

Home and Community Support (Payment for Travel Between Clients) Settlement Bill

Government Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Home and Community Support (Payment for Travel Between Clients) Settlement Bill and recommends that it be passed with the amendments shown.

Introduction

The Home and Community Support (Payment for Travel Between Clients) Settlement Bill seeks to provide an affordable and sustainable solution for paying home and community-based care and support employees (HCS employees) for the time and costs of travelling between clients.

The bill follows a claim filed with the Employment Relations Authority in August 2013. The claim asserted that the time that HCS employees spend travelling between clients is work for the purposes of the Minimum Wage Act 1983.

Because of the claim the Ministry of Health entered negotiations with District Health Boards (DHBs), providers of home and community-based care and support, and certain unions (on behalf of members and non-members). The purpose of the negotiations was to settle the matter out of court by determining the level of compensation for workers who travel between clients. The negotiations resulted in a settlement agreement between the parties.

This bill would implement Part A of the settlement agreement. It would meet the main aims of the agreement, including a provision for payment for travel between clients, and the objective that no employee would be financially disadvantaged as a result of the bill.

The bill does not cover Part B of the settlement agreement, *Establishment of a Regularised Workforce and Review of the Home and Community Health Sector*. However, the committee intends to monitor the progress of Part B with interest.

This commentary covers the main amendments that we recommend to the bill. It does not cover minor or technical amendments.

Purposes of the bill

We recommend inserting new clause 2A(1) to explain the purposes of the bill. These would be

- to facilitate the settlement of civil proceedings about paying wages to HCS employees for travel between clients at the minimum rate prescribed under the Minimum Wage Act
- to provide for HCS employers to pay HCS employees for travel between clients from 1 July 2015

We also recommend inserting new clause 2A(2). This would explain that the new Act would achieve the purposes of the bill by

- extinguishing claims by HCS employees for wages payable under the Minimum Wage Act for travel between clients before the commencement of this Act
- amending the Minimum Wage Act to provide an exception to the requirement to pay wages at the minimum rate prescribed under that Act for travel between clients
- providing a minimum level of required payments to be made to HCS employees for travel between clients.

Including the Accident Compensation Corporation

Reasons for including the Accident Compensation Corporation in the bill

We recommend amending the bill to include the Accident Compensation Corporation (ACC). The home and community support workforce provides services under contract to ACC as well as to the Ministry of Health. The same workers often deliver injury-related home support alongside the age-related care or disability support covered by this bill.

Although ACC was not a party to the original settlement it is explicitly mentioned in clause 1.3 of the final settlement agreement: “A similar arrangement between the Employers, the Employees, the Crown, Unions and the Accident Compensation Corporation will also be negotiated and will be subject to the satisfaction of all parties.”

Therefore, we recommend including references to ACC in the Preamble to the bill by inserting recital (4)(e) and amending recital (5). This would reflect the addition of ACC and give background to its inclusion in the bill.

Including ACC in the bill's definitions

Clause 3 defines the meaning of specific terms used in the bill.

As a consequence of including ACC, we recommend inserting a definition of ACC into clause 3. We also recommend replacing the definition of home and community-based support services in clause 3 with new paragraphs (a)(i) and (ii), linking services to their funding source. This would expand the previous definition so that home and community-based support services would mean

- services funded by the Ministry of Health or a DHB that are performed in a client's home for the purpose of assisting the client to live in the client's home, (including personal care, household management, rehabilitation, or vocational services)
- services funded by ACC that are performed in a client's home for the purposes of supporting the client's rehabilitation from an injury covered by the Accident Compensation Act 2001, and to achieve and sustain the client's maximum level of participation in everyday life.

For further clarification, we recommend inserting new paragraph (b) into the definition of home and community-based support services reflecting that specific services are excluded from the definition. We note that the client's ability to access the services would not be affected by the bill. This amendment would specify that home and community-based services would not include:

- services that are performed for the purpose of preparing an intellectually disabled client to live independently in the community
- services purchased by a disabled client (or by a disabled client's caregiver on the client's behalf) using funding from the Ministry of Health to allow the client (or the client's caregiver) to directly manage the resources allocated for the client's disability support.

Ensuring that ACC is part of the extinguishing claims section

We recommend inserting references to ACC into clause 6(1)(b) and clause 6(3)(a) and (b). This would be consistent with the recommendation to include ACC in the bill.

It would also ensure that ACC is part of the group that includes former and present HCS employers, former and present HCS employees, DHBs, and the Crown, in relation to extinguishing certain claims under the Minimum Wage Act.

Definition of an employee

We recommend replacing the definition of employee in clause 3. The intent of the settlement agreement is that non-salaried staff only would be covered. The new definition would clarify that, for the purposes of this bill, a person is an employee within the meaning of that term in the Employment Relations Act 2000 and is someone who does not receive a salary.

As a consequence of this, clause 12(1) would no longer require the words “who is not paid a salary”. Clause 16 would no longer need subclause 5, which refers to an employee as someone who is or is not paid a salary. Therefore, we recommend removing the words mentioned above from clause 12(1) and deleting clause 16, subclause 5.

New Schedule 3

The bill as introduced includes regulation-making provisions in clause 25 to prescribe mileage rate, qualifying distance, qualifying travel time, and maximum travel distance. However, we consider that including these in a schedule rather than in separate regulations would be more convenient for parties and persons affected by the bill.

Therefore, we recommend deleting clause 25 to remove the regulation-making powers.

We further recommend inserting new Schedule 3 to specify the mileage rate, qualifying distance, qualifying travel time, maximum travel distance, and the corresponding calculations.

As a consequence of inserting new Schedule 3, we recommend deleting the definitions of the four affected terms in clause 3, and replacing them with references to the definitions in new Schedule 3.

We also therefore recommend amending

- clause 14 to specify in “c” that the equation would be calculated in accordance with clause 3(2) of Schedule 3
- clause 17 to specify in “c” that the equation would be calculated in accordance with clause 2(2) of Schedule 3.

Power to amend new Schedule 3

We recommend inserting new clause 27A. This would allow for the Governor-General, by Order in Council made on the recommendation of the Minister of Health, to

- adjust the mileage rate in clause 1 of Schedule 3 upwards
- adjust the qualifying distance in clause 2(1) of Schedule 3 upwards or downwards, provided that the figure is no less than 3.7 kilometres
- adjust the qualifying travel time in clause 3(1) of Schedule 3 upwards or downwards, provided that the figure is no less than 8 minutes and 30 seconds
- adjust the maximum travel distance in clause 4 of Schedule 3 downwards.

It would also specify that, before recommending an Order in Council, the Minister of Health must consult

- the Minister for ACC
- ACC
- all DHBs
- all HCS employees listed in Schedule 2

- any unions representing one or more HCS employees.

New subclauses (3) and (4) would also ensure that, before making any recommendations under new subclauses (1)(b) and (1)(c), the Minister of Health must be satisfied that the adjusted figures are a fair approximation of the actual distance travelled and time spent by employees travelling between clients.

The specific guidelines in new clause 27A would ensure that an Order in Council could not be used to undermine fair payment. They would also ensure that no employee could be financially disadvantaged.

These recommended amendments would also provide constraints on the use of Orders in Council under the bill, as recommended by the Regulations Review Committee.

Implementing an annual review of new Schedule 3

We recommend inserting new clause 27B to provide a formal review mechanism of new Schedule 3. This would ensure that the Act works as intended without a burdensome legislative review process.

New subclause (1)(a) would require the Minister of Health to review clauses 1, 2(1), 3(1), and 4 of Schedule 3 on or before 30 May 2017 and annually after that date. The settlement parties requested the 12-month time frame.

New subclause (1)(b) would allow the Minister of Health and the Minister for ACC to then decide whether to recommend an Order in Council under clause 27A(1).

For the purpose of carrying out the review, new clause 27B(2) would require the Minister to consult with the same parties required in new clause 27A(2) and listed above.

These recommended amendments would also provide constraints on the use of Orders in Council under the bill, as recommended by the Regulations Review Committee.

Power to amend Schedule 1

On the advice of the Regulations Review Committee we recommend deleting clause 26. This would have allowed the Governor-General, by Order in Council, to amend Schedule 1.

Power to amend Schedule 2

On the advice of the Regulations Review Committee, we recommend amending clause 27, subclause (1), to specify that an Order in Council to allow amendments to Schedule 2 would be made on the recommendation of the Minister of Health. We also recommend amending subclause (1)(b) to clarify that an HCS employer's name may be inserted in Schedule 2 if they begin providing home and community-based services after 1 December 2015.

We further recommend amending clause 27 for clarity by deleting subclauses (2) and (3) and inserting new subclauses (2) and (3).

New subclause (2) would specify that the Minister of Health must consult ACC and the Minister for ACC before making any recommendation under subclause (1)(b) to

insert the name of an employer into Schedule 2. It would also require the Minister of Health to obtain the consent of any unions representing one or more HCS employees of the employer, and any HCS employees of the employer not represented by a union.

New subclause (3) would clarify that an Order in Council made under subclause (1)(b) may apply retrospectively, from the date that the HCS employer started providing home and community-based services, if the parties listed in subclause (2)(b) agree.

Amendment to Schedule 2

We recommend amending Schedule 2 by deleting Medibank Health Solution New Zealand Limited and replacing it with Solora Limited. This would mean that the list is up-to-date.

Extinguishing claims for travel payments and statutory amendment to employment agreements

Clauses 6 to 11 of the bill deal with extinguishing claims for travel payments and statutory amendment to employment agreements. The bill as introduced includes clauses 6 to 11 in Part 1.

We recommend deleting these clauses from Part 1, which deals with preliminary provisions. Instead, we recommend inserting new clauses 6 to 11 (which are substantially the same as clauses 6 to 11 as drafted) into Part 2. This would be more appropriate because Part 2 deals with payment for travel between clients.

Pre-commencement travel entitlements

For the avoidance of doubt, we recommend that new clause 10(5) clarify that pre-commencement travel entitlements would be the total amount an HCS employee would have been entitled to under the terms of their employment agreement at 30 June 2015 were the terms and conditions of new clause 8 not in force.

Payment of lesser amounts prohibited

New clause 11 would reflect the objective of the settlement agreement that no employee be financially disadvantaged because of the bill.

We recommend that this clause clarify that an employment agreement that contains a term or condition that excludes, restricts, or reduces an HCS employee's entitlements under the new Act would have no effect, regardless of whether the term or condition was agreed before or after the commencement of the new Act.

For further clarification and to ensure that such an agreement would not be void, we also recommend that clause 11 state that such an agreement would not be an illegal contract under the Illegal Contracts Act 1970.

Time spent in travel between clients

We recommend the addition of new section 13A, which would allow for interim arrangements for travel funded by ACC. As a consequence, we recommend amending

clause 12(2) by replacing the reference to section 13 with “sections 13 and 13A” and limiting clause 13 to interim arrangements for travel funded by the Ministry of Health or a DHB.

Removing references to HCS employer zones

We recommend deleting all references to “employer zones” in the bill. We understand that “employer zones” are not only impracticable but are also not part of the settlement agreement.

Therefore, we recommend deleting clause 22 which relates specifically to HCS “employer zones”. We also recommend deleting the references to the HCS “employer zone” or “zone” in clauses 4(2), 15(2), and 18(2) because they would no longer be required.

We also recommend minor amendments to clauses 15(2) and 18(2) that would improve the explanation of “deemed travel time” and “deemed distance” after the deletion of the references to “employer zone”.

Penalty for non-compliance

We recommend deleting the cross heading for clause 23 and replacing it with the words “Penalty for non-compliance”. This amendment would more accurately reflect the content of the clause.

Transitional, savings, and related provisions

We recommend inserting new clause 4A and new Schedule 1AA. This would clarify that any transitional, savings, and related provisions set out in Schedule 1AA would have effect according to their terms. This amendment results from the Parliamentary Counsel Office’s drafting best practice. It would allow for a clean amendment process to the new Act if amendments to transitional, savings, and related provisions were required in the future.

Amendments to other Acts

We recommend amending clause 29 by inserting new subclause (3A). This would ensure that the new Act would be included in section 223(1) of the Employment Relations Act regarding the designation of Labour Inspectors for the purposes of the new Act.

Appendix

Committee process

The Home and Community Support (Payment for Travel Between Clients) Settlement Bill was referred to the committee on 13 October 2015. The closing date for submissions was 28 October 2015. We received and considered seven submissions from interested groups and individuals. We heard five oral submissions. We received advice from the Ministry of Health. The Regulations Review Committee advised the committee on clauses 25 to 28 and Schedules 1, 2, and 3.

Committee membership

Simon O'Connor (Chairperson)

Jacqui Dean

Kevin Hague

Hon Annette King

Barbara Kuriger

Dr Shane Reti

Scott Simpson

Barbara Stewart

Poto Williams

Denise Roche replaced Kevin Hague for this item of business.

**Home and Community Support (Payment for Travel
Between Clients) Settlement Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Dr Jonathan Coleman

Home and Community Support (Payment for Travel Between Clients) Settlement Bill

Government Bill

Contents

		Page
	Preamble	
1	Title	4
2	Commencement	4
	Part 1	
	Preliminary provisions	
<u>2A</u>	<u>Purposes</u>	<u>4</u>
3	Interpretation	5
4	Meaning of exceptional travel and related terms	7
<u>4A</u>	<u>Transitional, savings, and related provisions</u>	<u>8</u>
5	Act binds the Crown	8
	<i>Extinguishing claims for travel payments and statutory amendment to employment agreements</i>	
6	Certain claims extinguished	8
7	Act does not affect enforcement of employment agreements requiring payment for travel before commencement of Act	9
8	Act overrides existing terms and conditions in employment agreements requiring payment of greater amounts	9
9	Act does not prohibit new terms and conditions in employment agreements requiring payment of greater amounts	10
10	No HCS employee to be financially disadvantaged	10
11	Payment of lesser amounts prohibited	10

**Home and Community Support (Payment for Travel
Between Clients) Settlement Bill**

Part 2

Payment for travel between clients

*Extinguishing claims for travel payments and statutory amendment
to employment agreements*

<u>6</u>	<u>Certain claims extinguished</u>	<u>11</u>
<u>7</u>	<u>Act does not affect enforcement of employment agreements requiring payment for travel before commencement of Act</u>	<u>11</u>
<u>8</u>	<u>Act overrides existing terms and conditions in employment agreements requiring payment of greater amounts</u>	<u>11</u>
<u>9</u>	<u>Act does not prevent new terms and conditions in employment agreements requiring payment of greater amounts</u>	<u>12</u>
<u>10</u>	<u>No HCS employee to be financially disadvantaged</u>	<u>12</u>
<u>11</u>	<u>Payment of lesser amounts prohibited</u>	<u>13</u>

Time spent in travel between clients

12	Time spent in travel between clients	13
13	Minimum amount payable for travel before 1 March 2016	13
13	Minimum amounts payable for travel before 1 March 2016 funded by Ministry of Health or a DHB	14
13A	Minimum amounts payable for travel before 1 March 2016 funded by ACC	14
14	Minimum amount payable for travel on and from 1 March 2016 (other than for exceptional travel)	14
15	Minimum amount payable for exceptional travel on and from 1 March 2016	14

Costs relating to travel between clients

16	Costs relating to travel between clients	15
17	Minimum amount payable towards costs (other than for exceptional travel)	16
18	Minimum amount payable towards costs for exceptional travel	16

Relationship with Employment Relations Act 2000

19	Compliance dispute is employment relationship problem	17
20	HCS employee may recover arrears	17

Record keeping

21	Record of amounts paid, qualifying travel time, and qualifying travel distance	17
----	---	----

HCS employer zones

22	HCS employer zones	17
----	--------------------	----

*Enforcement of obligations under this Act
Penalty for non-compliance*

23	Penalty for non-compliance	18
----	----------------------------	----

	<i>Other employers and employees unaffected</i>	
24	Other employers and employees unaffected	18
	<u><i>Regulations</i></u> <u><i>Amendments to Act by Order in Council</i></u>	
25	Regulations	18
26	Power to amend Schedule 1	19
27	Power to amend Schedule 2	19
<u>27A</u>	<u>Power to amend Schedule 3</u>	<u>20</u>
<u>27B</u>	<u>Annual review of Schedule 3</u>	<u>20</u>
	Part 3	
	Amendments to other Acts	
28	Amendment to Minimum Wage Act 1983	21
29	Amendments to Employment Relations Act 2000	21
30	Amendment to Holidays Act 2003	21
10A	Treatment of payments made under Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015	21
	<u>Schedule 1AA</u>	<u>23</u>
	<u>Transitional, savings, and related provisions</u>	
	Schedule 1	24
	Former HCS employers	
	Schedule 2	26
	HCS employers	
	<u>Schedule 3</u>	<u>29</u>
	<u>Mileage rate, qualifying distance, qualifying travel time, and maximum travel distance</u>	

Preamble

- (1) On 7 August 2013, proceedings were lodged with the Employment Relations Authority claiming that the time spent by the applicant in travelling between clients to whom the applicant provided home-based care and support was work for the purposes of section 6 of the Minimum Wage Act 1983: 5
- (2) In light of these proceedings, Cabinet authorised the Ministry of Health to enter negotiations with certain unions, providers of home-based and community-based care and support services, and District Health Boards with a view to reaching an enduring, affordable, and sustainable funding solution for paying workers such as the applicant for the time and costs of travelling between each of their clients: 10
- (3) The negotiations began in April 2014:
- (4) In August 2014, the parties agreed to a ~~proposed~~ settlement to the effect that—

- (a) certain employees who provided particular services would be compensated, at no less than the minimum wage, for a fair approximation of the time spent travelling between clients on or after 1 July 2015; and
- (b) the employees would be compensated, at no less than 50 cents per kilometre, for a proportion of the costs associated with travelling between clients on or after 1 March 2016; and 5
- (c) the employees would abandon any claim under the Minimum Wage Act 1983 for payment for travel between clients undertaken by them before the commencement of this Act; and
- (d) no employee was to be financially disadvantaged as a result of the operation of the settlement agreement and this Act; and 10
- (e) the Accident Compensation Corporation, while not a party to the settlement, would enter into similar arrangements in respect of the home and community-based support services that it funds:
- (5) To implement aspects of this ~~proposed settlement and the similar arrangements that have been entered into by the Accident Compensation Corporation~~, legislation is required: 15

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Home and Community Support (Payment for Travel Between Clients) Settlement Act **2015**. 20

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

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Preliminary provisions

2A Purposes

(1) The purposes of this Act are—

- (a) to facilitate the settlement of civil proceedings about the payment of wages to HCS employees at the minimum rate prescribed under the Minimum Wage Act 1983 for travel between clients; and 30
- (b) to provide for payment by HCS employers to HCS employees for travel between clients from 1 July 2015.

(2) To those ends, this Act—

- (a) extinguishes claims by HCS employees for wages payable under the Minimum Wage Act 1983 for travel between clients before the commencement of this Act; and
- (b) amends the Minimum Wage Act 1983 to disapply the requirement to pay wages at the minimum rate prescribed under that Act for travel between clients; and 5
- (c) provides a minimum level of required payments to be made to HCS employees for travel between clients.

3 Interpretation

In this Act, unless the context otherwise requires,— 10

ACC means the Accident Compensation Corporation continued by section 259 of the Accident Compensation Act 2001

client visit means a visit by an HCS employee to a person to provide home and community-based support services to the person (the **client**)

day— 15

- (a) means a calendar day; but
- (b) in relation to an HCS employee who makes overnight client visits, means the employee's work period within the meaning of section 69ZC of the Employment Relations Act 2000

deemed distance has the meaning given in **section 18(2)** 20

deemed travel time has the meaning given in **section 15(2)**

DHB means an organisation established as a DHB (District Health Board) by or under section 19 of the New Zealand Public Health and Disability Act 2000

employee means a person who is an employee within the meaning of that term in section 6(1)(a) or (b)(i) of the Employment Relations Act 2000 25

employee means a person who—

- (a) is an employee within the meaning of that term in section 6(1)(a) or (b)(i) of the Employment Relations Act 2000; and
- (b) is not paid a salary

exceptional first client travel has the meaning given in **section 4(2)(a)** 30

exceptional last client travel has the meaning given in **section 4(2)(b)**

exceptional travel has the meaning given in **section 4(1)**

former HCS employer—

- (a) means an entity listed in **Schedule 1**; but
- (b) if the former HCS employer does not itself have separate legal personality, means the person or persons who have the legal authority to make decisions on behalf of that employer 35

HCS employee —

- (a) means a person who—
 - (i) is an employee of an HCS employer; and
 - (ii) provides home and community-based support services to clients of the HCS employer; and
- (b) for the purposes of **sections 6 and 7**, includes a person who—
 - (i) was previously an employee of an HCS employer; and
 - (ii) provided home and community-based support services to clients of the HCS employer

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HCS employer—

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- (a) means—
 - (i) an entity listed in **Schedule 2**; and
 - (ii) an entity that provides home and community-based support services on behalf of an entity listed in **Schedule 2**, including any subsidiary or subcontractor; but
- (b) if the HCS employer does not itself have separate legal personality, means the person or persons who have the legal authority to make decisions on behalf of that employer

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~~home and community-based support services means household management or personal care services performed in a client's home for the purpose of assisting the client to continue to live independently~~

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home and community-based support services—

- (a) means—
 - (i) services funded by the Ministry of Health or a DHB that are performed in a client's home for the purpose of assisting the client to continue to live in the client's home (such as personal care, household management, rehabilitation, or vocational services); and
 - (ii) services funded by ACC that are performed in a client's home for the purposes of supporting the client's rehabilitation from an injury covered by the Accident Compensation Act 2001 and to achieve and sustain the client's maximum level of participation in everyday life; but
- (b) does not include—
 - (i) services that are performed for the purpose of preparing an intellectually disabled client to live independently in the community;
 - or
 - (ii) services purchased by a disabled client (or by a disabled client's caregiver on the client's behalf) using funding from the Ministry

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of Health to allow the client (or the client's caregiver) to directly manage the resources allocated for the client's disability support

maximum travel distance has the meaning given in **section 4(1)**

mileage rate means—

- (a) ~~the rate prescribed by regulations made under **section 25(1)(a)**; or~~ 5
- (b) ~~if no rate is prescribed, 50 cents per kilometre~~

mileage rate means the mileage rate specified in **clause 1 of Schedule 3**

qualifying distance means—

- (a) ~~the distance that regulations made under **section 25(1)(b)** assign to an HCS employee for travel between clients that is not exceptional travel in a day; or~~ 10
- (b) ~~if no regulations are made, the deemed distance~~

qualifying distance means the qualifying distance specified in **clause 2(1) of Schedule 3**

qualifying travel time means— 15

- (a) ~~the time that regulations made under **section 25(1)(c)** assign to an HCS employee for travel between clients that is not exceptional travel in a day; or~~
- (b) ~~if no regulations are made, the deemed travel time~~

qualifying travel time means the qualifying travel time specified in **clause 3(1) of Schedule 3** 20

travel between clients—

- (a) means the travel by an HCS employee in a day to get to each client; and
- (b) includes exceptional travel; but
- (c) does not include— 25
 - (i) travel by the employee to the first client visit of the day (unless the travel is exceptional first client travel);
 - (ii) travel by the employee after the employee leaves the last client visit of the day (unless the travel is exceptional last client travel).

4 Meaning of exceptional travel and related terms 30

- (1) In this Act, unless the context otherwise requires,—

exceptional travel means—

- (a) travel by an HCS employee between clients where the distance travelled is more than the maximum travel distance; and
- (b) exceptional first client travel by an HCS employee; and 35
- (c) exceptional last client travel by an HCS employee

maximum travel distance means—

Home and Community Support (Payment for Travel Between Clients) Settlement Bill	
Part 1 cl 4A	
(a) the threshold distance or distances prescribed by regulations made under section 25(1)(d) ; or	
(b) if no distance is prescribed, 20 kilometres.	
maximum travel distance means, except for the purposes of section 13A(2) , the maximum travel distance specified in clause 4 of Schedule 3 .	5
(2) For the purposes of subsection (1) ,—	
(a) an HCS employee’s travel to the first client visit of the day is exceptional first client travel if the location of the client visit is more than 20 kilometres <u>the maximum travel distance</u> from either of the following: <u>the employee’s home</u> ; and	10
(i) the boundary of the HCS employer’s zone nearest to the employee’s home, if the employer has a zone approved under section 22 and the employee lives outside that zone;	
(ii) in all other cases, the employee’s home; and	
(b) an HCS employee’s travel from the last client visit of the day is exceptional last client travel if the location of the client visit is more than 20 kilometres <u>the maximum travel distance</u> from either of the following: <u>the employee’s home</u> .	15
(i) the boundary of the HCS employer’s zone nearest to the employee’s home, if the employer has a zone approved under section 22 and the employee lives outside that zone;	20
(ii) in all other cases, the employee’s home.	
4A Transitional, savings, and related provisions	
The transitional, savings, and related provisions (if any) set out in Schedule 1AA have effect according to their terms.	25
5 Act binds the Crown	
This Act binds the Crown.	
<i>Extinguishing claims for travel payments and statutory amendment to employment agreements</i>	
6 Certain claims extinguished	30
(1) This section applies to—	
(a) any claim by or on behalf of an HCS employee for wages payable under the Minimum Wage Act 1983 for travel between clients lodged but not determined before the commencement of this Act; and	
(b) any potential claim by or on behalf of an HCS employee against an HCS employer, a former HCS employer, a DHB, or the Crown for wages pay-	35

- able under the Minimum Wage Act 1983 for travel between clients before the commencement of this Act.
- (2) The claim or potential claim cannot be pursued and must be treated as if it had been withdrawn or is incapable of being lodged.
- (3) Without limiting **subsection (2)**, an HCS employee (or any person acting on his or her behalf) cannot—
- (a) name, join, or seek to name or join an HCS employer, a former HCS employer, a DHB, or the Crown in any civil proceedings relating to liability for wages relating to travel between clients by the employee before the commencement of this Act; or
- (b) apply in any civil proceedings for any remedy or relief from an HCS employer, a former HCS employer, a DHB, or the Crown for wages relating to travel between clients by the employee before the commencement of this Act.
- (4) This section is subject to **section 7**.
- 7 Act does not affect enforcement of employment agreements requiring payment for travel before commencement of Act**
- Nothing in **section 6** limits or prevents an HCS employee from making a claim or commencing any proceedings in relation to the enforcement of a term or condition in the employee's employment agreement that required the HCS employer or former HCS employer to pay the employee for travel between clients before the commencement of this Act.
- 8 Act overrides existing terms and conditions in employment agreements requiring payment of greater amounts**
- (1) This section applies to an employment agreement containing either or both of the following terms or conditions agreed before the commencement of this Act:
- (a) a term or condition that requires an HCS employee to be paid a greater amount for travel between clients than that required by this Act;
- (b) a term or condition that requires an HCS employee to be paid for—
- (i) travel by the employee to the first client visit of the day that is not exceptional first client travel; or
- (ii) travel by the employee from the last client visit of the day that is not exceptional last client travel.
- (2) The term or condition has no effect, and is not enforceable, for travel on and from the commencement of this Act, to the extent that the term or condition exceeds the requirements of this Act.

9 Act does not prohibit new terms and conditions in employment agreements requiring payment of greater amounts

This Act does not prevent an HCS employer from paying an HCS employee a greater amount for travel between clients than that required by this Act, or for travel described in **section 8(1)(b)**, on a basis agreed with the employee after the commencement of this Act, and any such agreement has full effect and is enforceable. 5

10 No HCS employee to be financially disadvantaged

(1) **Subsection (2)** applies if, because of the operation of **section 8**, an HCS employee's post-commencement travel entitlement is less than the employee's pre-commencement travel entitlement. 10

(2) The HCS employer must compensate the employee for the reduced entitlement by inserting a term in the employee's employment agreement that has the effect of requiring the employer to pay the employee an amount for travel between clients greater than that required by this Act. 15

(3) The amount must be no less than the amount that is equal to the employee's total entitlement before 1 July 2015.

(4) An HCS employer and an HCS employee—

(a) may agree to enhance a term inserted in the employee's employment agreement under **subsection (2)**; but 20

(b) may not agree to otherwise amend or remove the term at any time while the employee is employed by the employer.

(5) In this section,—

post-commencement travel entitlement means an HCS employee's total entitlement under this Act for travel between clients in the pay period immediately after 1 March 2016 25

pre-commencement travel entitlement means the total amount an HCS employee would have been entitled to for the following travel under his or her employment agreement were **section 8** not in force:

(a) travel between clients in the pay period immediately after 1 March 2016; and 30

(b) travel described in **section 8(1)(b)** in the pay period immediately after 1 March 2016.

11 Payment of lesser amounts prohibited

An employment agreement that contains a term or condition that excludes, restricts, or reduces an HCS employee's entitlements under this Act has no effect to the extent that the term or condition excludes, restricts, or reduces those entitlements, irrespective of whether the term or condition was agreed before or after the commencement of this Act. 35

Part 2

Payment for travel between clients

Extinguishing claims for travel payments and statutory amendment to employment agreements

- 6** **Certain claims extinguished** 5
- (1) This section applies to—
- (a) any claim by or on behalf of an HCS employee for wages payable under the Minimum Wage Act 1983 for travel between clients lodged but not determined before the commencement of this Act; and
- (b) any potential claim by or on behalf of an HCS employee against an HCS employer, a former HCS employer, a DHB, ACC, or the Crown for wages payable under the Minimum Wage Act 1983 for travel between clients before the commencement of this Act. 10
- (2) The claim or potential claim cannot be pursued and must be treated as if it had been withdrawn or is incapable of being lodged. 15
- (3) Without limiting **subsection (2)**, an HCS employee (or any person acting on his or her behalf) cannot—
- (a) name, join, or seek to name or join an HCS employer, a former HCS employer, a DHB, ACC, or the Crown in any civil proceedings relating to liability for wages relating to travel between clients by the employee before the commencement of this Act; or 20
- (b) apply in any civil proceedings for any remedy or relief from an HCS employer, a former HCS employer, a DHB, ACC, or the Crown for wages relating to travel between clients by the employee before the commencement of this Act. 25
- (4) This section is subject to **section 7**.
- 7** **Act does not affect enforcement of employment agreements requiring payment for travel before commencement of Act**
- Nothing in **section 6** limits or prevents an HCS employee from making a claim or lodging any proceedings in relation to the enforcement of a term or condition in the employee's employment agreement that required the HCS employer or former HCS employer to pay the employee for travel between clients before the commencement of this Act. 30
- 8** **Act overrides existing terms and conditions in employment agreements requiring payment of greater amounts** 35
- (1) This section applies to an employment agreement containing either or both of the following terms or conditions agreed before the commencement of this Act:

Part 2 cl 9	Home and Community Support (Payment for Travel Between Clients) Settlement Bill	
	(a) a term or condition that requires an HCS employee to be paid a greater amount for travel between clients than that required by this Act:	
	(b) a term or condition that requires an HCS employee to be paid for—	
	(i) travel by the employee to the first client visit of the day that is not exceptional first client travel; or	5
	(ii) travel by the employee from the last client visit of the day that is not exceptional last client travel.	
(2)	To the extent that the term or condition exceeds the requirements of this Act, the term or condition has no effect, and is not enforceable, for travel on and from the commencement of this Act.	10
9	Act does not prevent new terms and conditions in employment agreements requiring payment of greater amounts	
	This Act does not prevent an HCS employer from paying an HCS employee a greater amount for travel between clients than that required by this Act or for travel described in section 8(1)(b) (whether specified in an employment agreement or otherwise) on a basis agreed with the employee after the commencement of this Act, and any such agreement has full effect and is enforceable.	15
10	No HCS employee to be financially disadvantaged	
(1)	Subsection (2) applies if, because of the operation of section 8 , an HCS employee's post-commencement travel entitlement is less than the employee's pre-commencement travel entitlement.	20
(2)	The HCS employer must compensate the employee for the reduced entitlement by inserting a term in the employee's employment agreement that has the effect of requiring the employer to pay the employee an amount for travel between clients greater than that required by this Act.	25
(3)	The amount must be no less than the amount that is equal to the employee's total entitlement before 1 July 2015.	
(4)	An HCS employer and an HCS employee—	
	(a) may agree to enhance a term inserted in the employee's employment agreement under subsection (2) ; but	30
	(b) may not agree to otherwise amend or remove the term at any time while the employee is employed by the employer.	
(5)	In this section,—	
	post-commencement travel entitlement means an HCS employee's total entitlement under this Act for travel between clients in the pay period immediately after 1 March 2016	35

pre-commencement travel entitlement means the total amount an HCS employee would have been entitled to for the following travel under the terms of his or her employment agreement at 30 June 2015 were **section 8** not in force:

- (a) travel between clients in the pay period immediately after 1 March 2016; and
- (b) travel described in **section 8(1)(b)** in the pay period immediately after 1 March 2016.

5

11 Payment of lesser amounts prohibited

An employment agreement that contains a term or condition that excludes, restricts, or reduces an HCS employee's entitlements under this Act—

10

- (a) has no effect to the extent that it does so, regardless of whether the term or condition was agreed before or after the commencement of this Act; but
- (b) is not an illegal contract under the Illegal Contracts Act 1970.

Time spent in travel between clients

15

12 Time spent in travel between clients

- (1) An HCS employer must pay an HCS employee ~~who is not paid a salary~~ for the time spent by the employee on or after 1 July 2015 in travel between clients.
- (2) For travel between clients during the period starting on 1 July 2015 and ending on 29 February 2016, the minimum amount payable must be calculated in accordance with ~~section 13~~**sections 13 and 13A.**
- (3) For travel between clients on or after 1 March 2016—
 - (a) that is not exceptional travel, the minimum amount payable must be calculated in accordance with **section 14:**
 - (b) that is exceptional travel, the minimum amount payable must be calculated in accordance with **section 15.**

20

25

13 Minimum amount payable for travel before 1 March 2016

~~The minimum amount payable each day to an HCS employee is calculated as follows:~~

$$a = \$2.28 \times (b - 1)$$

30

~~where—~~

~~a is the minimum amount payable~~

~~b is the number of client visits for the employee for that day.~~

Part 2 cl 13		Home and Community Support (Payment for Travel Between Clients) Settlement Bill
13	<u>Minimum amounts payable for travel before 1 March 2016 funded by Ministry of Health or a DHB</u>	
(1)	<u>This section applies to travel between clients, whether exceptional travel or not, by an HCS employee for the purpose of a client visit—</u>	
(a)	<u>in which the HCS employee provides services described in paragraph (a)(i) of the definition of home and community-based support services in section 3; and</u>	5
(b)	<u>that is not the first client visit for the HCS employee in a day.</u>	
(2)	<u>The minimum amount payable to an HCS employee for each client visit is \$2.28.</u>	10
13A	<u>Minimum amounts payable for travel before 1 March 2016 funded by ACC</u>	
(1)	<u>This section applies to travel between clients by an HCS employee for the purpose of a client visit in which the HCS employee provides services described in paragraph (a)(ii) of the definition of home and community-based support services in section 3.</u>	15
(2)	<u>The minimum amount payable to an HCS employee is—</u>	
(a)	<u>for travel that is not exceptional travel, \$1.89 for each client visit; and</u>	
(b)	<u>for exceptional travel, the amount calculated in accordance with section 15.</u>	20
(3)	<u>For the purposes of subsection (2), the maximum travel distance is 20 kilometres.</u>	
14	<u>Minimum amount payable for travel on and from 1 March 2016 (other than for exceptional travel)</u>	
	The minimum amount payable each day to an HCS employee is calculated as follows:	25
	$a = b \times (c \div 60)$	
	where—	
a	is the minimum amount payable	
b	is the minimum hourly rate of wage prescribed under section 4 of the Minimum Wage Act 1983	30
c	is the qualifying travel time in minutes for the employee for that day <u>calculated in accordance with clause 3(2) of Schedule 3.</u>	
15	<u>Minimum amount payable for exceptional travel on and from 1 March 2016</u>	35
(1)	The minimum amount payable each day to an HCS employee is calculated as follows:	

$$a = b \times (c \div 60)$$

where—

- a is the minimum amount payable
- b is the minimum hourly rate of wage prescribed under section 4 of the Minimum Wage Act 1983 5
- c is the deemed travel time in minutes for exceptional travel for the employee for that day.

(2) In this section, **deemed travel time**—

- (a) means the time that it would take a person to travel to the client or clients visited by the employee (or from the client, if exceptional last client travel)— 10
 - (i) taking the most efficient route; and
 - (ii) when travelling at the same time of day and on the same day of the week; but
- (b) if the HCS employer has a zone approved under **section 22**, does not include the time it would take to travel between the employee's home and the boundary of that zone nearest to the employee's home if— 15
 - (i) the employee lives outside that zone; and
 - (ii) the travel is exceptional first client travel or exceptional last client travel. 20

(2) In this section, **deemed travel time** means the time that it would take a person to travel to the client or clients visited by the employee (or from the client, if exceptional last client travel)—

- (a) taking the most efficient route; and
- (b) when travelling at the same time of day and on the same day of the week. 25

Costs relating to travel between clients

16 Costs relating to travel between clients

- (1) An HCS employer must pay an HCS employee a contribution towards the costs relating to travel between clients by the employee on or after 1 March 2016. 30
- (2) For travel between clients that is not exceptional travel, the minimum amount payable must be calculated in accordance with **section 17**.
- (3) For travel between clients that is exceptional travel, the minimum amount payable must be calculated in accordance with **section 18**.
- (4) **Subsection (1)** does not apply to any travel between clients for which— 35
 - (a) an HCS employee uses a vehicle provided by the HCS employer; and

Part 2 cl 17		Home and Community Support (Payment for Travel Between Clients) Settlement Bill	
	(b)	the employer is responsible for all the costs associated with the use of the vehicle.	
(5)	To avoid doubt, this section applies whether the employee is or is not paid a salary.		
17	Minimum amount payable towards costs (other than for exceptional travel)		5
	The minimum amount payable each day to an HCS employee is calculated as follows:		
		$a = b \times c$	
	where—		10
	a	is the minimum amount payable	
	b	is the mileage rate	
	c	is the qualifying distance in kilometres for the employee for that day <u>calculated in accordance with clause 2(2) of Schedule 3.</u>	
18	Minimum amount payable towards costs for exceptional travel		15
(1)	The minimum amount payable each day to an HCS employee is calculated as follows:		
		$a = b \times c$	
	where—		
	a	is the minimum amount payable	20
	b	is the mileage rate	
	c	is the deemed distance in kilometres of exceptional travel by the employee for that day.	
(2)	In this section, deemed distance—		
	(a)	means the distance to the client or clients visited by the employee (or from the client, if exceptional last client travel), taking the most efficient route; but	25
	(b)	if the HCS employer has a zone approved under section 22, does not include the distance between the employee's home and the boundary of that zone nearest to the employee's home if—	30
	(i)	the employee lives outside that zone; and	
	(ii)	the travel is exceptional first client travel or exceptional last client travel.	
(2)	<u>In this section, deemed distance means the distance to the client or clients visited by the employee (or from the client, if exceptional last client travel), taking the most efficient route.</u>		35

Relationship with Employment Relations Act 2000

19 Compliance dispute is employment relationship problem

To avoid doubt,—

- (a) a dispute about whether an HCS employer is complying, or has complied, with this Act is an employment relationship problem within the meaning of that term in section 5 of the Employment Relations Act 2000; and 5
- (b) the dispute must be resolved in accordance with that Act.

20 HCS employee may recover arrears

The failure by an HCS employer to pay an HCS employee an amount required by this Act, either in ~~full~~whole or in part, constitutes payment of wages or other money at a rate lower than that legally payable for the purposes of section 131 of the Employment Relations Act 2000. 10

Record keeping

21 Record of amounts paid, qualifying travel time, and qualifying travel distance 15

- (1) An HCS employer must keep a record, for each HCS employee employed by the employer, of—
 - (a) the amounts paid to the employee under this Act for each pay period; and 20
 - (b) the qualifying travel times, qualifying distances, deemed travel times, and deemed distances used as the basis for calculating the amounts.
- (2) A record kept for the purposes of **subsection (1)** is deemed, for the purposes of the Employment Relations Act 2000, to form part of the wages and time record of the employee (as that record is described in section 130 of that Act). 25

HCS employer zones

22 HCS employer zones

- (1) ~~An HCS employer may apply in writing to the chief executive of the Ministry of Health for approval of a zone for the purposes of determining exceptional first client travel and exceptional last client travel for HCS employees of the employer.~~ 30
- (2) The chief executive may approve the zone only if he or she is satisfied that—
 - (a) ~~the employer has consulted the employees and any unions representing those employees; and~~
 - (b) ~~all client visits by the employees will take place within the proposed zone; and~~ 35

- (e) at least 90% of the employees live within the proposed zone.
- (3) ~~The chief executive must notify the employer of his or her decision on the application in writing.~~
- (4) ~~An approval is valid for 1 year from the date on which the chief executive gives notice, but may be renewed in accordance with the process set out in~~ 5
subsections (1) to (3).

*Enforcement of obligations under this Act*Penalty for non-compliance

23 Penalty for non-compliance

An HCS employer who fails to comply with an obligation imposed on the employer by this Act is liable to a penalty imposed by the Employment Relations Authority under the Employment Relations Act 2000. 10

Other employers and employees unaffected

24 Other employers and employees unaffected

- (1) Nothing in this Act limits or affects the rights, duties, or obligations relating to payment for employment-related travel of any employer or employee (within the meaning of those terms in the Employment Relations Act 2000) to whom this Act does not apply. 15
- (2) This section is for the avoidance of to avoid doubt.

*Regulations*Amendments to Act by Order in Council

25 Regulations

- (1) ~~The Governor-General may, by Order in Council made on the recommendation of the Minister of Health, make regulations for the following purposes:~~ 20
 - (a) ~~prescribing the mileage rate:~~
 - (b) ~~prescribing the method for calculating or basis for ascertaining an HCS employee's qualifying distance:~~ 25
 - (c) ~~prescribing the method for calculating or basis for ascertaining an HCS employee's qualifying travel time:~~
 - (d) ~~prescribing the maximum distance to a client visit before travel is treated as exceptional travel:~~
 - (e) ~~providing for any other matters contemplated by this Act, necessary for its administration, or necessary to give it full effect.~~ 30
- (2) ~~Before recommending the making of any regulations for the purposes of~~ **sub-section (1)**, the Minister of Health must consult—
 - (a) all DHBs; and
 - (b) all HCS employers listed in **Schedule 2**; and 35
 - (c) any unions representing 1 or more HCS employees.

- (3) ~~Before recommending the making of regulations for the purposes of **subsection (1)(b)**, the Minister of Health must also be satisfied that any qualifying distance resulting from the regulations is a fair approximation of the actual distance HCS employees would travel between clients.~~
- (4) ~~Before recommending the making of regulations for the purposes of **subsection (1)(c)**, the Minister of Health must also be satisfied that any qualifying travel time resulting from the regulations is a fair approximation of the actual amount of time an HCS employee would spend travelling between clients.~~ 5
- 26 Power to amend Schedule 1**
- (1) ~~The Governor-General may, by Order in Council, amend **Schedule 1** to insert the name of a former HCS employer.~~ 10
- (2) ~~An order made under **subsection (1)** may apply retrospectively from the commencement of this Act.~~
- 27 Power to amend Schedule 2**
- (1) ~~The Governor-General may, by Order in Council made on the recommendation of the Minister of Health, amend **Schedule 2** to—~~ 15
- (a) ~~replace the name of an HCS employer in recognition of a change in the employer's name:~~
- (b) ~~insert the name of an HCS employer who begins providing home and community-based support services after 1 December 2015.~~ 20
- (2) ~~An order made under **subsection (1)(a)** may apply retrospectively from the date that the HCS employer changes its name if the employer changes its name after the commencement of this Act but before the order is made.~~
- (3) ~~An order made under **subsection (1)(b)** may apply retrospectively from—~~
- (a) ~~the commencement of this Act, if the HCS employer is providing home and community-based support services at the commencement of this Act; or~~ 25
- (b) ~~the date that the HCS employer starts providing home and community-based support services, if the employer starts providing the services after the commencement of this Act but before the order is made.~~ 30
- (2) Before making a recommendation under **subsection (1)(b)**, the Minister of Health must—
- (a) consult ACC and the Minister for ACC; and
- (b) obtain the consent of—
- (i) any unions representing 1 or more HCS employees of the employer; and 35
- (ii) any HCS employees of the employer who are not represented by a union.

- (3) An order made under **subsection (1)(b)** may apply retrospectively from the date that the HCS employer started providing home and community-based support services but only if the parties listed in **subsection (2)(b)** agree.

27A Power to amend Schedule 3

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Health and the Minister for ACC,— 5
- (a) adjust the figure specified in **clause 1 of Schedule 3** upwards;
- (b) adjust the figure specified in **clause 2(1) of Schedule 3** upwards or downwards, provided that the figure is no less than 3.7 kilometres;
- (c) adjust the figure specified in **clause 3(1) of Schedule 3** upwards or downwards, provided that the figure is no less than 8 minutes and 30 seconds; 10
- (d) adjust the figure specified in **clause 4 of Schedule 3** downwards.
- (2) Before making a recommendation under **subsection (1)**, the following parties must be consulted: 15
- (a) ACC;
- (b) all DHBs;
- (c) all HCS employers listed in **Schedule 2**;
- (d) any unions representing 1 or more HCS employees.
- (3) Before making a recommendation under **subsection (1)(b)**, the Minister of Health and the Minister for ACC must be satisfied that the adjusted figure is a fair approximation of the actual distance HCS employees would travel between clients. 20
- (4) Before making a recommendation under **subsection (1)(c)**, the Minister of Health and the Minister for ACC must be satisfied that the adjusted figure is a fair approximation of the actual amount of time HCS employees would spend travelling between clients. 25

27B Annual review of Schedule 3

- (1) The Minister of Health must, on or before 30 May 2017 and every 12 months after that date,— 30
- (a) review **clauses 1, 2(1), 3(1), and 4 of Schedule 3**; and
- (b) decide whether to recommend the making of an order under **section 27A(1)**.
- (2) For the purpose of undertaking the review, the Minister must consult—
- (a) the Minister for ACC; and 35
- (b) ACC; and
- (c) all DHBs; and

- (d) all HCS employers listed in **Schedule 2**; and
- (e) any unions representing 1 or more HCS employees.

Part 3

Amendments to other Acts

- 28 Amendment to Minimum Wage Act 1983** 5
- (1) This section amends the Minimum Wage Act 1983.
 - (2) After section 9(d), insert:
 - (e) employees to whom the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015** applies, in respect of travel between clients (as defined in **section 3** of that Act) undertaken by those employees. 10
- 29 Amendments to Employment Relations Act 2000**
- (1) This section amends the Employment Relations Act 2000.
 - (2) In section 5, definition of **minimum entitlements**, after “Holidays Act 2003”, insert “or the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**”. 15
 - (3) After section 161(1)(m)(iii), insert:
 - (iiia) under **section 23** of the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**: 20
- (3A) After section 223(1)(c), insert:
- (ca) the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**; and
- (4) After section 236(4)(d), insert:
 - (da) the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**: 25
- 30 Amendment to Holidays Act 2003**
- (1) This section amends the Holidays Act 2003.
 - (2) After section 10, insert:
- 10A Treatment of payments made under Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015** 30
- For the purposes of sections 8, 9, and 14, the ordinary weekly pay, relevant daily pay, or gross earnings (as the case may be) of an employee—

- (a) includes payments made to the employee under **section 12** of the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**; but
- (b) excludes payments made to the employee under **section 16** of the **Home and Community Support (Payment for Travel Between Clients) Settlement Act 2015**.

5

Schedule 1AA
Transitional, savings, and related provisions

s 4A

There are no transitional, savings, or related provisions relating to this Act as enacted.

Schedule 1
Former HCS employers

ss 3, 26

Capital Nursing & Home Care Limited (also known as Company2 Limited)	
CHT Healthcare Trust (formerly Christian Healthcare Trust)	5
Devon Care Limited	
Disability Resource Centre Hawkes Bay Trust (formerly Disability Resource Centre Hawkes Bay Incorporated)	
Disability Resource Centre Southland	
Dunedin Home Support Services	10
Five Pillars Limited	
Graeme Alexander Pearson and Elizabeth Mary Pearson (trading as Dunedin Home Support and Southern Home Support)	
Home Help Personal Care Professionals	
Insight New Zealand 2007 Limited	15
IRIS Limited	
Living Options Charitable Trust	
Manawatu Supported Living Trust	
McIsaac Healthcare Limited	
Methodist Mission Northern	20
Mobilize Care & Training Limited	
Mosgiel Abilities Resource Centre Incorporated	
Nga Kakano Foundation Charitable Trust	
Ngati Porou Hauora Incorporated	
Ngati Ranginui Iwi Society Incorporated	25
Northlink Health Incorporated	
Nursing Home Help Service Limited (also known as Clouds Limited)	
Pacific Health Care Limited	
Panacea Healthcare Limited	
Piritahi Hau Ora Trust	30
Premier Health Care Limited	
Presbyterian Support Otago Incorporated	
Q-Nique Limited	
Raukawa Trust Board	
Rodney North Harbour Health Trust	35

**Home and Community Support (Payment for Travel
Between Clients) Settlement Bill**

Schedule 1

Te Hauora O Turanganui a Kiwa Limited	
Te Hauora Pou Heretanga Trust	
Te Whānau O Waipareira Trust	
Te Whatu Manawa Māori-Tanga O Rehua Trust Board	
Te Whatuiapiti Trust	5
Te Whatuiapiti Trust Incorporated	
The Community Nurses Limited (also known as Company3 Limited)	
The Friendship Centre Trust	
The Ngaiterangi Iwi Society Incorporated	
Tuwharetoa Health Services Limited	10
Waiapu Anglican Social Services Trust	

Schedule 2

HCS employers

ss 3, 25, 27

Access HomeHealth Limited	
Age Care Central Limited	5
Ali's Home Help Limited	
Aotea Health Limited	
Auckland DHB	
Canterbury DHB	
Care on Call (NZ) Limited	10
CCS Disability Action Bay of Plenty Incorporated	
CCS Disability Action Tairāwhiti Hawkes Bay Incorporated	
Central Health Limited	
Central Otago Living Options Limited	
Christchurch Residential Care (2011) Limited	15
Community Connections Supported Living Charitable Trust	
Community Living Limited	
Counties Manukau Homecare Trust	
Disabilities Resource Centre Trust	
Forward Care Home Health Limited	20
Geneva Healthcare Limited	
Geneva Northlink Healthcare Limited	
Good Partners Senior Care Limited	
Hawke's Bay DHB	
Healthcare of New Zealand Limited	25
Healthcare Rehabilitation Limited	
Healthvision (New Zealand) Limited	
Hokianga Health Enterprise Trust	
Home Support North Charitable Trust	
Howick Baptist Healthcare Limited	30
Huakina Development Trust Board	
IDEA Services Limited	
Independence House Connelly Trust	
Korowai Aroha Trust	
Lavender Blue Nursing and Home Care Agency Limited	35

**Home and Community Support (Payment for Travel
Between Clients) Settlement Bill**

Schedule 2

Medibank Health Solutions New Zealand Limited	
Nelson Marlborough DHB	
Nelson Nursing Service Limited	
New Zealand Care Limited	
Ngati Hine Health Trust Board	5
Ngati Porou Hauora Charitable Trust Board	
Ngati Ranginui Home and Community Support Services Company Limited	
Ngati Whatua O Orakei Health Clinic Limited	
Oceania Care Company Limited	
Omahanui Homecare Limited	10
Pacific Island Homecare Services Trust	
PACT Group	
Pasifika Integrated Health Care Limited	
Presbyterian Support Central Incorporated	
Presbyterian Support (Northern) Incorporated	15
Presbyterian Support Services (South Canterbury) Incorporated	
Presbyterian Support (Upper South Island) Incorporated	
Rannerdale Home Care Limited	
Royal District Nursing Service New Zealand Limited	
<u>Solara Limited</u>	20
Spectrum Care Trust Board	
Summerset Care Limited	
Tairāwhiti DHB (also known as Tairāwhiti District Health and TDH)	
Tautako Service Charitable Trust	
Te Ata Resthome Limited	25
Te Hauora O te Hiku O te Ika Trust	
Te Kohao Health Limited	
Te Korowai Hauora o Hauraki Incorporated	
Te Oranganui Trust Incorporated	
Te Puna Ora O Mataatua Charitable Trust	30
Te Rūnanga O Ngāi Te Rangi Iwi Trust	
Te Rūnanga O Ngāti Whātua	
The Florence Nightingale Agency Limited	
The Florence Nightingale Agency (Marlborough) Limited	
The LIFEWISE Trust	35

Schedule 2	Home and Community Support (Payment for Travel Between Clients) Settlement Bill	
The Nurse Maude Association		
The Salvation Army New Zealand Trust		
Timeout Carers Southland Trust		
Tui Ora Limited		
Tuwharetoa Health Charitable Trust	5	
VisionWest Community Trust		
Waiapu Anglican Social Services Trust Board		
Waiheke Health Trust		
Waikato DHB		
West Coast DHB	10	
Whaiora Homecare Services Incorporated		
Whaioranga Trust		

Schedule 3
Mileage rate, qualifying distance, qualifying travel time, and
maximum travel distance

ss 3, 4, 14, 17, 27A, 27B

- 1 Mileage rate** 5
The mileage rate is 50 cents per kilometre.
- 2 Qualifying distance**
(1) The qualifying distance is 3.7 kilometres.
(2) An HCS employee's qualifying distance for a day is calculated as follows:

$a = b \times (c - d - 1)$ 10

where—

a is the HCS employee's qualifying distance for the day
b is the qualifying distance specified in **subclause (1)**
c is the number of client visits for the HCS employee for that day
d is the number of client visits for the HCS employee for that day to get to 15
which the employee undertook exceptional travel other than exceptional
first client travel.

3 Qualifying travel time
(1) The qualifying travel time is 8 minutes and 30 seconds.
(2) An HCS employee's qualifying travel time for a day is calculated as follows: 20

$a = b \times (c - d - 1)$

where—

a is the HCS employee's qualifying travel time for the day
b is the qualifying travel time specified in **subclause (1)**
c is the number of client visits for the HCS employee for that day 25
d is the number of client visits for the HCS employee for that day to get to
which the employee undertook exceptional travel other than exceptional
first client travel.

4 Maximum travel distance
The maximum travel distance (for the purpose of determining whether travel 30
between clients is exceptional travel) is 15 kilometres.

**Home and Community Support (Payment for Travel
Between Clients) Settlement Bill**

Legislative history

24 September 2015
13 October 2015

Introduction (Bill 67–1)
First reading and referral to Health Committee

Wellington, New Zealand:

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