matter legally, what the injured person brings to their injuries – we must "take him as we find him". An injury does not have to be "caused entirely" by one or more elements. It is enough in the legal sense, that it "contributes to" the injury for cover to be accepted.

The converse does not apply and there is no place for establishing that a Claimant "contributes to" his or her injury as is happening now as grounds for rejection of cover. The notion of "caused entirely" has crept into cover decision making and Medical Assessors are being misdirected into looking for and giving evidence upon, those things the injured person brings to his or her injury – as if, when discussing causal elements, that must detract from a "sum of" causal elements and introduce doubt that an event is "wholly responsible" for the injury. If just one causal element is present, that is enough to satisfy the "caused or contributed to" legal standard.

The notion of "contributed to" when used incorrectly was responsible for the subtle and erroneous methods used in the Gorman-Dryson "Test of Poisoning" where "lack of" one set of causative elements was "added to" Claimant contributions to his or her injury (pre-existing conditions) in a "sum of" approach to causality. We have seen many valid cases fail because of this subtle legal principle being lost in the Medical descriptions of the expert reports.

Evidence-Based Evidence

Huge amounts have been spent by successive governments to bring to order, the vexed issues of environmental and occupational poisoning caused by hazardous chemicals and those injuries which result in ongoing care, rehabilitation and vocational retraining. Our members, at great personal cost emotionally and financially, have laid our very souls bare to Committees of the House, Government Departments and researchers in efforts to describe the sheer horror and daily hell, of living with interrupted and altered lives. We have reported on the pernicious, creeping mental "fogs" and frustrations, of sudden, disabling pains in the chest and the one day we discover that Cleaning Products in the Supermarket aisle caused our throat to close rapidly, alarmingly! And we now avoid most shops. To tell of our broken homes and relationships, struggling against ignorance in efforts to relate what our diffusely disordered brains understand of this unusual state of being. In many cases the sheer cussedness of DHB Cost Accountants in always cutting safety expenditure to the bone and then the truth slowly emerging of a careless, sometimes ruthless, regime of Health Care which left us gasping for breath in ventless, converted toilets or holes in the wall. To tell of the downhill slide, hanging on in the jobs we loved so much, with our olden-day concepts of "Service" to our patients where we must "grin and bear it" for the sake of our professions, for our dignity and "for the Team". All lost; almost with our sanity in many cases, our respiratory and immune systems stripped raw and shot to bits, our brains addled, often confused and then the lethargy and fatigue. We told of our "Assessments" and learned from each other about A "New" "Test of Poisoning" that was a "Decision Model" which brought certainty to diagnosis, only to find a "New Breed" of Medical Entrepreneur hiding behind manufactured "Solutions" with buzz-words that didn't buzz for us and "Evidence-Based-Medicine" that wasn't. We were blamed for our own misfortune by a Cadre of misogynists too lazy to learn and too occupied with "Profit-Taking" to care - so they 'circularised' us by quoting each other in "cut & paste" diagnostics. We learned and related their names and their Mantra. We were, at first trusting but learned only too soon, that "Liability to Pay" meant "Denial" and denial found many forms and shifting shapes. We told of our isolation and rejection and we were listened to. There were tears - some shed for friends for whom the Denial on top of the injury was too much to bear - dear friends who'd taken their lives rather than endure another day of insult to their integrity. We were told one thing and lived another - the "Silent Scream" lived inside us, and inside was Hell on Earth.

Culture of Denial

It was obvious we had suffered severe injury. OSH had discovered the appalling working conditions, people were prosecuted. But "Honesty of Purpose" was missing. The DHB's remained defiant and in denial, the "disease" of "liability to pay" spread like leprosy when it came to compensation, care and rehabilitation. Pressures came from such a large group of individuals from so many spheres of commerce and industry that "Liability to Pay" started what for us was, and still is, the biggest lie our society has ever seen. Chemical poisoning is so pervasive, the Cost was always going to be huge - we had to be stopped or we'd break the Bank. So there developed and spread to ACC, the "Culture of Denial" - a planned strategy of actively focussing on any means of denying valid claims for cover from people who had been occupationally poisoned. Not, as we should expect, a focus first on finding every valid reason and means of endorsing valid claims.

Even in cases where ACC's own experts confirmed a diagnosis of injury – even with that knowledge, a focus on any means of denial by a Case Manager anxious to meet targets, gain points and earn rewards. (Surely, this is Fraud?)

There grew, historically, an understanding that chemical poisoning from contact with organic aliphatic and aromatic, halogenated hydrocarbons, still largely hidden, was the costliest scourge that modern industrialised societies had ever faced. The burden of "Liability to Pay", combined with "The Culture of Denial", presented us with vast costs and for the Profit Driven Insurance industry, vast opportunities if it would do the Government and Industries dirty work by making an art form out of "Denial" and applying it to the equations of "Liability to Pay". Incentives abounded – and still do.

And so, while the Chemical Industries bloc continued to poison society in general, and process workers and professionals alike, ACC undertook the task of shifting injured Claimants off Earnings Related Compensation and onto the Welfare rolls at WINZ. It has been the biggest swindle of Modern Times that this Country will ever see. It was done because the Government could not "sell" the truth. It has been repeated across the World in every modern, westernised, industrialised 21st Century Society. It still feeds on itself such that nobody is sure where it started and who taught who how to accomplish it, but it continues and by a number of different methods, various commentators have put the price we injured in New Zealand paid at \$1.2 billion or about 12.5% of the \$9 billion that ACC has under Funds Management. The total societal cost is of course several times that.

Chemical Poisoning – An Epidemic

Despite the money aimed at accident prevention in general, there has been no parallel in coping with toxic fall-out and damage to humans – the number of people affected is steadily rising to epidemic proportions nationally and internationally. There is much we can do but first, "Honesty of Purpose" must be moved into place. SNFTAAS members have seen many changes over the years and made submissions on every Bill. But for us, little changes and we are not consulted. The honest intent of Parliament to reduce the hazards and rehabilitate the injured can't be doubted. Yet our members still have enormous difficulty in obtaining cover – and it is not for want of defining principles or lack of knowledge about our exposure and poisoning. It is the Intent of the administrators of the Act(s) to deny us cover despite the progress, albeit small, in understanding the causes and conditions surrounding our injuries.

It is the Corporations needs that stand in our way – we are an easy grouping to target for easily quantified and substantial amounts of profit or cost-avoidance. Here "Denial" means "Avoidance" of liability. Denying us Cover is the easy road for enhancing the bottom line, securing bonus point rewards and lowering the total costs of the scheme. Rather than confronting the truth of this modern epidemic, Government has continued to promise Cover and care and sold this to the voting public. It has paid for this "behind the scenes", where it is not visible to the voting public, by endorsing a multi-pronged attack on the granting of Cover. ACC and all its supporting cast of medical entrepreneurs, are set against the chemically injured as if at war. Many of the symptoms of chemical poisoning injuries are so reminiscent of other diseases of body and mind that it has been easy, with the tools of "contributed to", to suggest 'other causes' and go looking for them while completely avoiding the obvious – that when there's no doubt that an injury has occurred, the extent of it, the "sum of" the symptoms and even the injured person's perception of their injury is then irrelevant.

For "Honesty of Purpose" to be effective there must be an Audit of Procedures at ACC and an end to extensive executive trickery and dishonest practises. We must tell the Public the truth – we cannot afford this scheme – and lower the level of entitlements or raise the premium base. Most of the problems with accident insurance stem from the expectations of the injured who believe the advertising

they are sold and the reluctance of Government to sell less than that. Injured people cannot understand why they are being denigrated and discarded – the whole system wreaks of dishonesty, of “them and us”. It pits citizens against each other because the expectations of one cannot be met by the other and the ACC, lacking the tools and resources it needs to meet those expectations, resorts to treachery. It is they who unreasonably bear the opprobrium when it ought to be borne by the Politicians. The levy payers are the meat in this sandwich.

The Extension of Schedule 2

There are three major points of concern which this Bill can address;

1. The Administration of the Act(s) and the manner and methods of assessing injuries, granting of cover, delivery of entitlements and standards of care and rehabilitation.
2. The number and type of injuries for which Cover is automatic when certain criteria are met.
3. The level of entitlements that can be afforded.

SUBMISSIONS Part I

1. Administration Of The Act

Always, we are concerned with the “Culture” of the organisation charged with making Cover Decisions and providing the Care and Rehabilitation of its injured Clients. We have potentially the best “no-fault” system in the world but we manage the risks on the basis of politically driven criteria wrapped around a ‘Profit Driven’ model. We promise much if the publicity is to be believed (and many do) but deliver far less than that. Profit taking is just that – taking away that which is required to meet profit targets such that less is available for entitlements “as advertised”.

The system we have is that which we have been “sold”. The serious business of Accident Insurance is a “Product” and the focus is on “Profit” when it should be on providing Cover Commensurate with Premiums paid – because that is “Value for Money” and “Honest Dealing”. The public sees the ACC as “ours” and really believes it is “there for us”. That’s natural enough – we think of it as “there to serve our injury needs” when we are injured. But there’s conflict here. The Corporation sees itself as “here to make a profit” and there is no polemic, no spin, no social philosophy or redefinition that can change the facts. It can be ‘enobled’ and polished, as products are, change its colour, make it lighter, heavier or friendlier – that’s changing only the “appearance” and that’s what we have been doing to sell it to the Electorate – hang on!! They aren’t even injured!! What about listening to us, the injured? Don’t our votes count?

Changing the appearance doesn’t change the “substance”, and the “substance” is to make a profit. That is the *raison d’etre*, not “to prevent accidents and care for the wounded”.

Always now, it is about what one can “Sell” and have the public “believe”, there is a connection between the level of care they see advertised and the shock of the reality-check when they are on the inside looking out. But it is essentially a dishonest scheme in that regard because the “Reality” does not “Sell”. i.e. They cannot “sell” the truth. And so it is “That ACC Sells Lies”, which is like saying “ACC Causes Cancer”.

When one has an organisation based on not telling the truth, the “Culture” is then imposed on the organisation – the unwritten agreement between the Government and the Corporation is to misrepresent the facts. What you have and develop

further, is the Culture of Denial. Denial comes from the need to make profits and it breeds on itself to infect every level of the organisation, in all things. The truth is sacrificed for the expedient. Individuals in the organisation become driven by the prospect of making personal profits – from the system of incentives to do well at not telling the truth – to deny cover, to deny an entitlement, to generate profits - and the Corporate goal becomes the individual goal and on further, to not informing the injured of an entitlement which they then never ask for. Countless examples flow from that Culture and it encourages dishonesty.

For our purposes, no matter what we do in changing Schedule II to make it more Fair and Just for the injured Claimant, we gain nothing if the Culture of Denial takes it away. We believe this culture has to change so that the "Injury Experience" is not so unpleasant. It does not have to be exciting or glamorous, just "not unpleasant". The incentive structure that leads to the Culture of Denial must be discarded in favour of one that rewards *excellence* in care and not the *performance* in non-injury or financial facets of care. Claimants must be enabled to expect fair treatment. Today, if Claimants are not represented by Counsel, the likelihood that they will be cheated is far too high. Chemically poisoned Claimants are generally medium to long-term liabilities and they must not be forced to live in fear of their support being withdrawn or reduced by transfer to welfare at WINZ – for no other reason than financial performance factors, our Members are regularly subjected to destabilisation with serious consequences for their mental and emotional health and wellbeing. The encouragement given to Case Managers to "exit" their "stock" has to stop. A person not genuinely injured, should not be allowed to get so far into the system of support, that "purges" are necessary. The Corporation must be stopped from redefining a person's injuries or their levels of entitlement and encouraging Case Managers in the rewards system to attack and remove the long-term disabled from their level of care. They must also be stopped from using the same principles for the harassment of individuals who manage to work part time - on the misguided idea that this means they "ought" to be working full time. Importantly, nationwide campaigns to this end, where such claimants are subjected to outright disbelief of their injuries and to the sneering indifference and belittlement of their case managers – must be stopped. Importantly, the MINISTER must stop signing Contracts with the Corporation that command the re-diagnosis of any Claimant injuries, for that is a retrospective denial of the worst kind and it is morally repugnant. It is a disappointing fact that our members will remember Minister Dyson for the Contracts she signed in this respect than for all the other things she accomplished combined. Abhorrence of double standards and the desire to maintain personal dignity through honesty of purpose, is the reason behind such opinions.

2. Changes to Schedule II

a. Administration Of The Act Part 2

Our people have suffered, not because there was doubt about whether or not they had been injured but rather, because their injuries were, by and large, caused by negligence and a portent of the costs that might be loaded onto private and Public organisations. As with other groups such as the B.O.P. Sawmillers, Vietnam Veterans or the Paritutu People, SNFTAAS members represented a huge "Liability to Pay" for the ongoing costs of our disablement, both permanent and partial. Means were found through the tight group of Medical Entrepreneurs to divide our group into single units for analysis suitable to each, formed around any special personal weaknesses or defects.

What occurred was shameful and ongoing as our members were characterised as middle aged neurotics with failed relationships, responsible through this for their own "malaise" and afraid of hard work – any work. "Contributed to" became paramount in the many devious medical assessments which skirted the fact of their exposure.

"Contributed to" bought with it the notion of "Contributory Negligence" which has no place in a "No-Fault" system because it carries with it the concept of a diminution of entitlements for pre-existing conditions or, possibly, avoidance of any liability to compensate and rehabilitate. That is where ACC will attempt to apportion their liability according to how badly affected the Claimant was before his injury. It is where seriously sick Sawmill workers were blamed for their dioxin-mediated injuries - their illnesses were characterised as the result of too many hamburgers and too much beer. How shameful that these patently poisoned workers have not been compensated and rehabilitated. Their exposures were minimised and the WES standards often misrepresented or ignored. These Medical Entrepreneurs, who should have been responsible for bringing the Evidenced Based Medical Research to bear honestly, chose to apply it FOR the Corporation's interests and, when highly relevant to a specific case, belittle it as "anecdotal" or, they would find something specious with the research design - anything but a considered and tempered review of content and conclusions.

Only occasionally on appeal, would the Judiciary get it right and restate the standard that should be applied. In one notably successful Appeal, the Judge slated the descent of the case into a "battle of the medical experts" and he pointed out clearly that it was all mostly irrelevant to the fact, not in dispute, that the Appellant had been poisoned was accepted. It does not matter what the precise extent of the symptoms are, if the exposure "caused or contributed to" the injury, then cover must be accepted.

One "ploy" used by Medical Entrepreneurs friendly to ACC, was to encourage the Claimant to believe that their "symptoms" were the "Injury" and thus developed the erroneous support for MCS (multiple chemical sensitivity) as an occupational injury. Naturally, ACC do not accept MCS as an occupational injury and these members could not get Cover once tarred with the brush of MCS. While highly successful in wiping out a large number of claims, it has to be marked for the insincerity and dishonesty that surrounded it. Leading Specialists advising ACC knew, or ought to have known that they were practising 'bad science' in support of their access to the Corporation's work.

b. Application of Standards

"The MCS Debate" was misdirected and the logical flaw in it is one reason why we don't need to support the inclusion of MCS in Schedule 2. Why?

Because MCS IS NOT AN INJURY. MCS is a collection of variable symptoms brought about by Chemical Poisoning. In the Legal sense, to qualify for Cover and entitlements, there must be;

- A] An Accident (In our cases, this is "Exposure to chemical toxins)
- B] A Personal Injury (Damaged tissues and cells - Chemical Poisoning)
- C] Disablement (Chronic Fatigue, Memory Loss etc)

There existed then, proper means for our Members to have been granted Cover - Their "**Accident**" was exposure to chemical toxins, their "**Personal Injury**" was "Chemical Poisoning" and their "**Disablement**" was Chronic Fatigue, Sensitisation to chemicals, especially solvents, Brain Damage, Memory Loss, damaged immune systems (cellular & mitochondrial damage), induced Chronic Allergic Rhinitis, etc - MCS for short.

If the Government was to do anything to address the poisoning of SNFTAAS Members, it could open all rejected cases again on the basis that

an injustice may have occurred, and approach the diagnosis honestly according to this Paradigm –

Accident-Injury-Symptoms.

Members previously rejected cover because "MCS is not an Injury", could re-apply for diagnosis of "Chemical Poisoning from Exposure to Toxins causing MCS (multiple symptoms) or just "Brain Damage", "Chronic Allergic Rhinitis" etc

The MCS debate has always been insincere. However, the definitions in Schedule 2 have always provided for people with those symptoms to have their personal injury covered. MCS provides the classical model for how the administration of the Act is compromised by Management engaging the cooperation of "Contracted Providers" to alter, or shift, the goalposts in the debate on causality.

It is possible to gather a description of certain agreed symptoms known to accompany chemical poisoning and place them in schedule 2 in the form of a "such as"

".....and symptoms such as those known to accompany chemical poisoning by gradual process, disease or infection. For example; chronic fatigue, allergic rhinitis and sinusitis, etc"

Examples of these will be given when making the verbal presentation on behalf of our members.

c. Medical Profession

Throughout the discussion documents and Corporate publications the term **"...generally accepted by the Medical Profession"** appears. Parliament should be aware that with Corporate ACC, "The Medical Profession" extends only to those medical experts it anoints and does not include any Medical Professional who is *persona non grata* with them – for whatever reason, but most often because their truthfulness means they can't be bought. If their opinions and diagnoses differ too much from the ACC inner Cardre, for ACC, they are not part of the "Medical Profession".

It should be taken in its widest possible meaning and be more inclusive of alternative medical practitioners and commentators. It should be category-based and not give ACC the opportunity to line up their own (stack the deck) and then presume to speak for "The Medical Profession" which is, in fact, a wide and diverse group that includes Scientists, Prosthetic Engineers, Oriental Medical Practitioners and a host of others

SUBMISSIONS Part 2.

Clauses

Clause 10 - Subsections 30 (1) – (4) inclusive:

SNFTAAS (NZ) Inc. **does not support the changes** and reject the proposed amendments. We believe that S30(1) – (4) inclusive of the Injury Prevention, Rehabilitation and Compensation Act 2001 should remain unchanged for the following reasons:

(1) The intention of the Minister and Government appears to be to try and facilitate access to cover and entitlements for claimants who suffer chemical poisoning. The actual effect of these proposed provisions is

considered to be *less likely* to provide cover and entitlements than the Minister and the Government intends. The reasons are that the system should provide for opinion that is totally independent of the Corporation. However, this is not the case. The legislation requires a system where those with the discretion to give opinions regarding cover and entitlements *must have provider contracts* so that they can not be regarded as independent. "Provider Contracts" are an opportunity to trade largesse for fealty. They are seen by many claimants and interested parties as contrary to any notion of independence. In short, the referee is effectively employed by one of the players - i.e. the ACC.

(2) The problems lie not with Section 30 of the principal Act as it stands, but in the interpretations and application of the Act by the Corporation. The practice is that on a regular basis the current law pertaining to Schedule 2 is misinterpreted and is not properly applied and practised. As above, in meeting Corporation objectives, the more control the Corporation can exercise over the playing field, the more they like it is they will meet their financial targets – which is all that a profit-driven enterprise is concerned with. Too much control is available already, to the point of corrupt practises when expedient. There is amongst many claimants, the belief that when the Corporation 'gets it wrong', it does do with forethought. A belief, that if subjected to a surprise audit and discovery of documents, that conspiracy to defraud Claimants would not be far below the surface.

(3) The process of Review of the Corporations decisions is an example of how corrupt they have become. ACC controls Reviewers as employees and, rather than existing apart and independent of the Corporation, they are employees of the wholly-owned subsidiary company DRSL and must "work as directed" by their Manager. The quality and calibre of Reviewers, many are ex-employees – is only as good as independence that is bought for hire. Most would not otherwise find employment as Tribunal Adjudicators in any forum, let alone in the forum of their employer. When it turns to be favourable to the Corporation, tapes and transcripts of Review Hearings mysteriously disappear.

We maintain that ACC cannot be trusted to make truly independent choices when "Independence" is required for "Fairness" and "Balance". The Corporation does not even try to "appear" to be independent and in our experience, lacks in equity and good conscience

Clause 10 – Subsection 30 (5) (a).

We support amending the Bill to provide "third party cover" to those who suffer a personal injury passed on by a person who has contracted the primary injury by work related gradual process, disease or infection. This is especially applicable with PCP/dioxin intoxication. It is well documented in the literature that injury from these chemicals can cause genetic damage resonating down through several generations.

Clause 30 –

Clause 30 of the Bill allows an amendment of Schedule 2 by Order of Council *at some unspecified later date*. SNFTAAS submit that amendments to Schedule 2 are an imperative now and Clause 30 should not be seen as a quick way out of doing hard yards now. We cannot afford to leave this to the Corporation at its discretion. In any case this should be specified as ".....added", not "....amended", because to the Corporation "amended" can mean "removes" – and they would do just that if it was to their financial advantage to do so.

Comparison of the 2002 version of the International Labour Organisation's List of Occupational Diseases with the New Zealand

Schedule 2 of the IPRC Act (HOHSAC Review, p.20) shows omissions and discrepancies.

1. Comparison of ILO: 16 and NZ Sched. 2:11

ILO: 16 States "Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons."

NZ Schedule 2: 11 states "Diseases of a type generally accepted by the medical profession as caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series."

The NZ Schedule omits toxic halogen derivatives of aromatic hydrocarbons from its comparative description. This must be changed to a description compatible with the ILO version and should read:

"Diseases...as caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons."

2. Asphyxiants Missing [Add new]

ILO: 21 states "Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide."

This is omitted from NZ Schedule 2.

3. Diseases of the Skin [Add new]

ILO: 26 states "Skin diseases caused by physical, chemical or biological agents not included under other items."

This is omitted from NZ Schedule 2.

4. Other 'Agents' not allowed for [Add new]

ILO Table 4:1.1.32 states: "Diseases caused by any other chemical agents not mentioned in the preceding items 1.1.1 to 1.1.31, where a link between the exposure of a worker to these chemical agents and the diseases suffered is established."

This is omitted from NZ Schedule 2 and should read:

"Diseases caused by any other chemical agents not mentioned in Schedule 2 where a link between the exposure of a worker to these chemical agents and the diseases suffered is established."

5. Direct Links in Cancers [Add new]

ILO 3.1.12 states: "Cancer caused by any other agents not mentioned in the preceding items 3.1.1 to 3.1.14, where a direct link between the exposure of a worker to this agent and the cancer suffered is established."

This is omitted from NZ Schedule 2 and should read:

"Cancer caused by any other agents not mentioned in Schedule 2 where a direct link between the exposure of a worker to this agent and the cancer suffered is established."

6. Medical Profession - Definition Too Restrictive

Wording used throughout Schedule 2 should be changed to be more inclusive. Schedule 2 repeatedly uses the clause

"of a type generally accepted by the medical profession."

This clause is not used in the ILO descriptions and is exclusive. This should be changed to:

"of a type generally accepted by the medical, scientific and engineering professions."

Clause 6 - Cover for mental injury

SNFTAAS supports extending the proposed provisions in Clause 6 of the Bill to extend work-related mental injury cover to mental injury caused by a series of events that could reasonably be expected to cause mental injury and do cause such injury.

More information is needed on defining "series" as it relates in use as descriptor. Does this mean the that a Gradual Process can produce a "Mental Injury"?

Clause 16 - Vocational Rehabilitation

SNFTAAS support extending Clause 16 to provide an obligation on ACC to provide vocational rehabilitation to those claimants who are not entitled to weekly compensation, but who are vocationally and medically assessed as having little chance of gaining employment without rehabilitation.

Clause 17 - Vocational Independence

(a) We support repealing the vocational independence provisions entirely, or amending **S112** and **S91** of the principal Act such that both ACC and occupational assessors must take into account the availability and vocational suitability of any particular type of work being considered.

(b) We support amending **S109** of the principal Act to clarify that where new injuries have occurred, the significance of incapacity from previous injuries must also be considered in any vocational independence assessment.

ENDS

We welcome questions from the Committee and will present our submission prepared to respond on the day.

For and on behalf of The Support Network For The
Aldehyde And Solvent Affected (NZ) Incorporated.

Date: 14th February 2008

Phillippa Martin,
(Coordinator)

Date: 14th February 2008

Graham Willson,
(Author)

The image shows two handwritten signatures in black ink. The top signature is 'Phillippa Martin' and the bottom signature is 'Graham Willson'.