



**GLADNET**

**International Research Project on Job  
Retention and Return to Work  
Strategies for Disabled Workers**

**Study Report  
New Zealand**



**Regina Pernice and Neil Lunt**  
**School of Health Sciences and School of Social  
Policy Studies and Social Work, College of  
Humanities and Social Sciences, Massey University**



45317

Copyright © International Labour Organization 1998

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the ILO Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

ISBN: 92-2-111117-2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area, or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in this report rests solely with its authors, and publication does not constitute an endorsement of those opinions by the International Labour Office or by any of the other project sponsors.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from Customer Service, ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or lists of new publications are available free of charge from the above address.

## CONTENTS

PREFACE .....	i
ACKNOWLEDGEMENTS .....	iv
<b>PART I. EMPLOYMENT POLICIES .....</b>	<b>1</b>
<b>I.1 POLICIES WHICH AIM SPECIFICALLY TO INFLUENCE ENTERPRISES     TO RETAIN NEWLY DISABLED EMPLOYEES .....</b>	<b>1</b>
I.1.1 Legal obligations intended to prevent and restrict dismissal of employees who become disabled .....	1
I.1.2 Legal obligations intended to promote the retention of employees who become disabled .....	4
I.1.3 Legal obligations intended to prevent disability .....	5
I.1.4 Voluntary policies and programmes which encourage enterprises to retain newly disabled employees .....	6
<b>I.2 POLICIES TO OBLIGE AND ENCOURAGE ENTERPRISES TO RETAIN     DISABLED WORKERS IN GENERAL .....</b>	<b>7</b>
I.2.1 Obligations to promote the retention of disabled workers in general .....	7
I.2.2 Voluntary policies to persuade and encourage enterprises to retain disabled workers in general .....	9
I.2.3 Financial incentives which encourage enterprises to retain disabled workers in general .....	16
<b>I.3 POLICIES AND PROGRAMMES TO SUPPORT DISABLED EMPLOYEES     AT RISK TO RETAIN THEIR EMPLOYMENT .....</b>	<b>18</b>
I.3.1 Mechanisms to support the rights of employees whose continued employment is at risk because of disability .....	18
I.3.2 Financial incentives directed at employees whose continued employment is at risk because of disability .....	19
I.3.3 Programmes which support a move to another employer or to self- employment .....	20
<b>I.4 BENEFICIARIES .....</b>	<b>21</b>
I.4.1 Impact of definitions of disability and eligibility criteria on access to and coverage of policies .....	21
I.4.2 Disabled workers who benefit and those who miss out .....	21
<b>I.5 JOB RETENTION POLICIES IN CONTEXT .....</b>	<b>22</b>
I.5.1 Most prominent job retention policies .....	22

I.6	IMPLEMENTATION OF JOB RETENTION POLICIES .....	22
I.6.1	The effectiveness of institutional arrangements for monitoring and enforcement .....	22
I.6.2	Factors which affect the adoption of voluntary job retention measures and take-up of financial incentives by enterprises .....	22
I.7	INTERACTIONS BETWEEN EMPLOYMENT POLICIES AND PROGRAMMES	22
I.7.1	Ways in which employment policies complement and contradict one another .	22
I.7.2	Impact of the distribution of responsibility for employment policy .....	24
I.8	LINKS TO LABOUR MARKET FACTORS .....	24
I.8.1	Elements of labour market policies which influence the effects of job retention measures .....	24
I.8.2	Changes in labour market demand and the structure of the labour market ...	25
I.8.3	Changes in the union movement .....	25
I.9	GENERAL BARRIERS TO EMPLOYMENT .....	27
I.10	CULTURAL FACTORS .....	27
PART II.	BENEFIT AND COMPENSATION PROGRAMMES .....	28
II.1	COMPENSATION PROGRAMMES FOR WORK-RELATED INJURY OR ILLNESS .....	28
II.1.1	Principal compensation programmes for work-related injury or illness .....	28
II.1.2	Features of the compensation process which affect job retention and return to work .....	33
II.1.3	Influences of key actors involved in the process .....	34
II.1.4	The effects of compensation on job retention, on return to work and on exit from employment .....	34
II.1.5	Characteristics of disabled workers who do or do not retain their employment or return to work following successful or unsuccessful claims .....	36
II.2	OPPORTUNITIES TO COMBINE WORK AND BENEFIT .....	36
II.2.1	Provision for combining income from work and from disability-related social security benefits .....	36
II.2.2	Effects on numbers retaining and numbers returning to work .....	37
II.2.3	Impact of definitions of disability or capacity for work on access to and coverage of benefit programmes .....	37
II.2.4	Effects of claiming and assessment procedures on take-up of in-work benefits .....	38
II.2.5	Interactions between in-work benefits and other in-work income support programmes .....	38

II.2.6	Disabled workers who benefit and those who miss out .....	38
II.3	TRANSITION BETWEEN BENEFITS AND WORK .....	39
II.3.1	The effects of the disability benefit system on return to work .....	39
II.3.2	Provisions for financial support to disabled workers for transition between benefits and work .....	39
II.3.3	Effect of entitlement to benefits in kind on return to work .....	39
II.3.4	Co-ordination between agencies in assessment for benefits eligibility .....	40
PART III.	EMPLOYMENT SUPPORT AND REHABILITATION SERVICES .....	41
III.1	POLICY AND RESPONSIBILITY FOR POLICY AND PROVISION .....	41
III.1.1	The main bodies responsible for employment support and rehabilitation policy, and links to other agencies with .....	41
III.1.2	The relative priority accorded to support for retention, return to work and first time entry to employment .....	43
III.1.3	The weight given to employment support and rehabilitation policies for disabled people in the national system .....	44
III.2	SUPPORT SERVICES FOR JOB RETENTION .....	44
III.2.1	The main funders and providers of services offered to support job retention .	44
III.2.2	Relationships between the providers of services and bodies with policy responsibilities .....	44
III.2.3	The range and types of services provided .....	44
III.2.4	Characteristics of enterprises using external support services for job retention .....	47
III.2.5	The prevalence of externally provided support services and identify any trends .....	48
III.2.6	Arrangements for external providers to organise support in the workplace ..	48
III.2.7	The extent to which services support job retention .....	48
III.3	USERS OF SUPPORT SERVICES FOR JOB RETENTION .....	48
III.3.1	Eligibility criteria and procedures for identifying users (disabled workers and their employers) .....	48
III.3.2	Disabled workers who benefit and those who miss out .....	49
III.4	SUPPORT SERVICES FOR RETURN TO WORK .....	49
III.4.1	The main services for return to work .....	49
III.4.2	Integrating return to work services into work environments .....	49
III.4.3	The types of enterprise providing return to work opportunities in co-operation with employment support and vocational rehabilitation services .....	50
III.5	USERS OF SUPPORT SERVICES FOR RETURN TO WORK .....	50

III.5.1	Mechanisms for identifying and accepting users who have left their employment .....	50
III.5.2	Arrangements for user choice and user control of service packages .....	50
III.5.3	Disabled workers who benefit and those who miss out .....	50
III.6	DESIGN AND DELIVERY OF EMPLOYMENT SUPPORT AND REHABILITATION SERVICES .....	50
III.6.1	The effects of the distribution of responsibility for provision of services .....	50
III.6.2	The effect of relationships between services on their effectiveness .....	51
III.6.3	The results of vocational training and rehabilitation .....	51
III.6.4	Arrangements for outcome-related funding and financial incentives to staff ..	51
III.6.5	Most significant factors in facilitating or impeding overall success .....	52
III.7	LINKS WITH EMPLOYMENT POLICIES .....	52
III.7.1	The effects of employment policy obligations and agreements on opportunities for vocational rehabilitation .....	52
III.7.2	The effects of financial incentives to employers on opportunities for vocational rehabilitation in the workplace .....	52
III.7.3	The relative priorities given to disabled people and other client groups .....	52
III.7.4	Effects of changes in labour market structure and demand on opportunities for rehabilitation in the workplace .....	53
III.8	LINKS WITH BENEFIT AND COMPENSATION PROGRAMMES .....	53
III.8.1	The relationship between funding of benefit and compensation programmes and vocational rehabilitation policies and services .....	53
III.8.2	The effects of benefit or compensation regulations on opportunities for vocational rehabilitation .....	53
III.8.3	The co-ordination of assessment of eligibility for disability benefits and vocational rehabilitation services .....	54
III.8.4	Arrangements to combine receipt of benefits with rehabilitation in the workplace .....	54
III.9	LINKS WITH BENEFITS AND EMPLOYMENT POLICIES .....	54
III.9.1	The relationship between policies for vocational rehabilitation, benefits and employment .....	54
III.10	The most relevant factors influencing the integration of personal support and rehabilitation services into the workplace .....	55
PART IV.	ADAPTATION OF WORK AND WORKPLACE .....	56
IV.1	RESPONSIBILITY FOR POLICY AND PROVISION .....	56
IV.1.1	The main bodies responsible for work environment policies and their role in promoting adaptations for job retention and return to work .....	56

IV.1.2	Comparison of the attention given to policies which promote job retention with that given to policies which promote access to work	56
IV.1.3	The main providers of technical and advisory services	57
IV.1.4	The relationship between providers of technical and advisory services and providers of employment support and rehabilitation services	57
IV.2	TECHNICAL AND ADVISORY SERVICES FOR MODIFICATIONS TO WORK- STATION AND WORKPLACE	57
IV.2.1	Technical and advisory services available to enterprises in respect of modifications	57
IV.2.2	Services specifically directed towards job retention	58
IV.2.3	Factors which encourage or discourage the use of technical and advisory services	58
IV.3	TECHNICAL EQUIPMENT	58
IV.3.1	The provision and funding of equipment to meet individual needs	58
IV.3.2	The balance between provision to the disabled person and to the enterprise	58
IV.3.3	Factors which encourage or discourage take-up by employees and by enterprises	59
IV.3.4	Disabled people who benefit and those who miss out	59
IV.4	ACCOMMODATING WORK ROUTINES TO THE DISABLED WORKER	59
IV.4.1	External advice services which assist in the adjustment of work routines to individual needs	59
IV.4.2	Comparison of the availability and use of provision to support job retention with provision to support access to work	59
IV.4.3	Disabled people who benefit and those who miss out	59
IV.5	Significant services for promoting job retention or return to work	60
IV.6	DESIGN AND IMPLEMENTATION	60
IV.6.1	The effects of inter-agency collaboration in the design and development of adaptive technologies	60
IV.7	LINKS WITH EMPLOYMENT POLICIES	60
IV.7.1	The effect of employment policies on the use of adaptation services	60
PART V.	ENTERPRISE STRATEGIES	61
V.1	CORPORATE POLICIES AND PLANS	61
V.1.1	The development and prevalence of corporate employment policies and plans for the retention of disabled employees	61

V.1.2	Prominent actors and influences in the development of policies and plans for the retention of disabled employees .....	63
V.2	CO-ORDINATED RESPONSES TO DISABILITY .....	64
V.2.1	The development and prevalence of integrated disability management systems .....	64
V.3	PRACTICAL PROGRAMMES AND INTERVENTIONS IN THE WORKPLACE .	64
V.3.1	Enterprise programmes targeted at employees potentially absent from work because of disability .....	64
V.3.2	Enterprise-initiated programmes to adjust the workplace and work-station ..	64
V.3.3	Enterprise initiatives aimed at co-workers .....	64
V.4	DEFINITION AND ASSESSMENT OF DISABILITY .....	65
V.4.1	The effect of perceptions of 'disability' on the enterprise job retention programmes .....	65
V.5	LINKS WITH EMPLOYMENT POLICY OBLIGATIONS, RECOMMENDATIONS AND INCENTIVES .....	65
V.5.1	Enterprise compliance with disability employment obligations and agreements .....	65
V.6	ENTERPRISE STRATEGIES AND BENEFIT/COMPENSATION PROGRAMMES .....	66
V.6.1	Effects of the availability and level of out-of-work benefits on enterprise recruitment and dismissal policies .....	66
V.6.2	The co-ordination by benefits agencies and enterprises of disabled workers' transition from benefits support to waged income .....	66
ENDNOTES .....		67
REFERENCES .....		72



## PREFACE

The *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers* is an initiative of the International Labour Organisation (ILO) and the Global Applied Research and Information Network on Employment and Training (GLADNET). It reflects ILO and GLADNET joint aims of establishing a base for cross-national research and strengthening links between research analysis and policy reform in the field of employment of disabled people.

The Project is a response to a combination of developments which highlight the need for more effective policies and practices in support of workers whose prospects of remaining in employment are jeopardised by work injury, illness or disability. Persons with disabilities are increasingly claiming rights to stay in work as well as to access employment. Pressures on state budgets, the rising costs of compensation claims and disability benefits, and changes in the structure of the labour market are strengthening policies in favour of job retention and return to work. Enterprises are developing their own strategies to minimise the costs of disability and to retain valued employees. Overall, the balance of responsibility is shifting from the state to the enterprise.

Policies and practices to prevent disabled workers from leaving work unnecessarily, and to facilitate rapid return to employment if job loss cannot be prevented, are recent developments in many countries. The cross-national exchange of information on initiatives and their effects is limited. The first aim of this Project has been to gather information about what has been attempted, by whom, for what purposes, in which contexts and to what effects. The second, more ambitious, aim, is to examine the interaction between the various policies and practices, identify dysfunctions, and work towards more coherent and cost-effective strategies for job retention and return to work which might be applied in different national systems. The ultimate objective is to identify strategies which can be put into effect in the workplace.

The Project was constructed in two phases. In Phase One, eight exploratory desk-based studies were commissioned from researchers in Canada, France, Germany, the Netherlands, New Zealand, Sweden, the United Kingdom and the USA. The eight countries invited to participate represent a spectrum of policy approaches and enterprise practices which affect the retention and return to work of workers with disabilities. Australia joined the project at a later stage.

The studies formed the basis for a *Key Issues* Paper, published simultaneously with the eight country reports. This Paper aims to inform, stimulate debate and pave the way for constructive discussion of questions for further exploration through cross-national collaboration in Phase Two.

National government departments, agencies, a private sector organisation, and the ILO co-sponsored Phase One of the Project. Overall responsibility for the Project rests with the ILO (Vocational Rehabilitation Branch, Employment and Training Department). The design, implementation and analysis of the research in Phase One were the responsibility of the Research Co-ordination Unit established at the Social Policy Research Unit, University of York (UK) in April 1997. Research specialists in the main areas of enquiry, based in study countries, contributed at all stages of the research process and, with ILO representatives, met with the research co-ordinators as a Research Advisory Group.

## **The country studies**

The Project recruited and supported national informants from research institutes in all eight countries. During the second half of 1997 they completed a Schedule of Questions developed by the Research Co-ordination Unit to describe policies and practices, document evidence of their effects and provide grounded commentary on how policies and practices interact. The principal sources were policy documents, survey data, research evaluations and critical reviews. Informants were encouraged to contact sources in government departments and agencies, disabled people's organisations, labour unions and employers' groups. Where documented information was lacking, informants interviewed experts in the field.

The eight country reports are important resources for the development of job retention policy and practice both within and across countries. Each report brings together within a single volume: descriptions of policies, practices and programmes which impact on job retention and return to work; evaluative material; and informed commentary. They cover five themes: employment and labour market policies; benefit and compensation programmes; employment support and rehabilitation services; adaptation of work and workplace; and measures developed and implemented by the enterprise. In line with the research aim of identifying coherent and co-ordinated strategies, the informants both comment on dysfunctions in national systems which obstruct job retention efforts and identify links between themes.

It should be noted that the situation described in the reports may have changed. This is especially true of the Netherlands where further reforms were expected in the first half of 1998 and the United Kingdom where the government changed in May 1997. Important developments in the USA were announced in March 1998.

The reports produced by the eight teams of national informants conformed to the format laid down by the Schedule of Questions. The original reports have been edited for publication by the Research Co-ordination Unit in co-operation with their authors. However, they remain essentially the 'raw data' for analysis and should be read in that light. Each report follows the same sequence of headings which reflect the original open-ended questions. As the questionnaire prompted informants to respond flexibly to suggestions about possible areas to address under each question, the content varies from report to report. The reader should note that, at the end of a thematic section, commentary may be included on the links between that theme and those which precede it.

### *Terms used in the study*

The study concerns paid competitive employment in the open labour market.

The term 'disabled workers' is broadly defined. It covers individuals who become disabled, injured or ill whose prospects of continuing or advancing in employment are jeopardised when an acquired impairment, illness or deteriorating condition - physical or mental - presents difficulties in fulfilling the requirements of the job, reduces earning capacity or affects other rewards of working. They may or may not qualify under legal definitions of disabled persons. The term also covers workers with disabilities whose working capacity is not diminishing but whose continued employment is nevertheless threatened by prejudice or discrimination, or by the loss of supports which have maintained them in the job.

'Job retention' means staying with the same employer, with the same or different duties or conditions of employment, and includes return after a period of paid or unpaid absence. 'Return to work' refers to the resumption of employment by a worker who has crossed the threshold from a continued employment

relationship into non-employed status; the main interest of the study is in policies and practices which return the disabled individual to work at an early stage.

### **Acknowledgements**

The publication of eight country reports of a very high quality in a short space of time would not have been possible without the expert attention of Andrew Nocon of the Social Policy Research Unit who edited the reports with remarkable care and efficiency. His task was made easier by the eight teams of informants who most willingly answered queries and approved the edited versions to tight deadlines.

The Project wishes to acknowledge the contribution of Dan Kearns who assisted with research design, supported the national informants and masterminded international tele-communications.

Thanks are due to the ILO for meeting the cost of editing the reports and to the US Department of Labor for covering the printing costs.

Patricia Thornton  
Research Co-ordination Unit  
Social Policy Research Unit, University of York, UK

April 1998

Copies of the 'Methodology Paper' and the 'Informant Briefing and Schedule of Questions' may be obtained from the Research Co-ordination Unit, Social Policy Research Unit, University of York, YO1 5DD, UK.

## ACKNOWLEDGEMENTS

**Project sponsors:** International Labour Organization; Human Resources Development, Canada; Association Nationale de Gestion du Fonds pour l'Insertion Professionnelle des Handicapés, France; the Ministry of Labour and Social Affairs, Germany; the National Institute for Social Insurances, the Netherlands; the Swedish Council for Work Life Research; the Department of Education and Employment and the Post Office, UK; Social Security Administration, USA.

The authors would also like to thank the following for their help in preparing the report:

- Garth Bennie, Specialist Consultancy in Disability Support Services, Palmerston North.
- Allan Child, Income Support, Department of Social Welfare, Wellington.
- Elizabeth Cooper, Disabled Persons Assembly (DPA), Palmerston North.
- Pam Crothall, Manager, Mainstream Supported Employment Programme, State Service Commission, Wellington.
- Grant Duncan, School of Policy Studies and Social Work, Massey University, Albany.
- Amanda-Lanuola Dunlop, Cultural Advisor, Strategic Cultural Unit, ACC-Accident Rehabilitation & Compensation Insurance Corporation, Wellington.
- David Guest, Professional Advisor, Equipment Management Services, NZ Disabilities Resource Centre Limited, Palmerston North.
- Grant Hardie, Manager, BRANZ Education and Building Controls
- Stephen Hogan, Centre Manager, Workbridge Inc., Wellington.
- John Julian, Case Manager, ACC-Accident Rehabilitation & Compensation Insurance Corporation, Palmerston North.
- Gail Kettle, Executive Officer, Accident Rehabilitation & Compensation Insurance Corporation (ACC), Palmerston North.
- Bev Knight, Centre Manager, Workbridge Inc., Palmerston North.
- Stephen Lavery, Marketing Manager, Workbridge, Christchurch.
- Kate Lynch, Business Adviser (People with disabilities), New Zealand Employment Service, Wellington.
- Heather McCauley, Labour Market Policy Group (Employment), New Zealand Employment Service, Wellington.
- Trudie McNaughton, Executive Director, EEO Trust, Auckland
- Pete Mill, Information Officer, Human Rights Commission, Auckland.
- Lester Mundell, Manager, Disability Support Services (DSS), Ministry of Health, Wellington.
- Claire Orbell, Research Analyst, Market Analysis and Planning Section, Accident Rehabilitation & Compensation Insurance Corporation (ACC), Corporate Office, Wellington.
- Robyn Ramage, Information Officer, EEO Trust, Auckland.
- Alison Riseborough, Business Advisor (Operations), New Zealand Employment Service, Wellington.
- Lesley Wallis, Communications Adviser, Social Policy Agency, Department of Social Welfare, Wellington.
- Barrier Free Trust.
- Council of Trade Unions.
- NZ Federation of Employers.
- Staff at Disability Resource Centre Auckland Inc.
- Staff at Audrey Green Disability Information Centre, Palmerston North.

## **I. EMPLOYMENT POLICIES**

The purpose of this Part of the report is to describe policies which maintain those workers in employment whose continued employment is at risk because of disability. It provides evidence of the effects of those policies and identifies factors which influence their effectiveness. The emphasis in this part is on national (or state/provincial) policies formulated by government, and by bi-partite or tri-partite policy-making and advisory bodies.

Sections 1 to 5 are concerned with legislation, incentives and other 'persuasion' policies which oblige and encourage enterprises to retain disabled employees. A distinction is made between employees who become disabled and those who are already disabled. Information is provided about employment policies which encourage disabled employees to retain or return to their jobs. Sections 6 to 8 focus on the factors which affects the success of policies. They also examine the labour market factors which contribute to the retention or loss of jobs among disabled people.

### **I.1 POLICIES WHICH AIM SPECIFICALLY TO INFLUENCE ENTERPRISES TO RETAIN NEWLY DISABLED EMPLOYEES**

#### **I.1.1 Legal obligations intended to prevent and restrict dismissal of employees who become disabled**

##### **Human Rights Act 1993**

The only legal obligations that prevent and restrict dismissal of employees who become disabled are laid out in the Human Rights Act (1993). As with other anti-discrimination and human rights legislation, the Act has generic coverage, i.e. for job applications, promotion, as well as dismissal. It applies to disabled workers in general, as well as to those who become disabled.

The Human Rights Act came into force from 1 February 1994, replacing earlier human rights legislation - Race Relations Act 1977 and Human Rights Commission Act 1977.<sup>1</sup> Disability was newly added to the 1993 Act which prohibits discrimination on the grounds of sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinions, employment status, family status, and sexual orientation.

'Disability' is taken to mean:

- i) Physical disability or impairment
- ii) Physical illness
- iii) Psychiatric illness
- iv) Intellectual or psychological disability or impairment
- v) Any other loss or abnormality of psychological, physiological, or anatomical structure or function
- vi) Reliance on a guide dog, wheelchair, or other remedial measure
- vii) The presence in the body of organisms capable of causing illness.

Coverage extends to a person, their relative or any associate, and covers current disability, past disability or suspected grounds of disability.

Section 22 makes it unlawful to:

- a) refuse or omit to employ the applicant on work of that description which is available; or
- b) offer or afford the applicant or the employee less favorable terms of employment, conditions of work, superannuation or other fringe benefits, and opportunities for training, promotion, and transfer than are made available to applicants or employees of the same or substantially similar circumstances on work of that description; or
- c) terminate the employment of the employee, or subject the employee to any detriment, in circumstances in which the employment of other employees employed on work of that description would not be terminated, or in which other employees employed on work of that description would not be subjected to such detriment; or
- d) retire the employee, or to require or cause the employee to retire or resign,

for any of the prohibited grounds of discrimination.

Section 23 makes it unlawful for any person to use or circulate any form of application for employment or to make an enquiry of or about any applicant for employment which indicates, or could reasonably be understood as indicating, an intention to commit a breach of Section 22 of this Act.

Section 29 (1) outlines that the Act does not prevent different treatment based on disability where:

- a) The position is such that the person could perform the duties of the position satisfactorily only with the aid of special services or facilities and it is not reasonable to expect the employer to provide these services or facilities; or
  - b) The environment in which the duties of the position are to be performed or the nature of those duties, or of some of them, is such that the person could perform these duties only with a risk of harm to that person or to others, including the risk of infecting others with an illness, and it is not reasonable to take that risk.
- 2) Nothing in subsection (1)(b) of this section shall apply if the employer could, without unreasonable disruption, take reasonable measures to reduce the risk to a normal level.
  - 3) Nothing in section 22 of this Act shall apply to terms of employment or conditions of work that are set or varied after taking into account:
    - a) any special limitations that the disability of a person imposes on his or her capacity to carry out the work: and
    - b) any special services or facilities that are provided to enable or facilitate carrying out the work.

### **Implementation of the Act**

The Act is in early stages of implementation.

The Act is administered by the Department of Justice. When first introduced in Parliament the Minister stated, 'Its purpose is to consolidate, revise, and strengthen the law relating to discrimination'<sup>2</sup>. Parliamentary discussion around the passage of the Act was dominated by the sexual orientation clause and disability did not figure highly in debates.

Under the Human Rights Act there continues to be a Human Rights Commission, established under section 4 of the Human Rights Commission Act 1977. The Commission has a number of functions including: promoting education and publicity of human rights; co-ordinating programmes; publishing statements and guidelines; receiving submissions from the public; and inquiring into infringements under the Act.

The Complaints Division of the Human Rights Commission receives complaints, conducts investigations, monitors the Act; and performs a conciliation role. The Division may call for compulsory conciliation, which may lead to a settlement that includes compensation or an apology. If there is no settlement, or its terms are not observed, then proceedings may take place. Remedies can then include the issuing of a declaration, a restraining order, and payment of damages.

(For interaction between the Human Rights Act and the *Privacy Act 1993*, the *Health and Safety in Employment Act 1992* and the *Employment Contracts Act 1991* see I.7.1.)

### *Awareness*

The Human Rights Commission conducted a series of educational presentations to raise awareness around the Act. This included presentations given to disability groups, employees and unions, and employers and managers. Although 48 pre-employment workshops were held there were difficulties in attracting small businesses. Overall, employment is the largest source of enquiries for the Commission and the implications of the Act for pre-employment matters are least well-known.

Some feel that the passage of the Act may have unduly raised expectations. According to the 1995-6 Human Rights Commission Report: 'The Human Rights Act which came into effect in February 1994 included disability as a ground for unlawful discrimination and raised expectations within the disability sector that the Act would significantly alter access to goods, services, accommodation and education for people with disabilities ... it remains an issue of concern to the Commission and the disability sector that not enough people with disabilities feel significantly empowered to use the Act to effect change in their daily lives'<sup>3</sup>.

The Act led to a major initiative to produce an education and training resource based on the experiences of people with disabilities.

### *Outcomes*

Of 774 enquiries between 1 July 1995 to 30 June 1996, eight per cent related to disability. Of the 241 complaints opened in the year ended 30 June 1996, 22 (eight per cent) related to disability discrimination in employment under Section 22, and four under Section 23.

There is concern about the time and resources taken to investigate a complaint: 'In order to increase the timeliness and effectiveness of its service, the Complaints Division continues to emphasise the benefits of conciliating complaints as opposed to investigating and then obtaining a formal finding or Complaints Division opinion.'<sup>4</sup>

### **Other**

New Zealand has no requirements to retain or redeploy a newly disabled employee, no requirements to follow special dismissal procedures, and no penalties for terminating employment (apart from those laid out under the 1993 Human Rights Act).

## **I.1.2 Legal obligations intended to promote the retention of employees who become disabled**

(For the provisions of the Human Rights Act 1993 see I.1.1.)

### **Accident Compensation Scheme**

Since 1974 the New Zealand Accident Compensation Scheme has been regarded in New Zealand and overseas as an innovative and sensible approach to the problems associated with compensating and rehabilitating persons who have had an accidental injury.

It was designed on five principles: community responsibility, comprehensive entitlement, complete rehabilitation, real compensation and administrative efficiency. It was a scheme which provided comprehensive entitlement to compensation for all persons who had a 'personal injury by accident'. Cover under the scheme applied to all personal injury by accident without proof of 'fault' (no-fault scheme) and no matter how or where the accident occurred, whether at work, at home, on the road, at sport or recreation or elsewhere. The right to take proceedings in a New Zealand court to recover compensatory damages arising directly or indirectly out of personal injury by accident suffered was abolished. This scheme has operated since 1974 (with some changes over time, e.g. in 1982) but with some significant amendments resulting from the *Accident Rehabilitation and Compensation Insurance Act 1992* (ARCIA). The Accident Compensation Commission (ACC) was set up in 1974 with legal obligations to promote the retention of injured employees; its name was changed in 1982 to the Accident Compensation Corporation and in 1992 to the Accident Rehabilitation and Compensation Insurance Corporation (although it remains known as ACC).

The 1992 changes principally involved:

- a shift in ACC's responsibility from compensation to rehabilitation.

Under *ARCIA*, ACC provides vocational rehabilitation to people whose impairment is a result of personal injury caused by accident. Vocational rehabilitation is limited to claimants who are receiving weekly compensation for loss of earning capacity; receiving weekly compensation for loss of potential earning capacity; and likely without vocational rehabilitation to become entitled to weekly compensation. Vocational rehabilitation is available for up to a maximum of three years to achieve the goal of maintaining employment or to provide a capacity for work. ACC works with



employers, rehabilitation service providers and medical practitioners to develop vocational rehabilitation plans for claimants. This includes:

- vocational guidance
  - employment preparation assistance
  - workplace modifications and accommodations (environmental - removing barriers, installing special equipment; job modification - hours of work and work procedures etc).
  - work trials
  - training
  - self-employment assistance.
- experience rating for employers.

Under the *Accident Compensation Act 1982* there were provisions for granting rewards and imposing penalties on employers according to their safety record; although no penalty system was ever introduced by ACC, for a period safety incentive bonuses were paid to employers with good accident records. The introduction of experience rating, however, reflects an attempt to levy employers more accurately by grouping them into industry categories: employers are costed for their work injury claims using a formula that is laid out in the *ACC Experience Ratings Regulations 1993*. The impact of this has been felt by most large companies - some have received a rebate for having a good claims record, while some receive a loading for having a high claim record.<sup>5</sup>

- the abolition of lump sum awards.

(The accident compensation scheme will be discussed further in II.1.1.)

### **Other**

New Zealand has

- no obligations to review job demands
- no obligations to make accommodations
- no obligation to (re)train.

### **I.1.3 Legal obligations intended to prevent disability**

#### **Health and Safety in Employment Act 1992**

The principle objective of the *Health and Safety in Employment Act (1992)*<sup>6</sup> is to prevent harm to employees at work. The Act seeks to promote excellence in health and safety management by employers; prescribes, and imposes on employers and others, duties in relation to the prevention of harm to employees; provides for the making of regulations, and the development and approval of codes of practices, relating to hazards to employees.

Section (6) prescribes: 'Employers to ensure the safety of employees - every employer shall take all practicable steps to ensure the safety of employees while at work; and in particular shall take all practicable steps to:

- a) provide and maintain for employees a safe working environment;
- b) provide and maintain for employees while they are at work facilities for their safety and health;
- c) ensure that plant used by any employee at work is so arranged, designed, made, and maintained that it is safe for employees to use;
- d) ensure that while at work employees are not exposed to hazards;
- e) develop procedures for dealing with emergencies that may arise while employees are at work'.

The Minister may be asked to approve a statement of preferred work practices or arrangements<sup>7</sup> or regulations.<sup>8</sup>

The Health and Safety Act 1992 offers a new approach for promoting excellence in the management of health safety in places of work. The stated focus is on preventing harm arising out of work activities - whatever the place of work<sup>9</sup>. The Act puts the primary responsibility on the employer, who has a duty to provide a safe and healthy work environment. Previously problems existed with fragmented and inconsistent safety and health legislation. The legislation aims to reduce, simplify and update. It provides a coherent framework for the promotion of excellence in the management of risk in the workplace.<sup>10</sup>

(For interactions between the Health and Safety Act 1992 and the ACC Experience Ratings Regulations 1993 see I.7.1.)

There are several views about the extent of compliance with the 1992 Health and Safety in Employment Act. Bradley, for example, notes an unsatisfactory level of compliance.<sup>11</sup> He points out that, in select committee submissions, the indications were that the Occupational Safety and Health (OSH) service has been under-resourced. His survey of 131 local and regional organisations and utilities New Zealand-wide in 1995 revealed that:

- 50 per cent of respondents believed the Act had caused a 'paper war'
- 16 per cent had no circulated OSH policy
- 27 per cent had no understanding of the impact and ramifications of the Act on the general workforce.<sup>12</sup>

The impact of contracting out has a big effect on how the responsibility under the Act to secure safe working environments works in practice. Many of the large forestry and logging companies, for example, contract with smaller teams, and require these individuals to be adequately trained. This devolves responsibility for training to the smaller sub-contractors and away from the larger firms.

#### **I.1.4 Voluntary policies and programmes which encourage enterprises to retain newly disabled employees**

(See I.2.2 for Equal Employment Opportunity Policies (EEO) which aim to encourage the recruitment and retention of disadvantaged groups, including disabled workers.)

### **Accredited Employers Programme**

One voluntary programme relating to financial provision for newly disabled people is the Accredited Employers Programme, which was piloted in 1994 by the ACC. This enables employers with reasonable financial assets and capacity to meet approval criteria to take certain duties and responsibilities normally undertaken by ACC.<sup>13</sup> Approved employers manage the work injury claims of their employees for the first year following injury, which involves paying weekly compensation and other entitlements, paying all medical and rehabilitation expenses, and managing and administering the claims within the ARCI Act 1992. For their part, the employer is paid an amount estimated to be the value of costs associated with the first 12 months of a claim. The ACC conducts an extensive audit to ensure that employers under the Programme have all necessary health and safety, claim management and rehabilitation procedures and systems in place.

Financial incentives for the retention of newly disabled employees are thus built into the ARCI scheme. (Subsidies, grants and incentives for the recruitment and retention of disabled workers in general are reported in Section I.2.3.)

### **Other**

New Zealand has no bi- or tri-partite agreements or industry-wide standards or benchmarks that are specifically aimed at retention of newly disabled employees.

## **I.2 POLICIES TO OBLIGE AND ENCOURAGE ENTERPRISES TO RETAIN DISABLED WORKERS IN GENERAL**

### **I.2.1 Obligations to promote the retention of disabled workers in general**

#### **Accessible work environments**

The *NZ Building Standard 4121 (1971)* was a recommendatory code of practice concerning building design for people with disabilities, which exempted only transport terminals and public lavatories. Later, Section 25 of the *Disabled Persons Community Welfare Act 1975* made it a requirement that reasonable and adequate provision be 'made for disabled persons who may be expected to visit or work in the building or premises to enter and carry out normal activities and processes therein.'

The *Building Act (1991)* is a recent development which gives added impetus to existing provisions.<sup>14</sup> The Act provides for buildings, as defined under section 25 of the *Disabled Persons Community Welfare Act*, to have the means of access and facilities that meet the requirements of that Act to ensure that reasonable and adequate provision is made for people with disabilities to enter and carry out normal activities and processes in those buildings.

The Act was introduced because of the ineffectiveness of previous measures. Standard 4121 (1971) only made recommendations, while after 1975 there was a failure to realise that section 25 of the *Disabled Persons Community Welfare Act* took precedence.<sup>15</sup> In 1985 Standard 4121 (1985) introduced new mandatory standards, but did still not contain the direct means of enforcement.

Section 6(e) of the Building Act (1991) refers to the need to 'provide, both to and within buildings to which section 25 of the Disabled Persons Community Welfare Act 1975 applies, means of access and facilities that meet the requirements of that Act to ensure that reasonable and adequate provision is made for people with disabilities to enter and carry out normal activities and processes in these buildings'.

Buildings cannot be changed unless the territorial authority is satisfied that the new building will: 'comply with the provision of the building code for means of escape from fire, protections of the property, sanitary facilities and structural and fire-rating behaviour, and for access and facilities for use by people with disabilities (where this is a requirement in terms of section 25 of the Disabled Persons Community Welfare Act) and nearly as is practicable to the same extent as if it were a new building; and continue to comply with the other provisions of the building code to at least the same extent as before the change of use.'

The 1991 Building Act and the 1975 Disabled Persons Community Welfare Act each refers to the other and must be read together in respect of the provision of adequate and reasonable access and facilities for people with disabilities.<sup>16</sup> Before the 1991 Act came into force, section 25 of the Disabled Persons Community Welfare Act was the only provision of any Act that required buildings to include access and facilities for people with disabilities. It provides that adequate and reasonable provisions for people with disabilities were to be provided in new buildings and in the 'major reconstruction' of existing buildings. The Act maintains the status of section 25, but requires changes to existing buildings that are being altered.

The clear intention of the two Acts is that buildings must not be constructed in such a way as to prevent people with disabilities from undertaking work of which they are physically capable. What is 'reasonably practicable' is to be decided on each individual case. Territorial authorities have no power to waive or modify requirements to comply 'as nearly as is reasonably practicable'. The only powers to grant waivers or modifications are in respect of existing buildings, not new ones, and are exercised by the Building Industry Authority. Only the Building Authority itself can: '... provide for a waiver or modification from all or any of the requirements of this section if, having regard to all the circumstances, the Building Industry Authority determines that it is reasonable to grant the waiver or modification'.

If there is any alteration of a building (no matter what size or effect) then it must be made accessible and usable by people with disabilities, as nearly as possible as if it were an entirely new building. Thus more buildings will be altered over time and made usable for people with disabilities. If there is a change of use in a building then the building must be made accessible and usable by people with disabilities, as nearly as possible as if it were an entirely new building.<sup>17</sup>

According to Angus, 'hopefully, the combined efforts of the legislative amendments and the inclusion of the access requirements as part of the normal procedures under the Building Act, will usher in a new era of accessibility in the built environment for the present and future benefit of people with disabilities'.<sup>18</sup>

The combined efforts of individuals and organisations, including the Disabled Persons Assembly and NZ CCS, were successful in bringing about the 1991 Act. The next logical step is to ensure that the proposed NZ Building Code actually implements the access provision in the Building Act. The Act includes the means for this to be achieved by providing that the members of the Building Standards Authority should possess a mix of knowledge and experiences around building and construction, economics and commerce,

local government and resource management, and consumer affairs and the provision of facilities for people with disabilities.

From observation made at Building Industry Authority Standards seminars, many building owners and designers are hostile and try to avoid the requirements of the Act. Some commentators, however, recommend that the Act be seen as an opportunity rather than an obstacle.<sup>19</sup>

*The Barrier Free Trust* (a non-statutory organisation) provides courses to train 'Barrier Free Auditors'. These are provided, for example, to territorial authorities who have responsibility for issuing compliance certificates. The Trust is also contracted by large employers to provide audits. One branch of the ANZ Bank, for example, has introduced a disability-accessible counter. Similarly, Midland Health and Southern Health have recently done barrier free audits. The Trust also has an advocacy role, acts as a watchdog to BIA determinations, and fields complaints from people with disabilities. Despite this, there is said to be less activity and interest in identifying and eliminating workplace barriers than in securing accessibility to more general public places.<sup>20</sup>

#### **Quota and quota-levy schemes**

New Zealand has no quota or quota-levy schemes.

### **1.2.2 Voluntary policies to persuade and encourage enterprises to retain disabled workers in general**

*Equal Employment Opportunity (EEO)* policies aim to encourage the recruitment and retention of disadvantaged groups, including disabled workers. We explore EEO policies in both the public and private spheres.

#### **Employment equity in the public sector**

The *State Sector Act (1988)* makes provision for equal employment opportunity in the public sector.<sup>21</sup> Specific EEO groups listed in Section 56 of the Act are Maori, ethnic or minority groups, women and persons with disabilities.<sup>22</sup>

Section 56 sets out the requirements for the chief executive of a Public Service Department to be a 'good employer'. In addition to establishing and maintaining equitable employment policies and practices for staff generally, employers are expected to introduce specific measures to address the disadvantages faced by particular groups of staff. Each year the chief executive must develop and publish an EEO programme for the department and an annual EEO report that provides an account of the extent to which the plan has been achieved. Under section 6 of the Act, the State Services Commission has a responsibility to monitor the EEO programmes and policies in the public service.<sup>23</sup>

#### *Background*

Equal employment opportunities have a long tradition in public service. The first governmental statement on equal employment opportunities was signed by 12 of the major governmental employing authorities in

1984. (There has, however, been unprecedented change in the structure of the public sector since that time, with significant impacts on EEO initiatives. This is reported below.)

EEO began with a focus on social justice issues and ideas of fair employment practice and anti-discrimination measures. More recently EEO has developed a focus on business outcomes - gaining access to the widest possible labour market, offering better service to customers, increasing organisational productivity, and closer integration of EEO into the business heart of the organisation, including organisational culture and core management practices. This development has led to suggestions that, over time, EEO may disappear and be incorporated into effective management practices.

*Implementation of EEO in the public service*

Since 1990 there has been a trend for EEO to be more closely integrated into the human resource systems, management approaches, and core business of the department rather than be addressed as an 'add-on' measure. It appears, however, that theoretical discussion around the value and necessity of integrating EEO outruns the more practical implementation and development.

EEO activities highlighted by public service organisations in 1995-96 included:

*i. Baseline EEO practices*

For example, the Department of Social Welfare (DSW) began a programme for addressing the needs of staff with disabilities. Over 1995-6 this involved establishing a national network of these staff and providing an infrastructure for ongoing consultation.

*ii. Affirmative action policies*

The Inland Revenue Department produces guidelines on creating suitable working environments for people with disabilities, for use by managers and supervisors.<sup>24</sup>

Another example is from the Department of Labour, whose EEO statement suggests that no new accommodation will be leased or purchased which does not meet the requirements of NZ Building Standard 4121. They also aim to continue to employ a minimum of five staff under the *Mainstream* programme, and offer two management development opportunities.<sup>25</sup>

*iii. Removing bias from human resource policies and practice*

The Inland Revenue Department publishes guidelines for managers on equal employment opportunity and the use of interview procedure, for all EEO groups, including people with disabilities.<sup>26</sup> The DSW has produced a guide for managers on the building-access and functional requirements of people with disabilities. Similarly, *EEO for People with Disabilities - A Practical Resource* was aimed at line and human resources managers and EEO practitioners in the public service. (The latter was also intended to be useful for the private sector.<sup>27</sup>)

*iv. Activities focused on changing organisational culture*

More than a third of public service organisations planned to provide EEO awareness training seminars to staff and/or managers. For example, the NZ Employment Service of the Department of Labour planned to hold four disability awareness seminars, one of which would be specifically targeted at managers.<sup>28</sup>

The DSW supports an EEO Network as an investment in establishing positive interaction between employer and employees. One of the aims of the DSW is to develop supportive personnel practice, such as mentoring or coaching, to reduce isolation of people with disabilities and enhancing retention rates within the departments. The Social Policy Agency and Corporate Office will support the national network to be established for staff with disabilities, ensure that managers are aware of the resources available to support, and development (especially technology) that can assist, people with disabilities in the workplace.<sup>29</sup>

The most frequently mentioned current EEO practices for disability were those around improving physical access to buildings.

*Monitoring and evaluation of EEO in the public sector*

Measuring the success of EEO policy in the public service is problematic. There are great difficulties in using and interpreting quantitative indicators as a measure of progress. Moreover, procedural and behavioural changes within organisations are only gradually reflected in their statistical profile. There is a range of issues to be resolved around monitoring the recruitment and retention of people with disabilities in the public service.

The *State Services Commission* (SSC) started systematic monitoring in 1991. In their annual collection of material they draw on information from two sources: the EEO documents provided by each Public Service Organisation, and reports written for each Department by the SSC as part of its monitoring responsibilities under Section 6e of the State Sector Act (1988).

Recent statistics show that 40 public service organisations employed a total of 34,863 staff. The size of these organisations ranged from a total workforce of 12 to a workforce of 6,625.<sup>30</sup> As Table I.1 indicates, there is a lack of disability data held across public service departments, and this has worsened over recent years. (NB. Disability data is collected only on appointment not on applications.)

**Table I.1: Percentage of disability data held across the public service 1992-6**

<i>Year</i>	<i>Percentage</i>
1992	72
1993	71
1994	74
1995	65
1996	59

Table I.2 suggests that the percentage of people with a disability in the public services has fallen in recent years, although it is not clear if this is influenced by the limited amount of data being reported.

**Table I.2: Representation of EEO groups 1991-96 (disability)**

<i>Year</i>	<i>Percentage</i>
1991	14.1
1992	15.0
1993	15.6
1994	15.5
1995	14.8
1996	11.1

People with disabilities are more likely to work in certain types of public service organisation than others. It is not clear, however, whether this is influenced by the level of identification and reporting of disability.

The fact that some organisations contain significant numbers of people in EEO groups, while others do not, has led to calls for identifying departmental, rather than public service-wide, goals for representation.

**Table I.3: Representation varies across types of public service organisation**

	<i>Percentage</i>
Public service	11.1
Policy	12.0
Mixed	10.7
Large service delivery	10.1
Medium service delivery	10.7
Small service delivery	16.4



**Table I.4: Percentage of people with disabilities earning \$60,000 or more<sup>a</sup>**

<i>Year</i>	<i>Percentage</i>
1991	1.6
1992	4.0
1993	2.6
1994	3.0
1995	3.8
1996	6.8

*Validity of data*

As indicated, people with disabilities have reached their lowest level of representation, although this decline may be the result of the reduced level of disability data held. The representation of people with disabilities has fallen from an initial high of 20 per cent of those organisations that provided disability data in the 1988 census. However, only a small number of Departments provided disability data for the 1988 census and collection methods have changed, making it difficult to draw valid conclusions from this.<sup>31</sup>

There is variance in the level of EEO data that are held across departments, particularly for disability statistics. There has been a drop in the level of disability statistics held, from 72 per cent of staff in 1992 to 59 per cent in 1996 (see Table 1). Only seven departments held 100 per cent of disability data for their staff as of mid 1996. The low level of disability data precludes any analysis of changes in representation and salary distribution for public servants with a disability.

While there is a higher level of EEO data recorded for applications for vacancies, there has been an extremely low level of data collected from those appointed - disability data was recorded for only 36 per cent of new appointments to the public service. Disability data on cessation is equally low - disability data are recorded for only 20 per cent of cessations. Thus, low levels of data mean that questions such as whether people in EEO groups are being appointed to the public service, and whether strategies targeted at increasing the representation of EEO groups have been successful, remain unanswered.

Departments have reported difficulties in collecting information on disability, and have questioned the usefulness of aggregating information on a wide range of conditions into one category. For example, it would appear from the information on salary distribution that people with disabilities are well represented in the higher levels within the public service (see Table I.4). This contrasts with anecdotal evidence that there is a concentration in the lower salary range. This difference may be due to the aggregation of a wide

---

<sup>a</sup> At 31 March 1998, one New Zealand dollar was equivalent to 0.5558 US dollars.

range of conditions into one category. This can hide the variability in the group and mask the significant dissimilarities.

Examples of the non-reporting of disabilities are illustrated by figures from within the Department of Social Welfare:<sup>32</sup>

- i) Department of Social Welfare: staff without disabilities 1,951; staff with disabilities 1,301; staff disabilities not recorded 3,266.
- ii) NZ Income Support Service: staff without disabilities 1,477; staff with disabilities 936; staff disabilities not recorded 1,745.
- iii) NZ Children and Young Persons Service: staff without disabilities 436; staff with disabilities 315; staff disabilities not recorded 1,139.
- iv) NZ Community Funding Agency: staff without disabilities 67; staff with disabilities 26; staff disabilities not recorded 31.
- v) Social Policy Agency; staff without disabilities 1; staff with disabilities 24; staff disabilities not recorded 68.

Some departments have experienced difficulty in collecting EEO data, attributable in part to concerns about privacy or confidentiality and that sensitive information could be used to discriminate, now or in the future. Under the terms of the Privacy Act 1993, Departments and the SSC have clear responsibilities in the collection and reporting of EEO information. Each time EEO data is collected, the purposes for which it is being gathered must be clearly stated. This information should also clarify the proposed recipients, whether or not it is mandatory to supply the information, and how confidentiality will be maintained. The Privacy Act makes it unlawful to use the data for purposes other than for which it is collected. It may be that if, after assurances, employees are still reluctant to provide information, the department may need to consider if there are aspects of the organisational culture which contribute to a perception that it is 'unsafe' to provide information.

Most Departments acknowledge the need for information on people with disabilities within the public service so that the representation and distribution of this group can be explored and monitored over time. Rather than cease the collection of disability statistics, departments want to see improvements in the quality of the data collected, and guidelines for departments on how the information can best be used.<sup>33</sup> A workshop run specifically to discuss the collection of EEO statistics on people with disabilities had representatives from disability advocacy groups and from agencies with responsibilities for the employment of people with disabilities. The outcome was an agreement that the State Service Commission's method of collecting statistics would be aligned with definitions and categories developed by Statistics NZ. Data to enable cross-tabulation of disability and ethnicity will be collected at the end of June 1998.

The adoption of a uniform definition of disability in 1997-8, along with categories for the collection of disaggregated information, should provide more detailed and useful information on people with disabilities in the NZ public service. It is hoped that these changes will increase the confidence of both staff and departments in the usefulness of the data and contribute to a higher level of data available for future analysis. Some believe it is important to provide information on educational qualifications held by public service employees in order to address the issue of 'underemployment'. The feeling has also been expressed

that previously employers had high expectations of employing people with disabilities, but are now less 'tolerant'. There is also a perception that people with disabilities are reluctant to identify themselves as having a disability and to organise within the workplace. Divisions within the disabled community may also be evident, with groups such as sight or hearing impaired people not wanting to identify themselves as 'disabled'. It is not clear into what a Chief Executive Officer (CEO) level commitment to EEO translates in terms of middle level management practices.

In relation to workplace adaptation and the public service, 'It would appear that the need for adaptation for people with disabilities in the public service remains an issue that is not being met and requires consideration'.<sup>34</sup> The majority of individuals from the study<sup>35</sup>, however, commented that they had active EEO programmes in their place of work. This suggests that EEO programmes may need to be refocused to meet the practical requirements of people with disabilities.

#### *Changes in the public service*

Changes in the public services have had particular impact on people with disabilities. The current public service environment is vastly different from that of the mid-1980s. Since 1984 there has been massive change in the structure of public service. At March 1984 the numbers in public services were 66,000; by December 1994 this was 33,000. Members of EEO groups were said to be most vulnerable to downswing.

During public service reforms, there has been a greater emphasis placed on performance. Arguably, this may be seen to impact on people with disabilities, who make up the one group which faces particular issues surrounding productivity. Competition is strong within the public service, placing an emphasis on education and qualification which may further disadvantage disabled people. Disability consultant Robyn Hunt expressed concerns that people with disabilities do not have the 'critical mass' necessary to keep the disability issue on the agenda when EEO is being subjected to mainstreaming (the pressure to abandon special EEO initiatives and use the same recruitment procedures as for non-EEO groups).

Robyn Hunt has also identified the need for management intervention and leadership, management, ownership and accountability to ensure effective EEO policy for the future. Hunt has developed a series of checklists around how to get started in establishing EEO policy; establishing disability networks; implementing EEO disability policy; recruiting, selecting and inducting staff with disabilities; and developing emergency procedures.<sup>36</sup> She also believes that greater awareness of the business reasons for EEO highlights the pragmatic advantages of practising EEO for people with disabilities in the public service. This could contribute to EEO having a higher profile than formerly.

The existence of particular and timely social or economic movements can assist a particular EEO group and an organisation's readiness for, or receptivity to, EEO intervention<sup>37</sup>. Thus, for example, the inclusion of people with a disability within the provisions of the Human Rights Act 1993, together with the disability survey to be undertaken by Statistics NZ, may provide some heightened awareness both for employers and for people with a disability themselves, and create a more receptive environment for EEO policy for people with disabilities.

Similarly, changes in the culture of the public service *could* mean greater receptivity to EEO measures and to accommodating people with disabilities. There are some suggestions that EEO is considered an accepted

and valued part of the workplace culture, and observable changes include the changes in physical accessibility for people with disabilities.<sup>38</sup>

*Equal Employment Opportunities in the private sector*

It is less straightforward to gain a handle on private sector EEO policy.

According to a publication from the New Zealand Employers' Federation, the Federation has 'long supported the principle of equal opportunities in employment, education and training, emphasising how important it is that employment decisions be made on the ground of relevant merit not the basis of personal characteristics unrelated to skill and ability'.<sup>39</sup> In 1985 the NZ Employers' Federation introduced the concept of equal employment opportunities within the private sector by developing an EEO statement. There was a 3-year phasing of programmes for private sector firms employing over 50 employees. Many firms, however, felt that asking about disability was an invasion of privacy and were also confused about what the definition was. Generally, people with disabilities were not being acknowledged as a designated group within EEO.<sup>40</sup>

For a short period after 1990, the private sector had legal responsibility to develop equal employment opportunities policy and programmes. This requirement, enacted by Labour, was repealed by the incoming 1991 National Government. The majority of employers were said to comply only grudgingly with these requirements.

Now the Human Rights Act can be said to provide a 'practical reason' for introducing EEO policy and programmes.

The NZ Employers' Federation believes that any EEO policy in the private sector must reflect the size and operational requirements of individual employing organisations.

It is difficult to find examples of innovative EEO policies operating in the private sector for persons with disabilities. The EEO Trust database reveals little on EEO strategies for disabilities at the employer level.<sup>41</sup>

As a general point, there is less interest in EEO policy from government, government officials, employers and unions. The last mentioned are more concerned with job losses, redundancies, departmental reorganisations, and loss of services.<sup>42</sup>

### **1.2.3 Financial incentives which encourage enterprises to retain disabled workers in general**

Several financial incentives are currently offered to retain disabled workers:

#### **The ACC scheme**

The *New Zealand Accident Compensation Scheme*, commonly called the ACC scheme, is based on the Accident and Rehabilitation and Compensation Insurance Act 1992 (ARCI) (see II.1.1); this provides financial support for the retention of jobs or return to work of people injured in the workplace. An early intervention strategy within the scheme attempts to gain the cooperation of employers at the outset to

ensure that the person retains their place at work and that a return to work is not delayed. When an employee is unable to return to full work hours but is able to work part-time, the employer is required to pay only for the part-time work. Through an abatement process, the injured person will receive earnings-related entitlements from the ACC until pre-accident earnings levels are reached (see II.1.4). This arrangement acts as an incentive to encourage enterprises to retain disabled workers.

It seems that the ACC is effective in its efforts to retain jobs for people who have had an injury or accident, as it has both advantages to the employer and the employee. The majority of injured persons (90 per cent) retain their jobs and are compensated for medical claims only.

### **Modification Grant Scheme and Job Support**

The *New Zealand Employment Service* provides programmes that are primarily aimed to gain employment for people with disabilities but can also be used to retain employment:

1. The *Modification Grant Scheme* provides a grant (\$10,000 max) to the employer to help meet the costs of modifying the workplace or to provide equipment so that the person can be employed (for more details see III.2.3).
2. *Job Support*, a programme administered by *Workbridge* (an employment placement agency for people with disabilities) was set up in 1994 under contract from the *New Zealand Employment Service*. *Job Support* (which is based on concerns about the cost of disability) makes individualised funding available to purchase support services needed by a person with a disability to work in open employment and to receive the appropriate rate of pay for the job. It can also provide a temporary or long-term wage subsidy to compensate employers for a worker's lower productivity or the extra supervision or training required. It is mainly used for first-time entry into a job, but it can be used to maintain the job (where ongoing support is required by the employed person with a disability in order to keep the job). (There is a distinction between retaining and maintaining employment.)

In 1995/96, 582 people with disabilities assisted by the *Job Support* programme.<sup>43</sup> The programme is popular and applications for the programme have dramatically increased. However, the funding situation is precarious. The 1996/97 budget was \$2 million, but funds ran out in July. The government promised more funding before the end of the year. Even if more funding is made available, 65 per cent of next year's budget will be used on renewals. Unfortunately, there is little research on the effects of services in terms of job retention.

3. *Job Plus* is a temporary wage subsidy paid to employers who provide permanent, full-time work for people with disabilities. The usual maximum subsidy is \$214 per week for a maximum of 52 weeks. Severely disadvantaged job seekers with a disability may receive a maximum of \$325 per week for 52 weeks. A total of 20,932 *Job Plus* placements were made in 1995/96, of which 3,484 were people with disabilities.

### **The Disabled Persons Employment Promotion Act 1960 and the Minimum Wage Act 1983**

Both the *Disabled Persons Employment Promotion Act 1960* and the *Minimum Wage Act 1983* promote opportunities for employment for people with disabilities in sheltered employment or the open labour

market. This is via providing exemptions from the minimum wage where the workers concerned are unable to earn wages at or above the minimum rate.<sup>44</sup> Employers and workers are consulted over the DPEP in relation to granting of exemptions.

The Disabled Persons Employment Promotion 1960<sup>45</sup> is 'an Act to make better provision for the employment of disabled persons'. Under the Act 'disabled person' means 'a person who, by reason of injury or disease or congenital deformity or old age or other physical or mental incapacity, is substantially handicapped in obtaining or keeping employment of a kind which, apart from that injury or disease or congenital deformity or old age or incapacity, would be suited to his experience and qualifications'.

The Act enables Ministers to approve organisations whose object is the care, treatment and rehabilitation of disabled persons. It allows exemptions from awards and agreements regulating employment. The Act is administered by the Department of Labour.

To promote employment opportunities for people with disabilities in the open labour market, the Minimum Wage Act 1983 provides for permits to be granted to allow workers to accept wages at a specified rate less than the minimum where the workers satisfy the Labour Inspector that they are incapable of earning wages at the minimum rate prescribed under the Act. The permits set a minimum wage for the worker concerned, for a period specified in the permit, generally up to a year. This provision has been little used in recent years, but, with the re-issuing of DPEP Act exemptions, it is becoming more widely used in the context of supported employment options. Approximately 70 under-rate permits were in effect in late 1996.

The usual suspensory loan limits are: home alteration (\$7,900 - a special means test applies above this level); car purchase (\$11,806); adaptation of car (\$708).

A review of sheltered workshops and the operation of the Disabled Persons Employment Promotion Act is currently underway.

### **I.3 POLICIES AND PROGRAMMES TO SUPPORT DISABLED EMPLOYEES AT RISK TO RETAIN THEIR EMPLOYMENT**

#### **I.3.1 Mechanisms to support the rights of employees whose continued employment is at risk because of disability**

The large number of small employers in New Zealand and the decline in union strength, particularly since the 1991 Employment Contracts Act<sup>46</sup>, limit the significance of workplace representatives. It would appear that disability rights and associated EEO initiatives are not high priorities for New Zealand unions at present; their current position is one of weakness vis-a-vis employers.

There are a number of informal disability advocacy organisations in existence. Under the terms of the *Health and Disability Commissioner Act 1994*<sup>47</sup>, nine advocacy organisations have entered into service agreements to provide advocacy within ten regions.<sup>48</sup> However, the thrust of the services is towards health

issues and there is little involvement in supporting employees whose continued employment is at risk because of disability.

The overall aims of the *Health and Disability Commissioner Act* are to promote and protect the rights of health and disability services consumers. It establishes procedures to deal with complaints against providers of health or disability services, but has little jurisdiction over employment issues. It is notable that disability issues are subsumed within a health context.

### **I.3.2 Financial incentives directed at employees whose continued employment is at risk because of disability**

**Training Support** (formerly Rehabilitation Allowance and Travel and Vocational Allowance).

Before 1 July 1995 - under the Disabled Persons Community Welfare Act - a Rehabilitation Allowance (at \$22.95 per week) was available to cover out-of-pocket expenses, such as fares, to support a disabled person seeking training or in employment. A 'Training Support Allowance' was also made available.

After 1 July 1995 - under the Disabled Persons Community Welfare Act - both Rehabilitation Allowance and the Training Support Allowance have been merged into a new entitlement, 'Training Support' funded by the Community Funding Agency of the Department of Social Welfare and managed by Workbridge. The Job Support programme (see I.2.3) was also established to assist with the extra costs of being in employment.

As well as meeting the eligibility criteria, applicants for Training Support must present a planned individual programme aimed towards working to improve future employment prospects. Training support is reviewable annually, and applications are not means-tested. Payments are made only during the specific period of the training, and there is no set amount payable (though there is a maximum weekly payment of \$100, for a period of three years).

Training Support aims to 'provide greater flexibility in meeting the training needs of people with disabilities who are working towards a career goal'.<sup>49</sup> Training Support may be used to meet costs not met by other programmes or grants in connection with training. These include transport costs, CV expenses, special equipment, provision of a support person, and course fees.

On 1 July 1997, the funding contracts for Disability Employment Placement and the Training Support and Self Start Funds transferred from the DSW to the Department of Labour.<sup>50</sup>

### **Disability support services**

Since 1993, disability support services have been progressively transferred from the DSW to the four Regional Health Authorities (RHAs), which are purchasing services for health and disability support services in New Zealand (although the RHAs are due to be replaced by a Transitional Health Authority). These transfers are almost complete, apart from the decision on responsibility for the provision of vocational services for people with disabilities. At the RHA level, vocational rehabilitation involvement is limited to

assessment for vocational needs, the provision of some day activity services, and a small number of sheltered employment sites.

RHAs have taken over the administration of programmes replacing entitlements under the Disabled Persons Community Welfare Act, from July 1 1995. Although there may be regional differences between RHAs, it is understood that entitlements from RHAs closely match the former levels of entitlement under the DPCW Act.<sup>51</sup> The aims of the Disabled Persons Community Welfare Act 1975 include support to people with disabilities to obtain mainstream employment opportunities. Section 15 provides payment for equipment to enable disabled persons to be mobile to enable them to undertake employment or educational or vocational training. Under section 16A of the Disabled Persons Community Welfare Act, DSW may provide up to \$11,800 towards purchasing a motor vehicle 'necessary to enable a disabled person to undergo training for, or obtain or retain, employment'.

The four Regional Health Authorities provide funding for Equipment Management Services for persons to undertake education and/or vocational training and obtaining and/or retaining employment.

#### **Assistance linked to vocational rehabilitation**

Section 26(3) of the *ARCI Act* obliges ACC to provide social rehabilitation assistance as part of vocational rehabilitation. This includes the purchase and modification of motor vehicles, and the provision of aids and appliances.

#### **The costs and benefits of returning to work**

The majority of injured persons (90 per cent) retain their jobs. Partial employment or part-time employment is negotiated between ACC's case managers and the employer. This provides some incentive to return to work, as the injured person may be able to receive full income (and not just 80%) through the process of abatement (see II 1.4.). Once employment is lost, however, the incentives are generally low for a severely injured person to return to work, as often jobs are not available which offer as high an income as the pre-injury level of earning.

Nevertheless, for people who have been on sickness benefits and were high income earners the incentives are high to return to work and receive pre-illness earnings. Some limited part-time work may be accepted to supplement the benefit. Generally, it is not financially rewarding to work more hours, as this will result in reductions in the main benefit, as well as the accommodation supplement and other grants and benefits. For many people with severe disabilities, the economic benefits for participating in employment are minimal. Any net increases in earned income over income support (invalids benefit) may be more than offset by the increased work-related costs of disability.<sup>52</sup> It is not clear what impact, if any, these benefits will have on job retention strategies.

### **I.3.3 Programmes which support a move to another employer or to self-employment**

No programmes specifically support a move to another employer or to self-employment. The ACC, for example, is reluctant to support self employment initiatives.



Up to 1 July 1995, *Self-Start Business Funding* was provided under the Disabled Persons Community Welfare Act. Loans of up to \$5,250 were available to enable disabled persons to stay in business or become self-employed by, for instance, the purchase of equipment or making alterations which would enable the person to commence a business. Applicants had to demonstrate the ability to work for a minimum of 20 hours per week; a business feasibility study was also required from someone with practical business experience. The loan was rebated by one-fifth each year, and written off after five years.

After 1 July 1995, the administration and funding for Self-Start was transferred to Workbridge. Although eligibility for funding is based on similar grounds as formerly, the business must have the objective of making a profit and enabling the persons to become financially self-sufficient. Loans or grants are available for people with disabilities. Grants are not subject to means-testing and applicants do not have to be registered with Workbridge.<sup>53</sup>

In addition, the *Enterprise Allowance Scheme* is available for long-term unemployed people and for persons at risk, which may include persons with disabilities. This provides a weekly payment to those going into self-employment. Some persons will be eligible for both schemes.<sup>54</sup>

The New Zealand Community Funding Agency's *Self-employment Grant Programme* contributes to the provision of assistance to people with disabilities to develop and promote opportunities for financial independence through self-employment.

## **I.4 BENEFICIARIES**

### **I.4.1 Impact of definitions of disability and eligibility criteria on access to and coverage of policies**

People injured by accident are covered by New Zealand's Accident Compensation Scheme. Those incapacitated by illness are covered by the New Zealand Income Support Service (Department of Social Welfare) by a sickness or invalids' benefit. (These two systems are further discussed in II.1.1.)

The legal definitions set under ACC have become tighter (see II.1.1).

### **I.4.2 Disabled workers who benefit and those who miss out**

People with minor injuries are likely to benefit more, excepting those who are covered by the Foundation for the Blind, which - because of historical factors - is able to ensure that provision is provided for the groups it includes. Those who are more generally disadvantaged within the labour market - through a lack of education and qualifications - are more likely to lose out, as are older and minority ethnic groups.

## **I.5 JOB RETENTION POLICIES IN CONTEXT**

### **I.5.1 Most prominent job retention policies**

ACC is the most prominent job retention policy because of the experience rating, based on an employer's work injury claims record (see I.1.2). The aim of this system was to make employers aware of the true costs of accidents and to reward employers with low claim costs: it is thus in the interests of employers to have injured people back at work as quickly as possible. The scheme focuses attention on *newly* disabled workers, and particularly on conditions resulting from injury rather than sickness.

## **I.6 IMPLEMENTATION OF JOB RETENTION POLICIES**

### **I.6.1 The effectiveness of institutional arrangements for monitoring and enforcement**

The operation of ACC ensures there are close links between employers and ACC case managers.

(The implementation of the Human Rights Act is discussed in I.1.1.)

### **I.6.2 Factors which affect the adoption of voluntary job retention measures and take-up of financial incentives by enterprises**

It is arguable that there is a lack of employer awareness about Modification Grants and similar financial incentives. Employers also have a desire to avoid bureaucracy and red tape. (See also I. 2.3.)

## **I.7 INTERACTIONS BETWEEN EMPLOYMENT POLICIES AND PROGRAMMES**

### **I.7.1 Ways in which employment policies complement and contradict one another**

It is unclear how the *Human Rights Act*, just in the early stages of implementation (see I.1.1), will interact with the *Privacy Act*. According to one source, 'It is possible that the Privacy Act 1993 will complicate employers' ability to respond to a complaint since this Act makes it unlawful to reveal personal information without the consent of the person concerned. As a consequence, if permission to reveal personal information is not given, an employer facing a discrimination complaint may have difficulty establishing that the best person for the job was in fact selected. Disclosure of personal information without the consent of the individual it relates to is not so likely to be a problem where a subsequent Complaints Review Tribunal hearing is held. This is because the Privacy Act allows disclosure without consent for the conduct of proceedings before any court or tribunal.'<sup>55</sup>

The *Employment Contracts Act 1991 (ECA)* does not mention discrimination on the grounds of disability. Recent case law has indicated, however, that the discrimination provisions under the *Human Rights Act* may give rise to a personal grievance claim against an employer under the ECA.<sup>56</sup> According to Taylor, the ECA

has the advantage that it can usually be combined with another personal grievance or claim that is not directly related to the specific aspect of discrimination. He quotes the example of an employee who may claim to have been discriminated against as well as claiming unjustified dismissal and breach of employment contract. The ECA has the advantage that the Employment Tribunal can be quicker than the Human Rights Commission to reach a resolution.<sup>57</sup>

Some conflicts are perceived to exist between the *Human Rights Act* and the *Health and Safety in Employment Act, 1992* (see I.1.2) and in particular the duty of employers prescribed under section 6 (a) to: 'take all practicable steps to provide and maintain for employees a safe working environment'. Employers have reported being concerned that people with disabilities are a greater risk in terms of complying with the *Health and Safety in Employment Act 1992* (e.g. a person with an intellectual disability may be perceived as having more difficulties following health and safety guidelines for their activities or for their immediate environment, or the assumption that people with physical disabilities are not safe).

The *Health and Safety Act 1992* (see I.2.2) may have implications for the ACC experience rating (see I.1.2 for ACC Experience Ratings Regulations 1993) where there is a link between the levy paid by the employer and the cost of harm occurring to the employees of that employer. There are also higher penalties for breaching the Act of up to \$100,000 or one year in prison. A study by Wren supports the idea that the ACC has been more effective than the Department of Labour in promoting and improving occupational safety and health.<sup>58</sup>

Research carried out by the Equal Employment Opportunities Trust revealed that employers placed a higher priority on complying with OSH because they have to, than with the *Equal Employment Opportunities programmes* (see I.2.3) because the latter are not mandatory<sup>59</sup>. Although employers may conform to occupational health and safety requirements, informed sources suggest that discrimination against disabled people continues to occur in the workplace, despite the Human Rights Act.

The Office of the Privacy Commissioner has noted that there are important issues arising under the Privacy Act in relation to EEO monitoring (see I.2.3). Despite the *Human Rights Act* and *State Sector Act* there is an express lack of statutory provision authorising or requiring the questioning of individuals for monitoring purposes<sup>60</sup>. The fact that collected information may be sensitive does not necessarily mean there is a problem under the Privacy Act, although if matters are not handled carefully there is scope for problems.<sup>61</sup> EEO monitoring could easily breach privacy principles if care is not taken in programme design and implementation. Blair Stewart expresses the belief that if proponents of EEO policies wish to encourage their use and adoption by employers, they should take the initiative to guide employers on the way to carry out these policies so that they do not breach the privacy law.<sup>62</sup>

Currently, the *Human Rights Act* can be said to provide a 'practical reason' why EEO policies and programmes should be introduced. With these in place, policies, procedures and other institutional barriers which cause, tend to cause or perpetuate inequality of opportunities can be eliminated, and compliance with the Act can be more easily guaranteed.

The inclusion of people with a disability within the provisions of the Human Rights Act 1993, together with the disability survey to be undertaken by Statistics NZ, may provide some heightened awareness both for

employers and for people with a disability themselves, and create a more receptive environment for EEO policy for people with disabilities.

*Consistency 2000* is a project undertaken by the Government to identify and resolve inconsistencies in legislation and government policy and administrative practices within the new grounds of the Human Rights Act 1993. However, the future of the project is in doubt and the likelihood is that Government will give itself more permanent exemptions to compliance with the Act.

### **I.7.2 Impact of the distribution of responsibility for employment policy**

Although all people with disabilities are eligible to use New Zealand Employment Services, local offices may refuse people with disabilities and direct them to use the specialist services of Workbridge.

The 1992 ARCI Act may be seen to operate more in the interests of employers than employees. The scheme is definitely a 'meaner and leaner scheme' for the injured employee.<sup>63</sup> The majority of employees, however, may benefit from ACC's focus on rehabilitation and early intervention strategies which may result in good job retention. This may in turn be of benefit to both the employer and employee. The introduction of experience rating is an incentive for employers and is generally seen as cost-effective by them.

## **I.8 LINKS TO LABOUR MARKET FACTORS**

### **I.8.1 Elements of labour market policies which influence the effects of job retention measures**

The *1991 Employment Contracts Act (ECA)* raised issues about the ability of workers with a disability to negotiate contracts from what is generally considered to be a less than comparable position of strength.<sup>64</sup> Pre-1991, collective negotiations at the national level affected six out of ten workers and all employees, whether union members or not, were covered.

The 1987 Labour Relations Act provided for Under-rate Workers permits to be negotiated into awards and agreements. The ECA offers flexibility to choose either individual or collective contracts. It extends personal grievance procedures to cover all employees, not just union members. So for people with disabilities under the Act, the access to personal grievance procedures has been widened at an individual level. Minimum employment conditions are now found in the Minimum Wages Act 1983, Parental Leave and Employment Protection Act 1987 and Holiday Amendment Act 1991. Negotiation is the key to ECA - in the past smaller workplaces relied on national awards - but under the new Act there are no such provisions. It is generally accepted that the ECA has radically shifted the balance of the bargaining process in favour of employers.

It is now easier for employers to engage workers on a temporary, fixed-term or casual basis. The 1987 Labour Relations Act had limited the use of insecure workers but, under the ECA, collective negotiations of contracts have no preferred status, and employers can choose to restrict collective negotiations to the enterprise, as opposed to the occupation or industry. There are fewer contractual restrictions on the use

of casual workers. The overall findings of one piece of labour market research are that 'bargaining arrangements under the ECA have done nothing to encourage the stability of employment and have in fact encouraged the casualisation of labour'.<sup>65</sup>

### **I.8.2 Changes in labour market demand and the structure of the labour market**

According to the Business Development Section of the Ministry of Commerce, there were 192,241 enterprises in early 1996. Eighty-three per cent (160,495) employed five or less full-time equivalent staff. Only 0.6 per cent of NZ businesses (1,190 in number) employ a staff of 100 or more. These figures are likely to be understated because they do not count agriculture and livestock production enterprises or what are described as 'economically insignificant' enterprises. Very small businesses - with up to five staff - employ 285,691 full-time equivalent staff. Large organisations - with more than 100 staff - employ 509,839 full-time equivalents, or about 40 per cent of the total employed.<sup>66</sup>

The statistics that are available allow very little to be said about duration of employment with any one employer<sup>67</sup>, although it is likely that there has been a rise in short duration employment. There are a number of possible explanations of this: changes to the nature of work; seasonal influences, skills requirement; changes in the type of technology and changes in the actual engagement of workers.<sup>68</sup>

There seems to be a general agreement that the labour market has become looser and more 'non-standard' i.e. part-time, contract work, limited hours, functional flexibility etc. However, it is not clear whether this offers opportunities or constraints to disabled people. On the one hand, part-time hours may assist those who have e.g. fatigue or particular demands on their time, but it requires a flexible benefit system to top up wages and also across a range of support services. On the other hand, contract work may mean constant change, which may not suit people. As the majority of New Zealand enterprises are small, this may have an adverse effect on return to work for people with disabilities as larger firms are more able to offer retention or alternative employment possibilities.

Pay inequality in New Zealand is high by OECD standards.

(For changes in the structure of the public sector see I.2.2.)

### **I.8.3 Changes in the union movement**

The union movement has witnessed significant decline over the last decade - mostly attributable to the Employment Contracts Act 1991 (see I.7.1) and the harsher economic environment. Unions appear to have had little success in trying to secure the discussion of equal employment opportunities. Flexibility in the labour market is very much employer- rather than employee-driven.

There is considerable evidence of a decline in union participation. Union membership has fallen at a time when the workforce is expanding, so union density has fallen more sharply than membership itself.<sup>69</sup>

The table below illustrates unions, membership and density 1985-1995.<sup>70</sup>

**Table I.5: Unions, membership and density, 1985-1995**

	<i>Unions</i>	<i>Membership</i>	<i>Density (%)</i>
Dec 1985	259	683,006	43.5
Sept 1989	112	648,825	44.7
May 1991	80	603,118	41.5
Dec 1991	66	514,325	35.4
Dec 1992	58	428,160	28.8
Dec 1993	67	409,112	26.8
Dec 1994	82	375,906	23.4
Dec 1995	82	362,200	21.7

Union membership by industry for the period 1991 to 1995 is shown below<sup>71</sup>. The largest decline in union membership has occurred in: the retail, wholesale, restaurants, cafes and accommodation sector; the agriculture, fishing and hunting sectors; in mining and related services; and construction and building services.

**Table I.6: Union membership by industry, 1991-1995**

<i>Industry</i>	<i>December 1991</i>	<i>December 1995</i> <i>1991-1995</i>	<i>% decline</i>
Agriculture/fishing/hunting	14,234	4,120	71
Mining & related services	4,730	1,593	66
Manufacturing	114,564	76,714	33
Energy & utility services	11,129	11,312	2
Construction & building	14,596	5,372	63
Retail, wholesale, cafes & accommodation	64,335	17,559	73
Transport & communication	52,592	49,156	7
Finance & business	32,219	26,241	19
Public & community	205,925	170,133	17
Total	514,324	362,200	30

Currently, nearly half of the unions have less than 1,000 members, which is a distinct change from the pre-Employment Contracts Act era.<sup>72</sup>

## **I.9 GENERAL BARRIERS TO EMPLOYMENT**

Consumer reports note that the major barriers to employment are particularly transport, but also discrimination in terms of physical access, attitudes, low expectations and income maintenance issues.<sup>73 74</sup>

## **I.10 CULTURAL FACTORS**

New Zealand is a bicultural state. All public policy is framed and operates within the Treaty of Waitangi which is the document providing for the settlement of New Zealand in the 1840s and the formal agreement between Tangata whenua (Maori) and Tauwi (European settlers). Since the mid-1980s considerable attention has focused on the Treaty in public policy debates. There is considerable variation in how the articles of the Treaty are interpreted. However, it is commonly agreed that three goals of Maori well-being are addressed in the document:

- i) participation
- ii) partnership (genuine sharing of power)
- iii) protection.<sup>75</sup>

An under-researched aspect of the Maori culture are the spiritual links related to a person's disability and the disabled Maori's perceptions of the cause of disability and the impact of their personal disability on the surrounding Maori community. One researcher<sup>76</sup> identifies such a link in the Maori belief that disabilities have a spiritual cause that influences their views about rehabilitation.

Although Aotearoa/New Zealand is officially a bicultural state, policy and service models have been driven according to one distinct set of values. It is not clear how an alternative world view and approach to policy can be incorporated within the existing policy framework. For example, how would policy take account of Maori notions of disability and spirituality? The most that seems to be happening is that front-line services are being provided by Maori for Maori (e.g. with supported employment) but there is little example of a fundamental shift of how we conceptualise disability from the Maori world view. Within Aotearoa / New Zealand we are still wrestling with the question: what would a bicultural disability employment policy look like? Indeed, what would any bicultural policy look like?

## **II. BENEFIT AND COMPENSATION PROGRAMMES**

The purpose of this Part of the report is to examine how social benefit and compensation programmes affect possibilities for disabled workers to retain or rapidly resume their employment. The main focus is on the application of benefit programmes in employment; that is, opportunities to combine earnings with income from disability benefits, workers' compensation or other employment-related reparations. The obstacles presented by systems for out-of-work benefits are also examined. The theme covers cash benefits and payouts and, where significant, allowances against taxable income. Programmes may be funded from tax revenues, or from earmarked or general insurance funds to which employers and/or employees contribute.

The first section presents information about workers' and other compensation programmes. This is followed by a discussion of arrangements for combining benefits and earnings from work. Provision is then considered for income support out of work, and its effects on work resumption. The final section examines interactions between disability benefit programmes and employment policies.

### **II.1 COMPENSATION PROGRAMMES FOR WORK-RELATED INJURY OR ILLNESS**

#### **II.1.1 Principal compensation programmes for work-related injury or illness**

People injured by accident or occupational disease are covered by New Zealand's Accident Compensation Scheme (commonly known as ACC). Those incapacitated by illness are covered by the New Zealand Income Support Service (Department of Social Welfare) by a sickness or invalids benefit.

#### **New Zealand Accident Compensation Scheme**

##### *History of the scheme*

New Zealand's accident compensation scheme, commonly known as the ACC scheme, developed from a 1966 review of workers' compensation by a Royal Commission chaired by Mr Justice Woodhouse (the Woodhouse Commission). The report submitted to Government in 1967 embodied the 'social contract' approach to accident compensation. It was created during a time of low unemployment, high productivity and affluence in New Zealand. The Woodhouse Commission based its proposals on five principles: collective or community responsibility; comprehensive entitlement; complete rehabilitation; real compensation; and administrative efficiency.<sup>77</sup>

The *Accident Compensation Act 1972* was passed and came into force in 1974. It replaced all existing provisions for compensation in New Zealand by a universal scheme. All New Zealanders - and visitors to New Zealand - were comprehensively covered for personal injury by accident (including industrial diseases), 24 hours a day without recourse to common-law actions for damages. The scheme provided entitlement to a range of benefits to the injured person and, in fatal cases, his or her dependents. These benefits were intended to support the injured person during the period of incapacity and recovery, providing compensation related to losses sustained and costs incurred as a result of injury. This included permanent disability (lump sums based on an assessed percentage of disability, on pain and suffering and on loss of enjoyment to life), loss of earnings (set at 80 per cent of previous income), funeral costs, treatment costs



## *Benefit and Compensation Programmes - New Zealand*

and rehabilitation. A non-earner, e.g. a housewife, would be entitled to permanent disability and treatment costs, funeral costs and social rehabilitation only, not loss of earnings.

Strong rehabilitation objectives were included in the founding legislation. Although there was no statutory right to vocational rehabilitation, no job security rights and no specific provisions relating to 'return to work', there were strong directive provisions underpinning the ACC's discretion.<sup>78</sup> Funding was provided from government, employers, and motor vehicle owner levies. Criminal injury coverage was included in 1975.<sup>79</sup> In 1975 the employers' levies were increased by 50 per cent and in 1978 cash bonuses and penalties were introduced.

The process of amendment of the Act began almost immediately and perceived operational difficulties were remedied in the consolidating *Accident Compensation Act 1982*. The 1982 Act strengthened the rehabilitation clauses by including a specific directive to place greater emphasis on rehabilitation. However, the tradition remained for compensation to be a statutory right and for rehabilitation assistance to be discretionary.<sup>80</sup>

Until 1984, ACC's income had been maintained at a level in excess of expenditure. This had allowed the Corporation to build up reserves of capital sufficient to cover more than 12 months costs. By 1987, the scheme had used most of its reserves and was virtually bankrupt,<sup>81</sup> necessitating a dramatic rise in the levy on employers. In addition New Zealand was in a period of high unemployment and poor economic growth.<sup>82 83</sup>

In 1990 the new National Government appointed a Ministerial Working Party to review the Accident Compensation Scheme. After considering its report, the Government published a statement of policy outlining the proposed changes to the scheme intended to make it 'fairer, cost-effective and sustainable'.<sup>84</sup> Following a consultation period, legislation was introduced which eventually became *the Accident Rehabilitation and Compensation Insurance Act 1992 (ARCIA)*. This was followed by *Amendment Acts (no 2) 1993* and *1996*.

The *ARCIA* was designed by the Government to address the boundaries of the scheme and its costs, by more accurately defining which injuries were covered and how benefits were to be provided.<sup>85</sup> It was to reform the scheme in terms of its fairness and affordability, as costs had been rising at an unacceptable rate (e.g. by the early 1990s ACC was paying out somewhere between \$30 million and \$50 million a year in lump sums for sexual abuse alone).<sup>86</sup> Also, insufficient funding was predicted by the end of 1993. The main intention of the new Act was to maintain the scheme's financial affordability by becoming a quasi-commercial insurance provider.<sup>87</sup> The Act's preamble states that it is an 'Act to establish an insurance-based scheme to rehabilitate and compensate in an equitable and financially affordable manner those persons who suffer personal injury'.<sup>88</sup> It is drafted in the form of an insurance scheme. Nevertheless the benefits available are limited and, unlike negotiated insurance which covers insured risks, the person insured '... cannot negotiate the terms of the policy including the extent of cover and the premium to be paid'.<sup>89</sup> In fact ACC (now the Accident Rehabilitation and Compensation Insurance Corporation) is still a compulsory monopoly provider.<sup>90</sup>

*The current scheme*

The revised scheme is a Government-sponsored, no-fault and compulsory programme. All people (of any age) who are injured by accident anywhere in NZ are covered. The scheme is funded by (a) an employers' account (employers pay a premium for each employee), (b) a motor vehicle account (based on motor vehicle registration and fuel tax), (c) a non-earners' account (premiums appropriated from parliament, with funds applied to personal injuries, other than motor vehicle-related), (d) an earners' account (premiums are paid by all employees and self-employed people), and (e) a medical misadventure account (premium income funded by non-earners' and earners' accounts). 32.5 per cent of the total of the 138,611 claims for 1996 were work-related.<sup>91</sup>

The legislation defines personal injury as death or physical injuries to a person and any mental injury which results from such physical injuries. Such injuries must be caused by an accident or by gradual process, disease, or infection arising out of and in the course of employment, medical misadventure or be a consequence of treatment for personal injury. 'Accident' is defined as a specific event or events involving the application of external force or resistance.<sup>92</sup> These more restrictive wordings of both 'personal injury' and 'accident' replace the previous broad definition of 'personal injury by accident'<sup>93</sup>

The system is universal in NZ and coverage is for 24 hours per day with free medical treatment, hospital service and earnings-related compensation. It is a no-fault system which prohibits recourse to civil damages suits. A restriction in the scheme, however, pertains to illness and disease. Illness and disease which are not work-related are not covered and such conditions are referred to social welfare benefit and sickness benefit. It is possible to claim for disease and infections arising out of and in the course of employment. The new legislation (ARCI 1992) has retained most of its original principles (in the Accident Compensation Act 1972). The principle of earnings-related compensation to the value of 80 per cent of previous income and the 24 hour no-fault coverage for personal injury have been retained.

The legislation makes rehabilitation a right and earnings related compensation after the first year more discretionary<sup>94</sup> in contrast to the previous legislation. The **full** payment of medical costs for workers' work injuries, which were available previously, has now been withdrawn, and lump sum payments for pain and suffering and loss of enjoyment of life have been abolished. Instead, an independent living allowance, with an upper limit of NZ\$60 per week for non-economic loss was introduced. This allowance is intended to assist the injured person with the additional costs of living with a disability, not as a means of compensating for injury. It is a tax-free allowance payable on a weekly basis and assessed in proportion to loss or disability. NZ\$60 is paid for 100% disability. However, in reality it has been noted that this allowance is extremely difficult to get and that the average amount received for a permanent partial disability has been NZ\$5 per week.<sup>95</sup>

Under section 50 of the 1992 Act, and under the ARCI Amendment Act (No.2) 1966, ACC was required to develop a work capacity assessment procedure (WCAP). The aim of the procedure is to 'reduce the social, economic and physical impact of personal injury on individuals in the community' and to 'help people who have been injured by accident to return to independent living and employment promptly, sustainably, and cost-effectively'.<sup>96</sup> The assessment is also intended to test long-term claimants' fitness for work in a way that is more consistent and thorough than general practitioners' certificates.

ACC conducted an assessment of the work capacity procedure (WCAP) in early 1997, involving 39 volunteers receiving weekly compensation.<sup>97</sup> However, a relatively large number (168) of the 207 claimants identified from ACC's database declined to take part in the Field Trial. The degree of potential for sampling bias is thus high.<sup>98</sup>

Although medical assessors were able to make decisions in all the Field Trial cases, all eight assessors indicated that the decision-making process was, to some degree, hindered by the incompleteness of the claimants' previous medical and vocational records.<sup>99</sup> The majority of medical and all the vocational assessors saw the supporting administrative guidelines as assisting them in their assessments of claimants. However, the majority of assessors saw a potential for these resources to be improved.<sup>100</sup> Some of the medical assessors, for instance, considered that their decision-making and report back to ACC could be both clarified and simplified if the report-back forms were more explicit about the official categories of assessment outcome recommendations that were required.

Some claimants expressed confusion about what the actual medical decisions were regarding their capacity for work. The majority of the claimants viewed the proposed WCAP as fair and reasonable, i.e. they were satisfied with the procedures used by ACC to assess their work capacity in employment areas other than their pre-injury employment. Those that considered the process to be unfair primarily found fault with the medical assessment procedure used to assess work capacity, or felt they were not adequately informed about what to expect in or from the vocational and medical assessments.<sup>101</sup>

The research can be criticised for using a very small, self-selected and unrepresentative sample which is an inappropriate basis for legitimising the new procedure.<sup>102</sup> The ACC nonetheless prepared two draft documents on WCAP for public consultation before incorporating them into their procedures on 1 October 1997. It intends to conduct a full evaluation following implementation of the procedure.

### **Sickness and Invalids Benefits**

*Sickness Benefit* is one of the main social security benefits provided by the Department of Social Welfare and is intended as a short-term benefit. It is based on sections 54-56 of the Social Security Act 1964. It is a benefit for a person temporarily unable to work through illness or accident (those not covered by ACC), or who will be unable to work for an indefinite period, and where an employer's duties to pay under the terms of the individual employment contract have been exhausted. The person will thus have lost salary, wages or other earnings. The applicant is entitled to this benefit provided that age (above age 16) and resident requirements (ordinarily resident in New Zealand, and have resided continuously in New Zealand for a period of twelve months) are met. In order to qualify for Sickness Benefit, an applicant's condition and incapacity for work must be verified by a medical practitioner. This is usually the sick person's general practitioner. Since September 1995, Sickness Benefit medical certificates are issued for a maximum of four weeks. The applicant must then be reassessed by a doctor chosen by the New Zealand Income Support Service (in the Department of Social Welfare)<sup>103</sup>, again at 13 weeks, then 12 months and annually thereafter. It is a means-tested flat-rate benefit.

Since July 1996, people who receive this benefit are able to earn NZ\$80 a week before benefit abatement rises to 70c in the dollar and their main benefit is reduced.<sup>104</sup>

The *Invalids Benefit* is intended as a form of long-term assistance for people who are permanently and severely incapacitated.<sup>105</sup> If an applicant for the benefit is totally blind or is permanently and severely restricted (by 75 per cent or more) in his or her capacity for work as the consequence of an accident (not covered by ACC), illness or congenital defect, the applicant is entitled to the Invalids Benefit. It is based on sections 40-46 and 53A of the Social Security Act 1964. The applicant must be ordinarily resident in New Zealand at the time of application and must have been so resident at least ten years before application. The rate of benefit varies with the income and domestic circumstances of the beneficiary up to a specified level and is means-tested. The sick person is eligible for health subsidies, accommodation supplements, home help, a weekly disability allowance, help with telephone charges and a training allowance.

Since July 1996 people who receive Invalids Benefits can earn NZ\$180 per week before the benefit abatement rate rises to 70 per cent.<sup>106</sup>

### **Comments**

People injured by accidents under the ACC compensation scheme are treated more generously financially and also have higher medical benefit entitlements than those on Sickness or Invalid Benefit. Moreover, they are not means-tested.

This system is discriminatory and has advantaged injured people over those who are sick. This has resulted in many people feeling that a 'welfare caste system' has been established on the basis of the cause of incapacity, and it also led to a division in the disability community.<sup>107</sup> This division and its consequences have contributed to a bias by some doctors and incapacitated workers towards establishing that a specific condition is personal injury rather than illness. If back pain, for example, can be attributed to heavy lifting rather than the ageing process, it may attract subsidies for treatment and compensation for time off work which would otherwise not be available. Given that the causes of back pain are impossible to diagnose, a blurring of the boundaries of ACC cover occurs frequently. Also some doctors in the community have a reputation for issuing ACC medical certificates easily.

A Bill was introduced in 1990 to enable sick people to be treated on the same basis as those who had had accidents. Although the Bill was defeated as a result of a change of government, people receiving ACC compensation had been concerned that, if passed, it would have reduced their compensation in order to increase compensation for others.

The work capacity assessment procedure (WCAP) was introduced on 1 October 1997. Although it is too early to specify its effects, it was expected that the 'tail' of long-term claimants would be reduced.

The 1992 changes have been controversial. The main criticism has been that the scheme no longer provides comprehensive compensation and is 'too mean ... and compensation is absurdly low'.<sup>108</sup> In the light of these perceived inadequacies in the levels of compensation the debate has focused on the issue of whether injured persons should be allowed to sue for compensation when they are the victims of the negligence of others.<sup>109</sup> A further criticism is that the WCAP has adverse affects on people with disabilities by shifting the cost of injury onto the injured claimants and their families.<sup>110</sup> Also, some people fear that the changes in ACC's legislation signal the possibility that accident compensation will become privatised and the original principles of the scheme will be lost.<sup>111</sup> Others welcome privatisation, competition and choice.<sup>112</sup>

For non-earners (e.g. children and their carers) who do not qualify for weekly, earnings-related compensation, the lump sum was their only significant income from ACC. It is now replaced by the independent allowance which is based on a measure of disability and is payable to a maximum of \$40 per week. Duncan quotes an example '... whereas previously a rape victim or a woman whose ovaries were accidentally removed by the wrong surgeon would have received a large lump sum, she may now receive little more than subsidised medical and counselling costs if her resulting physical disability is minimal'.<sup>113</sup>

The direction of ACC may depend on the outcome of the next general elections, which are likely to take place in 1999. In August 1996, before the last elections, the Labour Party, currently the main opposition party, announced in their newsletter that they were planning to scrap the 1992 Act and that they would place more emphasis on prevention.<sup>114</sup>

## **II.1.2 Features of the compensation process which affect job retention and return to work**

### **Injury through accident**

The injured person is covered usually after the first medical treatment. The employee has to advise his or her supervisor/manager of work absence. The supervisor/manager advises the company's rehabilitation co-ordinator (in large companies this may be the occupational health nurse, in smaller companies this may be the personnel manager, in very small companies this may be the manager) when absence exceeds a specified time (e.g. one week, two weeks) or level of injury severity. The reason for absence is defined as being either injury or illness - this distinction is important as only injuries (and occupational disease) are covered by ACC, whereas illness is covered by the Department of Social Welfare. The rehabilitation co-ordinator contacts the employer to liaise with the employee, doctor, manager/supervisor, personnel, payroll section and ACC case manager. The case manager assesses return to work options, develops a return to work plan and obtains medical clearance. The return to work plan is implemented and monitored until the return to usual duties occurs. The injured person has to apply for entitlements, such as weekly compensation, rehabilitation, household help or independence allowance. Weekly compensation consists of 80 per cent of pre-injury income. Neither entitlement to a lump sum award nor access to common law remedies are available. The distinctive feature in this process is close liaison with ACC as soon as possible.<sup>115</sup>

In practice, this proposed procedure is not working as well as it could work. Case managers have reported that they have a workload of an average of 150 to 200 cases, also staff turnover is reported to be very high. People with disabilities report dissatisfaction due to frequent changes in case managers and constant changes to the scheme. Also employers are still not fully aware of their responsibility in this process. There have been suggestions that employers have even discouraged injured workers from reporting their injury to ACC (due to the experience rating that was introduced by the 1992 ACC legislation - see I.1.2). However, there is no reported evidence for this.

### **Sickness or Invalids Benefit**

The sick person is usually covered after the specified time allowed in the individual's contract to stay off work. The employee has to advise his or her supervisor/manager of work absence. The supervisor/manager advises the company's personnel manager (in very small companies this may be the manager) when absence exceeds the specified time (e.g. 1 week, 2 weeks). No entitlement to a lump sum award is available. There

is usually an incentive for the employee to negotiate with the employer a return to work, as loss of employment would mean that, once a person is no longer eligible for sickness benefit (and is well enough to return to work), he/she would have to transfer to unemployment benefit.

In practice, the sick person depends very much on the good will of the employer and the individual employment contract. People on sickness benefits are currently in the vulnerable position of potentially losing their jobs. If they are members of a union, alternatives can be negotiated between the union and the employer. However, since the Employment Contracts Act, union membership has decreased and many employees are not union members (see V 2.3).

### **II.1.3 Influences of key actors involved in the process**

#### **Injury through accident**

The Accident Rehabilitation Compensation Insurance Corporation's personnel (case managers) work together with employers, rehabilitation providers and medical practitioners. Successfully retaining one's job depends on:

- i) the individual's employment contract (requirements outlined in the initial contract between employee and employer with reference to alternative duties);
- ii) the employer having a rehabilitation programme in place and having consulted with the relevant union on the principles of keeping the position available until the injured worker's recovery and/or rehabilitation;
- iii) the medical practitioner who provides the injured person with an ACC medical certificate.

In practice, some efforts have been made by employers to enable injured employees to return to work. However, there has been some ill feeling by some employers against doctors who give ACC medical certificates easily.<sup>116</sup>

#### **Sickness or Invalids Benefit**

The employee receiving Sickness or Invalids Benefit has to negotiate with the employer, after receiving medical clearance, for a return to work. The individual is very vulnerable to losing their job; it depends on the industry, the employer and the individual. The union could be involved. Also it depends on the individual's employment contract (requirements outlined in the initial contract between employee and employer with reference to alternative duties).

### **II.1.4 The effects of compensation on job retention, on return to work and on exit from employment**

#### **Injury through accident**

The ACC's early intervention strategy attempts to gain the cooperation of the employer at the beginning, to ensure that a return to work is not delayed. Providing that the injured person maintains up-to-date

medical certificates, weekly compensation may be payable from the end of the first week of incapacity. The first four weeks are paid at the short-term rate (based on 80% of previous four weeks earnings). From the beginning of the fifth week, the long-term rate applies (based on 80 per cent of the previous 52 weeks earnings).

When an employee is unable to return to full work hours but is able to go back to work part-time, ACC requires information about what wage is paid by the employer to enable ACC to calculate the remaining payment to be made. The incentive for the injured person to go back to partial or part-time work is to receive income from their employer and through earnings-related entitlements from ACC (through the abatement process) until pre-accident earning levels are reached.

If the person's absence from work results in a loss of employment, the injured person has the right to vocational rehabilitation. However, in many cases there are few monetary incentives to go back into the workforce.<sup>117</sup> When 80 per cent of earnings-related compensation is compared with the income of people who have been on sickness benefits and then have to apply for unemployment benefits, it is clear that people on ACC are usually much better off. A study by Pernice found that there was considerable reluctance to accept any type of employment which could jeopardise their regular and secure entitlement to compensation.<sup>118</sup> The New Zealand Employers Federation also accuses ACC claimants of using the ACC as 'a de facto unemployment scheme' and cite that up to 27,000 of the current 60,000 long-term clients in the early 1990s were still receiving ACC payments because they could not find a job.<sup>119</sup>

The introduction of the work capacity assessment procedure in October 1997 will mean that many injured persons who have been assessed as having a capacity for work will not be entitled to a continuation of their weekly compensation. This applies even if a job cannot be found due to lack of employment opportunities. This procedure may encourage those who are able to work to look for and accept 'suitable' employment. The Disabled Persons Assembly has commented that the cost of injury has been shifted onto people who have been injured and who may be unable to obtain employment through no fault of their own.<sup>120</sup> Moreover, ACC and employers may then have less incentive to provide rehabilitation. Although WCAP may be seen as 'cost-effective', the relevant costs are far wider than the cost to ACC of earnings-related compensation. Any meaningful assessment of the cost of injury to individuals and the community would need to take account of the 'opportunity costs' of disabilities arising from injury. These wider costs of injury, being indirect, are not easily measured. Nonetheless, the NZ Employers' Federation itself has welcomed WCAP, as it considers it a fair process and a first step in returning fit people to work, or at least removing them from the ACC scheme.<sup>121</sup>

### **Sickness or Invalids Benefit**

According to one report, the vast majority (80 per cent) of people on Invalids and Sickness Benefits want employment and want to be in real work.<sup>122</sup> This reflects the general wish of people with disabilities to be in work: desired labour force participation rates have been estimated at 89.5 per cent for males and 74 per cent for females.<sup>123</sup>

A person receiving a Sickness Benefit who was previously on a middle or high income will be worse off than when working and will have to negotiate with the employer to return to work. The incentive to return to work is high. However, a low income person may not have many incentives to return to work. If the

person is unable to return to work and is no longer eligible for Sickness Benefit, he or she would be considered unemployed and would have to transfer to an unemployment benefit (which is paid at a lower rate than Sickness Benefit).

## **II.1.5 Characteristics of disabled workers who do or do not retain their employment or return to work following successful or unsuccessful claims**

### **Injury through accident**

An analysis of ACC data revealed that a higher percentage of people over the age of 50, people injured in motor vehicle crashes, those with head and multiple location injuries and those with amputations, dislocations, injuries to internal organs and OOS (Overuse syndromes) remained on compensation longer than other groups.<sup>124</sup> (No gender differences were found.)

Individuals who are injured are more likely to be working in risky jobs and industries. These include agriculture, farming, forestry and meat processing, but are less likely to be professional occupations. There will be difficulties for manual workers to find alternative work that requires re-training and significant investment of time and training. There are also difficulties with finding alternative work opportunities in geographically separated labour markets.

### **Sickness or Invalids Benefit**

The recipients of Sickness and Invalids Benefits show distinctive age-sex profiles. Twenty-seven per cent of the age group 50-59 were on either one of these two benefits, with men over-represented in the group. Overall, men are more frequent recipients of an Invalids Benefit than women.<sup>125</sup> The recent National Household Disability Survey (1996) conducted by Statistics New Zealand found that people with multiple disabilities are more likely to receive benefits than those with single disabilities.

According to the Quarterly Review of Benefit Trends (for the period ended March 1997) a total of 29,367 people were in receipt of Sickness Benefit, of whom 12,324 (42 per cent) were women and 17,043 (58 per cent) were men.<sup>126</sup> There were 45,099 people on Invalids Benefit: 19,256 women (43 per cent) and 25,843 men (57 per cent).

## **II.2 OPPORTUNITIES TO COMBINE WORK AND BENEFIT**

### **II.2.1 Provision for combining income from work and from disability-related social security benefits**

#### **Injury through accident**

The majority of injured persons (90 per cent) retain their jobs and are compensated for medical claims only.<sup>127</sup> Partial employment or part-time employment is negotiated between ACC's case managers and the employer. This provides some incentive to return to work, as the injured person will receive full income (and not just 80 per cent) through the process of abatement (see II.1.4.)



### **Sickness and Invalids Benefit**

Partial employment or part-time employment is sought, if full-time employment is not available, but only to supplement the benefit. Sickness beneficiaries are able to earn up to NZ\$80 before their main benefit is reduced. People on Invalids Benefits can earn NZ\$180 (gross) a week before the benefit abatement rate rises to 70 per cent. In-work benefits are available for limited periods under the Job Support scheme administered by Workbridge (see I.2.3).

## **II.2.2 Effects on numbers retaining and numbers returning to work**

### **Injury through accident**

The majority of injured persons retain their jobs. There are good incentives to accept part-time or partial employment until fully rehabilitated. Once employment is lost, however, the incentives are generally low for a severely injured person to return to work, as often jobs are not available which offer as high an income as the pre-injury level of earning. The chance of being injured are high in agriculture, forestry and the meat industry, and lower in the service sector. There are also regional differences, reflecting the location of these industries.

### **Sickness and Invalids Benefit**

For people who have been on Sickness Benefit and were high income earners, the incentives are high to return to work and receive pre-illness earnings. Some limited part-time work is accepted to supplement the benefit. Generally, it is not financially rewarding to work more hours, as not only is the main benefit reduced, but so are the accommodation supplement and other grants and benefits. For many people with severe disabilities the economic benefits of participating in employment are minimal. Net increases in earned income over income support (Invalids Benefit) may be more than offset by increased work-related costs of disability.<sup>128</sup>

## **II.2.3 Impact of definitions of disability or capacity for work on access to and coverage of benefit programmes**

### **Injury through accident**

The injured person's capacity to work is assessed by his or her general practitioner (ARCIA 1996 Amendments). If the person does not return to work before three months have elapsed, ACC may stop paying weekly compensation. The new WCAP (October 1997) will be requested after the injured person has completed their vocational rehabilitation plan, agreed by him/her and the case manager. This assessment will be completed by occupational assessors and general practitioners (medical assessors contracted by ACC). The duration of the vocational rehabilitation period can extend from three months to up to three years. The WCAP procedure determines whether there is any clinical reason stopping a person doing 'suitable full-time work' (at least 30 hours per week). ACC ceases compensation after another three months, even if a person is unable to find work because of lack of employment opportunities, but is fit to be employed.

### **Sickness and Invalids Benefit**

The person applying for a Sickness Benefit must provide a certificate from a medical practitioner. As noted in II.1.1, reassessment by a doctor chosen by Income Support is necessary after four weeks, 13 weeks, 12 months and annually from there on. The sick person can be verified as fit to resume normal work, unfit for any work or fit for limited work. Incapacity to work is established on the basis of medical condition. A scale has been developed in consultation with the New Zealand General Practitioners Association to assist doctors in determining percentage incapacity, as only those who have a 75 per cent incapacity or more qualify to receive Invalids Benefit.<sup>129</sup> A 75-84 per cent incapacity means 'functioning across a range of work areas is severely restricted. Incapacity is such that even with appropriate adaptation of the work environment and support it is improbable that the patient will participate in open employment'.<sup>130</sup>

## **II.2.4 Effects of claiming and assessment procedures on take-up of in-work benefits**

### **Injury through accident**

There is no asset or income test for the injured person on ACC compensation (see section II.2.1) Therefore the uptake of in-work compensation is an advantage.

### **Sickness and Invalids Benefit**

There is both income and asset testing and the beneficiary would start losing benefit once a certain amount of income is received (see section II 2.1).

## **II.2.5 Interactions between in-work benefits and other in-work income support programmes**

Provision for combining income from work and from disability-related benefits have been discussed in section II 2.1. In addition, workplace modification grants (max. NZ\$10,000) and Job Support (which can be used as a wage subsidy to assist return to work) are available.

## **II.2.6 Disabled workers who benefit and those who miss out**

### **Injury through accident**

In general the worker on ACC compensation, who is injured by accident, benefits. Also anybody with higher education is advantaged as they may be more likely to be aware of the system and have greater success in accessing its measures.

### **Sickness and Invalids Benefit**

People on sickness or Invalids Benefit miss out as the abatement system does not recognise the costs of disability. In the case of low-income earners, provided they work full-time (min 30 hours per week) and earn below NZ\$24,000 per year, additional benefits such as the disability allowance, the medical subsidy and some of the accommodation supplement are retained. High income earners lose all the above benefits. Individuals must take the initiative to report and to begin the process of establishing a claim. This may disadvantage minority ethnic groups.

## **II.3 TRANSITION BETWEEN BENEFITS AND WORK**

### **II.3.1 The effects of the disability benefit system on return to work**

#### **Injury through accident**

For people on ACC compensation it is financially advantageous to return to work as they would lose 20 per cent of their income if they became unemployed. If part-time employment can be negotiated between the injured person and the employer, there would be the incentive that income received could be at pre-injury levels. Other added incentives would be the quick return to the familiar workplace and work environment. There may thus be both psychological benefits (retention of possible job satisfaction, self-esteem, contact with work colleagues, retention of work structure and routine) as well as economic ones.

#### **Sickness and Invalids Benefit**

For people on sickness benefits the return to work has financial incentives. If they have lost their jobs during their period of illness and are no longer eligible for Sickness Benefit, unemployment benefit is the only alternative. Some limited part-time employment with income up to a specified level adds income to an otherwise meagre benefit. For people on Sickness Benefit there is generally little financial incentive to work, as the disability-related costs may be high and only high-income earners would benefit.

### **II.3.2 Provisions for financial support to disabled workers for transition between benefits and work**

#### **Injury through accident**

During work trials the injured person retains 80 per cent of earnings-related income.

#### **Sickness and Invalids Benefit**

If employment is unsuccessful, the person will have to apply for Unemployment Benefit or Invalids Benefit, which may be difficult to get back (see definition of incapacity).

### **II.3.3 Effect of entitlement to benefits in kind on return to work**

#### **Injury through accident**

Injured people who are in employment generally retain medical benefits under ACC and are eligible for subsidised health services (depending on the level of disability).

#### **Sickness and Invalids Benefit**

When people on Sickness Benefit are considered fit to work and return to full time employment, they lose accommodation supplements, family support and subsidised health services (unless they are low income earners who are entitled to subsidised health services). People on Invalids Benefit will retain many of the subsidised health entitlements.

#### **II.3.4 Co-ordination between agencies in assessment for benefits eligibility**

As the incapacitated worker is assessed according to whether he or she has been incapacitated by an accident or by illness, there is no co-ordination between the Accident Rehabilitation Insurance Corporation and the New Zealand Income Support Service (Department of Social Welfare). Two quite separate systems are operating parallel to each other. However, both ACC and the New Zealand Income Support Service co-ordinate with medical practitioners, physiotherapists and occupational therapists etc.

### **III. EMPLOYMENT SUPPORT AND REHABILITATION SERVICES**

This Part examines the integration of personal support and rehabilitation services within the workplace. It deals with the external support services available to individual workers and their employers where continued employment is at risk because of disability. (Internal services, initiated and managed by enterprises, will be covered in Part V.) The discussion also includes services for early return to work once employment has been lost.

The main focus is on service interventions which support job retention by employees who become injured, ill or disabled and also their return to employment during the process of recovery. It concerns active rehabilitation services that help disabled people to recover capacities and skills, as well as services that support their re-adjustment to work. (Services involving adaptations to the work environment and to working arrangements will be discussed in Part IV.)

More specifically, sections III.1 to III.5 will cover policy about employment-related personal support and rehabilitation services, provide details of services and their providers, and describe the service beneficiaries. The remaining sections will examine the factors influencing the effectiveness of support services for job retention and early return to work. They include a discussion of relationships between the various employment support and rehabilitation services, their relationship to the employment sector, and their interaction with employment policies and compensation and benefit programmes.

#### **III.1 POLICY AND RESPONSIBILITY FOR POLICY AND PROVISION**

##### **III.1.1 The main bodies responsible for employment support and rehabilitation policy, and links to other agencies with employment or benefits/compensation responsibilities**

Currently there is no centralised national policy on employment support and rehabilitation. Responsibilities for funding, provision and services are spread out over a number of agencies in the health, social welfare, education and employment sectors and in each sector appropriate policies exist and are periodically revised (see section III.2.1). However, there is no national strategy and these policies are frequently contradictory in terms of intentions and operation.

The main bodies responsible for employment support and rehabilitation policy are: the ACC-Accident Rehabilitation and Compensation Corporation, the New Zealand Employment Service (NZES), the New Zealand Community Funding Agency (NZCFA) and the four Regional Health Authorities (RHAs):

ACC provides vocational rehabilitation for people whose impairment is a result of personal injury caused by accident.

NZES assists people who are unemployed to obtain work; this service is part of the Department of Labour. The services provided by the NZES are available to all New Zealand citizens and permanent residents.

The service currently manages two programmes designed to meet the specific needs for vocational support by people with disabilities. These programmes are: the Modification Grant Scheme and the Job Support Programme (the latter is administered by Workbridge, a national not for profit employment placement agency for people with disabilities - see I.2.3).

NZCFA funds special vocational assistance programmes including nationally-based umbrella groups as well as local and smaller community providers. It is linked to the Department of Social Welfare and has an important interface role between government, the community and the voluntary sectors.

NZCFA ensures that appropriate services and support are available to people with special needs and disabilities. It provides funding to organisations for rehabilitation, vocational training and training support. The latter is financial assistance to assist with the extra costs incurred by people with serious disabilities who are undertaking an approved course of assessment, work experience, training or education.

*The RHAs* have received funding in two main phases (July 1993 and July 1994) for disability support services. They are linked to the Disability Support Services (DSS) within the Ministry of Health.<sup>131</sup> Funding for vocational support is limited to the assessment for vocational needs, the provision of some day activities and a small number of sheltered employment sites. They also fund assessment and Rehabilitation Units through Crown Health Enterprises (CHEs) [hospitals]. Many of these units have a vocational/return to work focus, mostly through referrals from ACC. (Following the National-New Zealand First Coalition agreement in December 1996, the four Regional Health Authorities will be replaced with a single funding body by July 1998. Also the Crown Health Enterprises will be renamed as regional hospitals and community services and their competitive and profit-making focus will be removed.<sup>132</sup>)

### **Comments**

The New Zealand Government is aware of the need for improved coordination of vocational policies, strategies and rehabilitation services. A review of vocational services is currently in progress.<sup>133</sup> The Disability Sector<sup>b</sup> has published a position paper on "Vocational support for people with disabilities"<sup>134</sup> and strongly recommends that the Disabled Persons Employment Promotion Act 1960 (see I.2.3) be repealed.<sup>135</sup> This Act legitimises the removal of employment protection and rights in sheltered workshops. Throughout the document it is stated that people with disabilities need the same conditions of employment as non-disabled people. It is argued that provisions need to apply wherever the person works, whether it is in open employment or a specialised employment setting. In both environments the same sorts of reciprocal employer/employee rights and responsibilities should apply. If special conditions are needed such as flexible working hours, these should be negotiated on an individual basis. This argument is supported by the Ministry of Health, Disability Support Services (DSS) who have also argued for the Act to be repealed. The Disabled Persons Assembly (DPA) has regularly made recommendations for vocational support and also made policy statements on employment through their publications. The Association for Supported Employment in New Zealand has prepared a discussion document (November 1996).<sup>136</sup> It proposed that

---

<sup>b</sup> The Disability Sector comprises five consumer groups: people with intellectual disabilities, with sensory, physical, psychiatric and age-related disabilities. The organisations reflect this: eg. National Foundation for the Deaf, Audiology Centre, CCS New Zealand (stands for Crippled Children Society, but the name is not used), Schizophrenia Fellowship, Equipment Management Services (EMS) etc.

the Department of Labour would be the most appropriate purchaser of employment and vocational services. Workbridge's publication 'The Next Step'<sup>137</sup> suggests that it is well placed to be contracted directly to the Departments of Labour and Education to be responsible to distributing all vocational funding and co-ordinating the disability sector on all vocational issues.

In summary there is discontent with the lack of coordination of government agencies, lack of rationalisation of funding of the vocational support sector and also the lack of a national policy for employment support.<sup>138</sup> The process of mainstreaming vocational services for people with disabilities will occur in 1997/98, when responsibility for purchasing specialist placement services for people with disabilities will transfer from the NZCFA to the New Zealand Employment Service. Also to be transferred from NZCFA will be responsibility for the Self Employment Grant Programme and the training support programme. Significant changes with regard to aspects of legislation and practice in the short and medium term are very likely.

### **III.1.2 The relative priority accorded to support for retention, return to work and first time entry to employment**

#### *The ACC-Accident Rehabilitation Compensation Insurance Corporation*

Any person injured by accident is given support for *job retention* or *return to work*. Currently ACC is focusing on supporting those people to return to work who are claiming compensation. Vocational rehabilitation is designed to help meet this objective. The provision of vocational rehabilitation by ACC is governed by sections 22-24 of the Accident Rehabilitation and Compensation Insurance Act (1992). Vocational rehabilitation must be considered cost effective and appropriate by ACC and is provided for a maximum of three years. There has been a recent policy shift from compensation to rehabilitation. ACC is not an agency responsible for first time entry to the workforce.<sup>139</sup>

#### *The New Zealand Community Funding Agency*

The NZCFA funds a variety of programmes to support the special needs of those with a disability to develop their ability to *first time entry* to the workforce. This includes vocational rehabilitation, supported employment and training programmes. Recent policy developments are that the government has decided that the most appropriate arrangement for vocational services for people with disabilities is a progression towards mainstreaming the purchase of these services. In future, therefore, responsibility for purchasing vocational services for people with disabilities will be aligned with those agencies which purchase equivalent services for the general population.

As noted in III.1.1, the *New Zealand Employment Service* provides two programmes to meet the particular needs of people with disabilities: the Modification Grant Scheme, which aims to help *gain* and *retain* employment and to work to full ability, and the Job Support Programme, which assists people with disabilities to move into open employment.<sup>140</sup>

#### **Comments**

Job retention and return to work are ACC's priority. The Accident Rehabilitation Compensation Insurance Corporation's legislation (ARCI Act 1992) and its practical application emphasize job retention (e.g. through early intervention strategies). First time entry into the workforce by people with disabilities is the

main concern of Workbridge (a national agency) and of a variety of vocational and job placement agencies including supported employment agencies.

### **III.1.3 The weight given to employment support and rehabilitation policies for disabled people in the national system**

ACC emphasises employment support, early intervention strategies and rehabilitation for the injured person. Case managers work together with employers, rehabilitation service providers and medical practitioners.

A person on Sickness or Invalids Benefit has to actively seek assistance for job placement by registering with Workbridge (a national not-for-profit employment placement agency for people with disabilities) or a supported employment agency.

## **III.2 SUPPORT SERVICES FOR JOB RETENTION**

### **III.2.1 The main funders and providers of services offered to support job retention**

The key sources of government funding for services offering job retention specifically for people with disabilities are:

1. Programmes funded by the New Zealand Community Funding Agency (Department of Social Welfare)
2. Support services funded by the Regional Health Authorities
3. Programmes funded by the Accident Compensation and Rehabilitation Insurance Scheme
4. Programmes funded by the New Zealand Employment Service and contracted to Workbridge
5. 'Training Opportunities' funded by the Education and Training Support Agency (ETSA).

### **III.2.2 Relationships between the providers of services and bodies with policy responsibilities**

The NZCFA invites community organisations wishing to provide vocational services to submit proposals for funding. Any group seeking funding has to submit proposals for funding to either the RHAs, to the Department of Labour or to ACC; it is then subject to an approval process, in order to ascertain its ability to provide the service.

### **III.2.3 The range and types of services provided**

*The Accident Rehabilitation and Compensation Insurance Corporation (ACC)* is the main body that focuses on retention of jobs and return to work. It provides:

- referral to and payment of counselling
- vocational guidance



### *Employment Support and Rehabilitation Services - New Zealand*

- employment preparation assistance
- workplace modifications and accommodations (includes removing environmental barriers, installing special equipment, job modification e.g. work hours and work procedure)
- work trials (includes workplace assessments, worksite based training, supported employment which involves ACC continuing subsidy or job coaching for a defined period in return for the employer offering paid work)
- job clubs
- training (which includes worksite training, supported employment, education or skills-based training) and
- some self-employment assistance.

Almost all other services have their main emphasis on entry to employment, and in some instances subsequent support, for those who have never worked, are long-term unemployed or are not covered by the ACC scheme. These are described below.

*Community-based agencies and voluntary agencies* provide services mainly for entry to work and support once entry has been achieved:

- specialist employment placement (includes work-related training and employment placement of clients with a disability),
- supported employment (contribution towards extra costs associated with enabling a person to participate in a workplace, includes meeting of productivity shortfalls and cover of other expenses e.g. attendant care, job coaching and personal support)
- self-employment grant
- sheltered employment (sheltered workshops)
- day activity programmes.

The *New Zealand Employment Service* provides services mainly for entry to work<sup>141</sup>:

- modification grants (\$10,000 max.) aim to help people with disabilities gain and retain employment and to work to their full capacity. The grant may be given to an employer to help meet the costs of modifying their workplace or providing specialised equipment so that a person can be employed
- Job Plus - a temporary wage subsidy paid to employers who provide permanent, full-time work for people with disabilities. The usual maximum subsidy is \$214 per week for a maximum of 52 weeks. Severely disadvantaged job seekers with a disability may receive a maximum NZ\$325 per week for 52 weeks
- careers advice (enables NZES to refer long-term and disadvantaged job seekers [including people with disabilities] to approved providers for professional career guidance and counselling)
- Job Start provides grants to meet the short-term costs of taking up a specific job vacancy, (max NZ\$250 per year)
- Job Connection - a fully subsidised work experience scheme which aims to enable long-term unemployed people to re-establish their work record and develop skills so that they can find ongoing employment. Under Job Connection, people who have been registered unemployed for four years or more are placed in paid jobs with employers for 26 weeks

### *Employment Support and Rehabilitation Services - New Zealand*

- Taskforce Green (TFG) is a project-based subsidised employment programme for disadvantaged job seekers. Sponsors of projects (which are of benefit to the environment or the community) are given a subsidy of NZ\$214 per week for each job seeker. The aim is to provide an opportunity to gain or regain self-esteem and self-confidence, learn new skills and gain or regain work habits in order to improve chances of finding unsubsidised work. Taskforce Green had a total of 7,626 placements in 1995/96 of which 1,244 were for people with disabilities<sup>142</sup>
- Community Taskforce (CTF) provides part-time, unpaid work experience through participation in projects of benefit to the community. Participants stay on a benefit and gain an extra NZ\$20 per week. Community Taskforce placed 1250 people with disabilities in 1995/96<sup>143</sup>

*Workbridge under contract from NZES* mainly focuses on entry to work and support once a job has been achieved:

- Job Support Programme. Job support makes individualised funding available to purchase the support services needed by a person with a disability to work in open employment and receive the appropriate rate of pay for the job. This includes job coaches, mentoring, on-the-job attendant care, interpreter services, special equipment, additional costs of transport or parking, and disability awareness training for co-workers. It can also provide a temporary or long-term wage subsidy to compensate employers for a worker's lower productivity or the extra supervision or training required
- Self-start (a grant up to NZ\$5,000 for people with disabilities wanting to move into self-employment)

Workbridge also refers trainees to the *training opportunities programme* (an opportunity to train towards industry-recognised national certificates and diplomas under the skill enhancement programme).

In the 12 months to 30 April 1996 Workbridge enrolled 8,780 people, of whom 2,313 reported having multiple disabilities.<sup>144</sup> It was stated by Winter that: 'Last year Workbridge moved more than 1,000 people off benefits into paid employment, many of those through the Job Support Fund. Two other funds, also administered by Workbridge, are based on the same Cost of Disability concept: Training Support and the Self-Start fund for the self-employed'.<sup>145</sup>

The *State Services Commission* provides central management and funding for the 'Mainstream' programme - a supported employment programme for people with disabilities. The programme aims to assist its clients to gain and ultimately maintain permanent meaningful employment within New Zealand's Public Service.

Mainstream offers placements for people with disabilities in integrated settings within New Zealand's Public Service. It supports participants and pays the usual rate for the job over a two year period (since July 1997). Employment can be full or part-time but must be for a minimum of five hours per week. After two years the employer endeavors to retain the worker and offer tenure. Participants are entitled to up to \$1,500 annually for external vocational-related training.

The scheme is considered to be complementary to, but distinct from, EEO policy. In the first year, the person has a 100 per cent subsidy, in the second year a 50 per cent subsidy. Workbridge nominates people

with disabilities to participate in the programme who are placed with the Public Service Department and Crown Agencies.

Research was commissioned in 1996 to examine whether those placed into departments under the auspices of the programme retained positions and gained promotion. The research covered 70 people. Fifty-one per cent of women and 39 per cent of men said they had been provided with adaptive equipment.<sup>146</sup> The study found that within the period 1984-96:

- 91 per cent had gained other/permanent positions
- 20 per cent were promoted.

The enhanced Mainstream Supported Employment Programme (with a changed funding structure to increase numbers of participants and provide more support) programme has a budget of \$1,388,000 in 1997/8 covering 60 people. It will cost \$37,500 per employee over two years as opposed to \$68,750 over the previous four years.<sup>147</sup>

In answer to Parliamentary Questions about the minimum terms and conditions of employment which must be agreed by Government Departments and agencies participating in the Mainstream Programme, Shipley, the then Minister of State Services replied: 'The term and conditions of employment of people with disabilities working under the auspices of the Mainstream programme, are those which apply to any Public Service Employee. The State Services Commission also requires that a mainstream memorandum of understanding be signed by representatives of both the particular employing Department and the Commission. The memorandum sets out the roles and responsibilities of all parties concerned in the placement, including clauses relating to the level and duration of the salary subsidy, training and eventual tenure of participants. The contract of employment is a matter for negotiation between the mainstream client and the employing department. This may be either an individual, employment contract or the departments collective contract.'

#### **III.2.4 Characteristics of enterprises using external support services for job retention**

The public sector is more developed in the use of external supports for four reasons:

- a) compulsory EEO policies (see I.2.2), including EEO coordinators to monitor policies. The Equal Employment Opportunities Contestable Fund [EEO Fund] and the Equal Employment Opportunities Trust were established to promote EEO programmes and practices in private sector workplaces
- b) the Mainstream programme (see III.2.3)
- c) employment assistance programmes are far more likely in the public rather than private sector.
- d) employer knowledge of external support services tends to be limited and many see disability as a problem, often based on disappointing experiences.

### **III.2.5 The prevalence of externally provided support services and identify any trends**

ACC has national coverage, Workbridge has offices nationwide (limited services in rural areas) and Supported Employment Agencies are present throughout New Zealand (although many of them have no special programmes). Most towns with over 20,000 population have a sheltered workshop/day activities service. CHEs (hospitals) have regional provision of assessment and rehabilitation services with immediate post-accident treatment and referral to ACC.

Due to some sheltered workshops using supported employment options, supported employment is growing in terms of coverage and prevalence. Overall growth and prevalence of external support is slow due to static growth in government funding.

### **III.2.6 Arrangements for external providers to organise support in the workplace**

Many providers have extensive protocols governing their relationships with employers and employer groups. However, there seems to be a tendency for the relationship to be directly related to financial incentives. Links by ACC to employers to organise support seem to be strong when a person is likely to return to work. Workbridge's emphasis on a business-like and customer-oriented approach to marketing its services to the employers and disabled people has resulted in an enhanced image of disabled people as potential employees. It is likely that Workbridge's marketing strategy has increased public awareness and employers' awareness of people with disabilities. Workbridge has national agreements with McDonalds and is planning similar agreements with other large companies.

One large company favoured the Workbridge approach because of the belief that the organisation took the time to learn about the business ethos and culture of the company and to understand the company's operations. This company now only deals with Workbridge who have a dedicated 'account manager'.

### **III.2.7 The extent to which services support job retention**

ACC supports job retention. Workbridge's mission is 'to meet the aspirations of people with disabilities for full participation and equal opportunity in the labour market' and it encourages and strongly supports training, raising skill levels and job placement.<sup>148</sup>

## **III.3 USERS OF SUPPORT SERVICES FOR JOB RETENTION**

### **III.3.1 Eligibility criteria and procedures for identifying users (disabled workers and their employers)**

The responsibility for user groups is split (see also section III.2.3) depending on the cause of disability. ACC is the agency responsible for those who are disabled by accident. Workbridge and a range of community providers are responsible for everyone else.

Eligibility for ACC's vocational rehabilitation is determined by the individual's potential for job retention or return to work. Because of cost savings there is a strong incentive to focus on those clients who appear to be less disabled than others.<sup>149</sup> Also the injured person is merely offered rehabilitation without an appropriate job being secured in the end.

People may also self-refer to Workbridge.

### **III.3.2 Disabled workers who benefit and those who miss out**

Injured people who are less disabled seem to benefit both from ACC and from Workbridge services. Both agencies are criticised for providing less satisfactory services for those with severe disabilities.<sup>150</sup> This seems to depend, though, on individual offices e.g. the Christchurch office has been praised for its efforts to place clients who have psychiatric disabilities.<sup>151</sup>

Many people with severe disabilities and those with psychiatric and intellectual disability are increasingly the main users of supported employment agencies (whose services vary around the country).

The ACC has a Strategic Cultural Unit (formerly the Cultural Development Unit). The latter had a mandate to help ACC become more responsive to cultural needs. Its mission was two-fold: to increase cultural awareness within ACC staff and to build networks with key Maori and Pacific Island organisations. The new Strategic Cultural Unit monitors all business units and advisors.<sup>152</sup>

## **III.4 SUPPORT SERVICES FOR RETURN TO WORK**

### **III.4.1 The main services for return to work**

Return to work services are the responsibility of ACC. Once registered with ACC, vocational rehabilitation programmes are available for three years to achieve successful return to work. ACC is a funder and a provider, but can also purchase services from other service providers e.g. from Workbridge, supported employment agencies and special consultants.

Services provided under ACC are described in section III.2.3.

As ACC is the main funder and provider of return to work services, it will also purchase services from agencies whose main placement activity is first time entry to work.

Services provided by other bodies are described in III.2.3.

### **III.4.2 Integrating return to work services into work environments**

Generally there is little integration of return to work services into work environments.

### **III.4.3 The types of enterprise providing return to work opportunities in co-operation with employment support and vocational rehabilitation services**

Generally the service industry, such as McDonalds or Warehouse, provide return to work opportunities.

## **III.5 USERS OF SUPPORT SERVICES FOR RETURN TO WORK**

### **III.5.1 Mechanisms for identifying and accepting users who have left their employment**

People with disabilities who register as unemployed or as job seekers will be automatically referred to Workbridge by the New Zealand Employment Service (NZES). If an injured person is still within three years of ACC registration, they will be referred back to ACC by NZES.

### **III.5.2 Arrangements for user choice and user control of service packages**

Job support, training support and self-start (see section III.2.3) are individualised funding programmes.

ACC case managers control the expenditure on service packages and clients have limited choice.

Stephen Lavery, the marketing manager at Workbridge, has proposed the 'Lavery Job Card System' which operates as a sort of training voucher for people with disabilities.<sup>153</sup> The system incorporates three players: customer, service provider and funder. He outlines four components of the system: job credit; purchase; outcomes and quality; and payback. The Job Card would hold the amount allocated for employment services for each individual. This would be redeemable at Job Card franchises who would only be paid on employment outcomes not outputs.<sup>154</sup>

### **III.5.3 Disabled workers who benefit and those who miss out**

Persons with lesser physical and sensory impairments and those without a history of mental illness are the most likely to be served by agencies, particularly if this is accompanied by education and previous work experience. Those perceived as severely disabled may miss out. If severity of disability is linked to minimal education and work history, access to support services may be limited.

## **III.6 DESIGN AND DELIVERY OF EMPLOYMENT SUPPORT AND REHABILITATION SERVICES**

### **III.6.1 The effects of the distribution of responsibility for provision of services**

The advent of ACC has created a dual system in New Zealand. Since 1974 there has been one system for those disabled by accident, and another for everyone else (see section II.1.1)

## *Employment Support and Rehabilitation Services - New Zealand*

There is very fragmented responsibility across government departments which has prevented the possibility of a nationally coherent policy and service responsibility.

Most providers tend to have to access several sources of funding to survive, which creates a burden in terms of compliance and reporting requirements.

There is no national system for reporting on outputs and outcomes. Therefore there is no evidence of the efficiency of the service, of the numbers using services and requiring services. Quality of services tends to be variable, with little attempt at independent evaluations or auditing of service quality.

### **III.6.2 The effect of relationships between services on their effectiveness**

There is considerable disharmony and lack of cohesion among service providers because of:

- a) the contracting environment - which means a contestable and competitive tendering process in which it is difficult to develop inter-agency/service cooperation;
- b) conflicting philosophies, primarily between the marketing and business approach, represented by Workbridge and ACC, and the inclusive/support model represented by the supported employment movement.<sup>155 156</sup> These models of service delivery have different approaches to assessment and eligibility issues. They also have the effect that the marketing and business approach demands funding for training and placement, whereas the inclusive/support model demands more for long-term support. Both models are accepted and funded,<sup>157</sup> but neither seems to have the resources to provide effective services.<sup>158</sup>

### **III.6.3 The results of vocational training and rehabilitation**

There is no established relationship between specialist vocational training and job placement/retention. At the end of training programmes, resources are often limited for placement and follow-up services (e.g. funds for the Job Support Programme in 1997 had run out by the middle of the year). Workbridge places more people into training than work e.g. in 1995/96 6,752 people were placed in 9,028 training/education opportunities and 3,584 people were placed in 4,476 jobs.<sup>159</sup>

### **III.6.4 Arrangements for outcome-related funding and financial incentives to staff**

Both ACC case managers and Workbridge coordinators receive output bonuses, which tends to encourage that only those with minimal barriers to employment will be served. Workbridge and Supported Employment Agencies are outcome-based, but there is little monitoring and evaluation of outcomes by the funding agency.

### **III.6.5 Most significant factors in facilitating or impeding overall success**

The most important factors concerning job retention or return to work are:

- good links to employers by case managers (from ACC) or placement co-ordinators (from Workbridge, supported employment agency or other vocational placement agencies);
- sufficient funding for the Job Support Programme;
- Modification Grants (see section III.2.3);
- the marketing approach by Workbridge, which seems to have enhanced the image of people with disabilities as potential employees and increased employers' awareness of people with disabilities.

## **III.7 LINKS WITH EMPLOYMENT POLICIES**

### **III.7.1 The effects of employment policy obligations and agreements on opportunities for vocational rehabilitation**

There are no obligations on the part of employers other than those contained in the Human Rights Act concerning discrimination. Moreover, the effects of any obligations or agreements are largely unknown, as there is no reporting system in place.

### **III.7.2 The effects of financial incentives to employers on opportunities for vocational rehabilitation in the workplace**

Formal incentives in the form of wage subsidies are the main reasons for employer participation. However, there is a danger that jobs disappear at the end of the wage-subsidy period (six months tenure) and employers are able to take on another person. Therefore the same employer may have positions that are permanently filled with disadvantaged people (many of whom are disabled).

### **III.7.3 The relative priorities given to disabled people and other client groups**

People with disabilities on Invalids Benefit have limited access to generic employment support programmes as they are not officially registered as unemployed. They do not always need specialist vocational support. By rights, they should be able to seek assistance from mainstream vocational support providers. However, in reality they are referred to seek help from Workbridge as the specialist agency. The Prime Ministerial Taskforce on Employment failed to include people with disabilities as a specific target group in the extra funding that was made available to the long-term unemployed and the young age groups.

Also, EEO for people with disabilities comes in third place after gender and ethnicity in terms of priority.<sup>160</sup>



### **III.7.4 Effects of changes in labour market structure and demand on opportunities for rehabilitation in the workplace**

The New Zealand Employment Contracts Act (1991) and the broader economic/employment policies seem to ensure that there is a labour surplus (unemployment figures are currently around six per cent, with wide regional and demographic variations). These policies ensure that people with disabilities remain 'surplus to requirements' and encourage a charitable policy response rather than a serious consideration of underlying issues (reinforced by broader discriminatory views about disability).<sup>161</sup>

The last decade has seen a rapid increase in casual, part-time and poorly paid jobs. This has increased some opportunities for people with disabilities in terms of workforce entry, but only into the margins of the labour market e.g. food service industry.

## **III.8 LINKS WITH BENEFIT AND COMPENSATION PROGRAMMES**

### **III.8.1 The relationship between funding of benefit and compensation programmes and vocational rehabilitation policies and services**

There is little direct relationship between NZ Income Support Services and vocational rehabilitation policies that are encouraging a return to work. Benefit abatements operate as a disincentive to return to work.

Eligibility for benefits has been severely tightened, which increases the risk to people with disabilities who get and then lose a job, and then can only get an unemployment benefit, which is paid at a much lower rate. Therefore people with disabilities have an incentive to highlight their dependence and inability to work rather than risk job placement - particularly on the margins of the labour market where lay-offs and redundancies are frequent.

The three year period ACC clients have in terms of vocational rehabilitation, puts enormous pressure on individuals who have more severe disabilities. For these reasons many people with disabilities put more effort into keeping compensation rather than 'risk' a return to work.

### **III.8.2 The effects of benefit or compensation regulations on opportunities for vocational rehabilitation**

Eligibility varies between the various agencies. It is frequently based on the nature of the disability e.g. the Foundation of the Blind provides services for those registered with the Foundation. In theory, however, everyone is eligible for vocational support services, except for ACC clients who in their first three years must access services through ACC (for more details see section II.2.3). In reality, restricted funding means that eligibility does not translate automatically into access to service delivery.

### **III.8.3 The co-ordination of assessment of eligibility for disability benefits and vocational rehabilitation services**

There is little coordination of assessment or eligibility which means that many people are unnecessarily reassessed. The new DSS Framework has tried to address the issue of a national standard for assessment, and implemented a coordinated procedure in the years 1993 to 1997.<sup>162</sup> No evaluation has been done and people in the disability community have not reported any changes as yet.

### **III.8.4 Arrangements to combine receipt of benefits with rehabilitation in the workplace**

ACC provides work trials (see section III.2.3). Since 1 July 1996 people on Invalids Benefit have been able to earn up to \$180 per week without any abatement of their benefit, but it is too early to tell whether this encourages either rehabilitation or a return to work.

## **III.9 LINKS WITH BENEFITS AND EMPLOYMENT POLICIES**

### **III.9.1 The relationship between policies for vocational rehabilitation, benefits and employment**

The lack of any legislative or policy relationship between vocational rehabilitation, benefits and employment frequently means that changes are made in one area that have a negative impact on other areas. For example: the current tightening of eligibility for Invalids Benefit, due to significant policy changes by NZ Income Support since September 1995,<sup>163</sup> included new rules such as shorter periods of validity of medical certificates and reassessments by doctors chosen by Income Support.<sup>164</sup> The implication is that the doctors who have been chosen are more accurate, rigorous and tighter. These changes may signal to people with disabilities that a return to work has added risks if placement is not permanent and/or unsuccessful. The increase in the number of applicants for Invalids Benefit<sup>165</sup> may serve as limited evidence that people with disabilities are not returning to work.

The abatement rates have a similar effect in that people can be financially worse off due to 'employees' not being eligible for many of the costs of disability (see section II.2.2). Although recent increases may have a beneficial effect in the long term, at present the effects are unknown. Also, to be eligible for Invalids Benefit a person has to be severely incapacitated (Percentage Incapacity Scale) (see section II.2.3) in terms of work. If a person on Invalids Benefit gets a job, the status of this 'incapacity ... [which] is such that even with appropriate adaptation of the work environment and support it is improbable that the patient will participate in open employment' is negated and it has been reported that eligibility is unlikely if the person becomes unemployed.

If a job is not permanent or unsuccessful, the ACC client is generally not eligible to return to compensation-related earnings, but goes onto Unemployment Benefit or Invalids Benefit (another reason why numbers on Invalids Benefit may have increased).

**III.10 The most relevant factors influencing the integration of personal support and rehabilitation services into the workplace**

Integration of personal support and rehabilitation services in the workplace is primarily influenced by eligibility criteria that change over time - which seems to shift the emphasis concerning who and what programme is responsible for carrying the costs of disability. New Zealand's policy is strongly influenced by short-term (three year electoral term) cost-shifting and cost-cutting as part of broader economic policies aimed at reducing state involvement, rather than rehabilitation or return to work policies. Critics of the present approach believe an integrated approach to policy would require a larger financial investment and commitment to return to work.<sup>166</sup>

A report by the Vocational Coalition recommended that the Department of the Prime Minister and Cabinet should ensure better coordination and place a stronger emphasis on individually structured vocational opportunities. They recommended that vocational training should be goal-oriented and strictly time-limited.<sup>167</sup>

## **IV. ADAPTATION OF WORK AND WORKPLACE**

Part IV is concerned with practical solutions to adapting the work-station, workplace and job procedures to the needs of workers who become disabled. It focuses on external services available to enterprises to assist them in making adjustments, whether those services are accessed directly in the marketplace or via agencies. External services may provide advice or practical help both in adjusting the demands of the job and in adapting the work environment, temporarily or permanently. They may operate as private consultancies, voluntary bodies, quasi-governmental agencies, or as part of employment services.

The initial sections of this Part consider policy responsibilities, details of providers, funders and users, technical advisory services, sources of technical equipment and advice about accommodating work routines. Later sections focus on the factors which affect the success of adaptation services in promoting job retention and return to work.

### **IV.1 RESPONSIBILITY FOR POLICY AND PROVISION**

#### **IV.1.1 The main bodies responsible for work environment policies and their role in promoting adaptations for job retention and return to work**

Occupational Health and Safety (OHS - a division of the Department of Labour) is responsible for registering and monitoring workplace environments and safety. OHS has no specific brief or connection with disability/rehabilitation policies, although anecdotal evidence suggests that OHS is more likely to cite disability as a hazard in the workplace. OHS has brought about several expensive prosecutions of employers, who tend in turn to see disability as a 'risk' to avoid. When considering employing a disabled person, the liability is uppermost in employers' minds as a result of OHS regulation.

The Department of Labour has a Modification Grant Scheme for employers to adapt their workplace for a particular individual (see I.2.3).

Workbridge's Job Support and Training Opportunities Programme will pay for modifications to workplace and equipment in jobs and training settings (see I. 2.3).

The four Regional Health Authorities provide funding for Equipment Management Services (see IV.1.3) for mobility within the home, for the person to remain in or return to his/her home, for persons to undertake education and/or vocational training and obtaining and/or retaining employment.

#### **IV.1.2 Comparison of the attention given to policies which promote job retention with that given to policies which promote access to work**

Given that performance is typically measured in terms of the numbers of people trained and placed, job retention or preventive efforts are seen as less important. According to Campbell, only a relatively small

proportion of New Zealand employers were and still are very active with their preventive efforts: they are very much the exception.<sup>168</sup>

#### **IV.1.3 The main providers of technical and advisory services**

The main providers are the agencies contracted by the RHAs to manage access to equipment (Equipment Management Services). These agencies in turn either employ or contract registered occupational therapists and other specialists for assessment and design services. Assessors are 'accredited' by the Equipment Management Service according to guidelines provided by the RHAs.

There is a National Disability Resource Centre which provides technical and advisory services as its core business. Local Disability Resource Centres provide access to information about products and technical advice. A market place has been established to promote competition between providers of technical and advisory services. However, restricted funding means that access to equipment is difficult, especially if it is for employment. The priority of the Equipment Management Service is to provide services and equipment for mobility within the home or for the person to remain in or return to his/her home.

#### **IV.1.4 The relationship between providers of technical and advisory services and providers of employment support and rehabilitation services**

Employment support providers will seek assistance from technical and advisory services. However, the Equipment Management Service has to be approached first to negotiate access to funds to pay for the equipment.

### **IV.2 TECHNICAL AND ADVISORY SERVICES FOR MODIFICATIONS TO WORKSTATION AND WORKPLACE**

#### **IV.2.1 Technical and advisory services available to enterprises in respect of modifications**

The Barrier Free Trust (a non-statutory organisation) provides courses to train 'Barrier Free Auditors'. These are provided, for example, to territorial authorities who have responsibility for issuing compliance certificates for the 1991 Building Act. The Trust is also contracted by large employers to provide audits (see V.3.3). It also has an advocacy role, acts as a watchdog to Building Industry Authority determinations, and fields complaints from people with disabilities. Despite this, there is said to be less activity and interest in identifying and eliminating workplace barriers than in securing accessibility to more general public places.

There is little in terms of technical and advisory services which are directly accessible to enterprises. There are some instances of private consultancies and firms that specialise in disability accessible buildings. Broadly, however, access to technical and advisory services is through disabled individuals and their service providers. The exception is the 'Building Code' which requires all new public buildings and places to be wheelchair accessible.

#### **IV.2.2 Services specifically directed towards job retention**

Job support and modification grants can be and are used to support job retention. However, employers' knowledge of the available resources is likely to be poor (see I.2.3).

#### **IV.2.3 Factors which encourage or discourage the use of technical and advisory services**

Funds are limited, and employers' awareness is also likely to be limited. The priority of fund allocation is for mobility needs in the home<sup>169</sup>.

### **IV.3 TECHNICAL EQUIPMENT**

#### **IV.3.1 The provision and funding of equipment to meet individual needs**

Access to equipment is through the Equipment Management Services (EMS) which manage government spending in this area. EMS also determine access to advice and assistance. The provision of equipment is supply- rather than demand-driven, and EMS operate within a capped budget. Priorities, therefore, have to be determined within this budget. The EMS criteria are that the person with the disability: (a) has to be assessed as having at least one of the specified disabilities (physical, sensory, psychiatric, intellectual or age-related), that this is likely to continue indefinitely and results in reduced independent functioning to the extent that ongoing support is required; (b) has to reside within the region of the EMS; and (c) needs the equipment for mobility in the home; (d) returns to the home and remains in the home; (e) needs the equipment for full-time education; or (f) needs the equipment to retain or enter employment.

Funding has also been available through lottery funds, by individual application. However, this has been withdrawn very recently<sup>170</sup> due to the perception that government has been using this option as an excuse to reduce or keep static its own spending in this area.

#### **IV.3.2 The balance between provision to the disabled person and to the enterprise**

The focus is almost exclusively on the individual rather than on the needs of the enterprise at large. To activate and enter the system, a disabled person must be seeking placement with the assistance of a service provider.

In the case of movable equipment, the NZ Employment Service gets an agreement from the employer that the worker can take that equipment with them when they leave.<sup>171</sup>

### **IV.3.3 Factors which encourage or discourage take-up by employees and by enterprises**

Employers' and disabled people's knowledge about the availability of equipment and technical assistance is poor.

### **IV.3.4 Disabled people who benefit and those who miss out**

Blind and visually impaired people have better access to equipment, due to historically developed private/charitable funding. Priority tends to be given to in-home equipment and mobility rather than employment-related.

## **IV.4 ACCOMMODATING WORK ROUTINES TO THE DISABLED WORKER**

### **IV.4.1 External advice services which assist in the adjustment of work routines to individual needs**

The external advice services available to employers are provided by staff from Workbridge (placement coordinators), the various supported employment agencies and ACC (case managers). The main role of these staff is to co-ordinate the services needed for the employment of the person with a disability. They meet with both the employer and the person with a disability. They provide the necessary administrative services, advice on all matters concerning the employment (e.g. job share, work hours, how to access equipment, workplace modification etc.) and coordination of services (e.g. if a job analysis or an assessment by occupational therapists is necessary).<sup>172</sup>

The quality of the external advice services depends on the competence of the staff and their relationship with employers. An employer's access to equipment, advice services etc. usually depends on the person with a disability seeking work rather than on the employer's work retention strategies. Employers with EEO coordinators are more likely to consider such issues, particularly in the public service.

### **IV.4.2 Comparison of the availability and use of provision to support job retention with provision to support access to work**

Most support focuses on access to work. Support is generally provided to individual disabled job seekers, rather than to employers directly.

### **IV.4.3 Disabled people who benefit and those who miss out**

Those people who require minimal investment are the most likely to receive services. The marketing of services and availability of direct support to employers are limited, especially in the context of job retention if a person becomes disabled. However, to create a demand when there is such a limited supply could create other problems, although it may lead to pressure for greater government commitment.

#### **IV.5 Significant services for promoting job retention or return to work**

EEO efforts in the public sector may have marginally promoted thinking about the retention of people with disabilities in the workplace (see I.2.2).

The EEO Trust is responsible for promoting voluntary equal employment opportunities policies in the private sector.

ACC, the service provider for injured people, is significant in promoting return to work (see section II.1.1), and is the major purchaser of workplace modifications and equipment.

#### **IV.6 DESIGN AND IMPLEMENTATION**

##### **IV.6.1 The effects of inter-agency collaboration in the design and development of adaptive technologies**

We are not aware of any systematic attempt at collaboration among various institutes, government departments and disability organisations. All stakeholders tend to pursue *ad hoc* solutions around individual needs, when the person with a disability becomes a job seeker. ACC purchases research predominantly in the area of accident and injury prevention.<sup>173</sup>

#### **IV.7 LINKS WITH EMPLOYMENT POLICIES**

##### **IV.7.1 The effect of employment policies on the use of adaptation services**

Arguably, employment policy and the New Zealand labour market are committed to the maintenance of a labour 'surplus' and there is little incentive for enterprises to adapt workplaces or work in the interests of the disabled person. Therefore little funding is made available to support work. An increasingly part-time and casualised labour market provides a ready supply of non-disabled workers and gives little incentive for workplace adaptation.



## **V. ENTERPRISE STRATEGIES**

This final Part provides information about effective enterprise policies, management systems and programmes to retain workers whose continued employment is at risk because of disability. The focus is on activities which are introduced and managed by enterprises as an integral part of human resource and workplace relations management. It includes both integrated policies for the management of disability and specific practical initiatives in the workplace to promote job retention.

### **V.1 CORPORATE POLICIES AND PLANS**

#### **V.1.1 The development and prevalence of corporate employment policies and plans for the retention of disabled employees**

##### **Equal Employment Opportunities.**

Section I.2.2 discussed the general operation of Equal Employment Opportunities policies in both the public and private sectors. In terms of EEO policy and programmes, attention is focused on recruitment, to a lesser extent on promotion, and rarely on the issue of retention. Acknowledgment of retention and voluntary policies is rare. A NZ Employers Federation publication from 1985 mentions that when employees become disabled efforts must be made to:

- i) restructure and retain individuals in jobs;
- ii) survey other jobs;
- iii) secure specialist help.<sup>174</sup>

There appears, however, little evidence of programmes within the private sector, then or now, to ensure that these intentions are met.

A more recent initiative from the Employers Federation relates to plans for introducing rehabilitation guidelines, and its organisations are already involved in promoting rehabilitation activity among employers.<sup>175</sup>

The EEO Trust has a database that holds examples of good practice for EEO policy. It is difficult, however, to identify evidence of innovatory practices for disability. EEO policy for gender and ethnicity is more likely to take priority.

There appears to be little innovation: businesses are downsizing and profit margins are short. Even when the private sector was forced to implement EEO it is argued there was only reluctant compliance.

The Human Rights Act may have changed the climate a little.

It is important to understand the changing economic situation in New Zealand to fully understand this dearth of enterprise-level responses to EEO and employing people with disabilities. The last decade has seen major economic restructuring. The drive for profit and the assumptions (whether misplaced or not)

that efficient employment practices necessarily exclude people with disabilities serve to remove disability issues from the agenda. Securing equal employment opportunities for people with disabilities are, arguably, not a priority. Communications and discussions with summit groups and organisations within the field of equal employment opportunities support this view. Business is said to frame issues in terms of 'risk management', examining options for transferring risks to someone else, treating risks, terminating risks, or tolerating risks.

### **Good Employer awards**

Workbridge, New Zealand Employment Service Centres and Disabled Peoples' Assembly regions previously operated 'Disability Pride: Good Business Awards' which aimed 'to recognise employers who show excellent business practice in the employment of people with disabilities'.<sup>176</sup> This was for initiatives undertaken by employers over the previous year which showed that employers value the contribution which people with disabilities make to their business, e.g. by re-designing a job to suit a disabled person and developing a career development plan for staff with disabilities. This scheme was discontinued in 1995, partly because some disabled people's organisations were said to find the scheme patronising, while the scheme was also said by its sponsors to have reached the end of its 'marketing life-cycle'.

The Fletcher Challenge Award for Employment of People with Disabilities operated with the support of Rehabilitation International. Two categories of awards were available - for employers and for people with disabilities. It is difficult to find evidence about when these schemes ceased operating.

There are some private companies that are said to actively recruit people with disabilities. These include Fletchers, Dupont International, Quality Hotels, Lampen Group, Hort Research and MacDonaldis' Family Restaurants.<sup>177</sup> Some of these companies have stated that they recruit people with disabilities because they feel they have a social responsibility, their companies are large, they are often national employers and they have the possibility of finding suitable or alternative employment for people with disabilities. In addition they mentioned a good relationship with the employment agency (eg. Workbridge) or with ACC. Having had a positive experience with people with disabilities in the past was described as an important factor in their willingness to employ persons with disabilities.

### **Accredited Employers Programme**

The Accredited Employers Programme, which was piloted in 1994 by the ACC, enabled employers with reasonable financial assets and capacity to meet approval criteria to take certain duties and responsibilities normally undertaken by the ARCI Corporation.<sup>178</sup> Approved employers manage the work injury claims of their employees for the first year following injury, which involves paying weekly compensation and other entitlements, paying all medical and rehabilitation expenses, and managing and administering the claims within the ARCI Act 1992. For their part, the employers are paid an amount estimated to be the value of costs associated with the first 12 months of a claim. The ACC conducts an extensive audit to ensure employers under the scheme have all health and safety, claim management and rehabilitation procedures and systems in place.

## **Workwise**

Grant Tweddle (ACC) reports on an Auckland initiative called Workwise which involves work-based programmes involving partnership between a range of stakeholders. The aims of the Workwise programme are to:

- promote education of staff, injury prevention and safe work habits;
- identify the requirements of the job to allow for safe and sustainable early return to work;
- develop return to work options which allow injured workers to be reintegrated into the workforce while continuing their recovery;
- develop comprehensive disability management strategies within the workplace.<sup>179</sup>

Workwise is an example of disability management and preventative services being developed in cooperation with unions, employers and existing service providers. It seeks to develop a centre of excellence, delivering specialist occupational medical services to primary care practitioners; advisory services to employers in terms of workplace assessments; and occupational health and safety initiatives.<sup>180</sup> It provides education programmes to both medical practitioners and employers and is being carried out in conjunction with the Occupational Medical Unit at Auckland University. They are developing both education programmes for the workplace and model workplaces. One of the best ways to convince employers of the benefits of good health and safety systems is believed to be by using evidence from other employers.<sup>181</sup> However, the only examples that are given are the Devonport Naval Base and the Special Air Service Group. According to Tweddle,<sup>182</sup> 'both have in place well-developed health and safety programmes supported by specialised occupational medical services and active physical rehabilitation programmes. More importantly, both groups realise that work site interventions are powerful and essential forces for managing and preventing disability from injury. They recognise the potential of workplace disability prevention programmes to reduce health care costs and the incidence of long-term disability'. These two sites are not typical New Zealand employers and there is no evidence of Workwise moving beyond military establishments. Nevertheless, Tweddle believes that New Zealand employers have much to gain from adopting the same proactive approach to dealing with the consequences of injury.<sup>183</sup>

### **V.1.2 Prominent actors and influences in the development of policies and plans for the retention of disabled employees**

The EEO Trust and EEO Contestable Fund (EEO Fund) were established to promote EEO programmes and practices in private sector workplaces. They are jointly funded by employers and government, and activities include the management of an EEO resource database and a variety of educational and promotional activities designed to assist employers to meet their obligations to people with disabilities.

The EEO Trust is a membership-based organisation. It aims: to use the recognition of merit to increase diversity in workplaces at all levels and in a range of occupations; to develop a workplace culture which values diversity; and to prevent unfair discrimination in the workplace. It has a membership of well over 200 organisations.

## **V.2 CO-ORDINATED RESPONSES TO DISABILITY**

### **V.2.1 The development and prevalence of integrated disability management systems**

There appear to be very few examples of integrated disability management systems except for that of *Workwise* which was discussed in V.1.1.

Although prevention is often seen as an element of integrated disability management systems, Campbell notes a decline in ACC's prevention activities.<sup>184</sup> He believes that the 1992 ARCI Act prescribes a more restricted role for the ACC in prevention. He states: 'Before the run-down of ACC's preventative efforts, much attention was paid to safety education in its wider sense. Apart from a variety of formal courses, much effort was devoted to working with industrial undertakings, giving on-the-spot advice and assisting them with their management systems approaches'.<sup>185</sup>

## **V.3 PRACTICAL PROGRAMMES AND INTERVENTIONS IN THE WORKPLACE**

### **V.3.1 Enterprise programmes targeted at employees potentially absent from work because of disability**

Little evidence was available about enterprise programmes concerning employees potentially absent from work because of disability. Counselling is likely to be the most common activity.

Some evidence does exist about co-ordinated practical programmes in the workplace, although these do not necessarily target workers with high absence records. The Manawatu Wanganui Regional Council, for instance, has recently completed research into existing and potential health and wellbeing initiatives in its workplaces. Management and union representatives worked together to identify initiatives relating to areas such as: family friendliness, flexible employment, internal communications, planned and coordinated approaches to self management, flu vaccinations, group medical insurance, the welfare support system (EAP) and others.<sup>186</sup>

### **V.3.2 Enterprise-initiated programmes to adjust the workplace and work-station**

Midland Health and Southern Health have recently carried out 'barrier free audits' (see IV.2.1).

Other than these examples, however, we were unable to find any details of enterprise-initiated programmes.

### **V.3.3 Enterprise initiatives aimed at co-workers**

Any enterprise initiatives that exist are not aimed at promoting retention. Rather, emphasis is on recruiting people with disabilities.

### *HIV Awareness*

There are particular problems around the dismissal of employees who disclose they are HIV positive. The Aids Foundation within New Zealand has provided a model policy for employers and suppliers of goods and services. It recommends that an employee with HIV should not be restricted from work nor redeployed solely on the basis of diagnosis. Any impaired performance should be considered on the same terms as any other condition. Redeployment should only take place where there is agreement between employer, employee and physician. Normal unfair dismissal and leave conditions also apply, and the employer should ensure counselling is provided on the same terms as when employees face other personal problems.<sup>187</sup>

## **V.4 DEFINITION AND ASSESSMENT OF DISABILITY**

### **V.4.1 The effect of perceptions of 'disability' on the enterprise job retention programmes**

As discussed elsewhere in this document, there remains a prevailing assumption among private and public organisations, employers and unions that disabled people are less 'productive'. There appears to be a view of disability that concentrates on 'impairment', particularly physical impairment, rather than the impact of social and workplace supports.

## **V.5 LINKS WITH EMPLOYMENT POLICY OBLIGATIONS, RECOMMENDATIONS AND INCENTIVES**

### **V.5.1 Enterprise compliance with disability employment obligations and agreements**

There are suggestions that employers are managing to evade the spirit and terms of the Human Rights Act and continue to discriminate against disabled people. As discussed earlier, employers are also trying to gain exemptions from the requirements of the 1991 Building Act.

There are suggestions that the ACC experience rating (see I.1.2) can encourage employers to privatise workplace injuries. Although large firms can apply for Accredited Employer Status under the ACC scheme and manage workplace injuries, this does not apply to small firms. However, small firms are being encouraged to act as if they were accredited employers. Thus, if a person is injured the firm deals with it in-house (sorts out rehabilitation and return to work plans etc.) Because these firms do not report it to the ACC their experience rating stays low. This has potential advantages for the firm. But if the firm goes out of business the individual may find him/herself with large medical bills etc. and he/she may not be eligible for ACC assistance because the injury was not reported within the prescribed time limit.

**V.6 ENTERPRISE STRATEGIES AND BENEFIT/COMPENSATION PROGRAMMES**

**V.6.1 Effects of the availability and level of out-of-work benefits on enterprise recruitment and dismissal policies**

There may be a belief by employers that people with disabilities are adequately supported by the benefits system. This may undermine attempts to recruit and retain disabled people within the workforce.

**V.6.2 The co-ordination by benefits agencies and enterprises of disabled workers' transition from benefits support to waged income**

No documented evidence is available on this. However, it is our opinion that the role of the ACC case manager is critical.

## ENDNOTES

- <sup>1</sup> New Zealand Employers' Federation and EEO Trust (1993) *A guide for employers on the Human Rights Act and Equal Employment Opportunity*.
- <sup>2</sup> Hansard debates 15 December 1992.
- <sup>3</sup> Human Rights Commission (1996) *Annual Report for Year Ended 30 June 1996*.
- <sup>4</sup> *ibid.*
- <sup>5</sup> ACC (undated) *Accredited Employers Programme - A New Way of Providing Rehabilitation*.
- <sup>6</sup> Health and Safety in Employment Act 1992.
- <sup>7</sup> *ibid.* s.20.
- <sup>8</sup> *ibid.* s.21.
- <sup>9</sup> Occupational Safety & Health Service, Department of Labour (1992) *A Guide to the Health and Safety in Employment Act*.
- <sup>10</sup> *ibid.*
- <sup>11</sup> Bradley, S. (1996) Employment Health and Safety, *Chartered Accountants Journal*, September, 38-40.
- <sup>12</sup> *ibid.*
- <sup>13</sup> ACC (undated) *Accredited Employers Programme - A New Way of Providing Rehabilitation*.
- <sup>14</sup> Angus, Q. (undated) The Building Act 1991.
- <sup>15</sup> *ibid.*
- <sup>16</sup> Access and Facilities for People with Disabilities: The relationship between the Building Act and the Disabled Persons Community Welfare Act: A Statement by the Building Industry Authority (undated).
- <sup>17</sup> Hay, R (1992) 'Accessible building requirements for people with disabilities - the situation up o 31 December 1992, and beyond', Dunedin.
- <sup>18</sup> *ibid.*
- <sup>19</sup> Hardie, G. (1996) The Ecstasy and the Agony, *Build*, December, 18-19.
- <sup>20</sup> Personal communication Barrier Free Trust.
- <sup>21</sup> State Sector Act 1988.
- <sup>22</sup> *ibid.*
- <sup>23</sup> *ibid.* s.6
- <sup>24</sup> Inland Revenue Department (undated) *Equal Employment Opportunity: a suitable work environment for people with disabilities: a guide for IRD managers and supervisors*.
- <sup>25</sup> Department of Labour (1996) *Equal Employment Opportunities*.
- <sup>26</sup> Inland Revenue Department (1993) *Effective Employee Selection: EEO considerations for appointment panels*.
- <sup>27</sup> Department of Labour (1996) *Equal Employment Opportunities. EEO for People with Disabilities: a practical resource*.
- <sup>28</sup> State Services Commission (1996) *Equal Employment Opportunities: Progress in the Public Services*.
- <sup>29</sup> Department of Social Welfare : *Equal Employment Opportunities Programme 1995/6*.
- <sup>30</sup> *ibid.*
- <sup>31</sup> State Services Commission (1994) *EEO: 1984 to 1994 and Beyond*.
- <sup>32</sup> *ibid.*
- <sup>33</sup> State Services Commission (1997) *EEO Statistics Review: A Report on a Review of Public Service Equal Employment Opportunity Statistics*.
- <sup>34</sup> Blanchard, D. (1994) *Planning for Action - Taking the Initiative: A follow up study of the employment experiences of conference participants*, Victoria University, Wellington.
- <sup>35</sup> *ibid.*
- <sup>36</sup> Robyn Hunt cited in Department of Labour (1996) *Equal Employment Opportunities. EEO for People with Disabilities: a practical resource* (1996).
- <sup>37</sup> *ibid.* p.26
- <sup>38</sup> *ibid.*
- <sup>39</sup> New Zealand Employers' Federation Inc. (1997) *Human Rights Act and Equal Employment Opportunities*, 2nd Edition.
- <sup>40</sup> Industrial Relations Service, Department of Labour (1991) *Into the '90s: Equal Employment Opportunities in NZ*, A Report from the Commission for Employment Equity, Wellington.
- <sup>41</sup> search of database by Information Officer, EEO Trust, Auckland.

- <sup>42</sup> Walsh, P. and Dickson, J. (1994) 'Defending a beachhead: managerialism and EEO in the Public Sector' (1988-1992) in Sayer, J. and Tremaine, M. (eds.) *The Vision and the Reality: Equal Employment Opportunities in the NZ Workplace*, PN, Dunmore Press.
- <sup>43</sup> Information taken from the Ideas 2000 Employment Policies Template, completed by Bice Awan for New Zealand (May 1997).
- <sup>44</sup> The Disabled Persons Employment Promotion Act 1960.
- <sup>45</sup> The Disabled Persons Employment Promotion Act 1960.
- <sup>46</sup> Crawford, A., Harbridge, R. and Hince, K. (1996) *Unions and Union Membership in New Zealand: Annual Review for 1995*, Industrial Relations Centre, Victoria University of Wellington.
- <sup>47</sup> Health and Disability Commissioner Act 1994.
- <sup>48</sup> Report of the Health and Disability Commissioner for the year ended 30 June 1996 (presented to the House of Representatives Pursuant to Section 16 of the Health and Disability Commissioner Act 1994).
- <sup>49</sup> Workbridge (1994) *One-Stop-Shop*.
- <sup>50</sup> *Able Update* p.12 - Magazine of DPA NZ (Inc).
- <sup>51</sup> *Legal Resource Manual: Legal Information Service*.
- <sup>52</sup> Disability Sector Vocational Coalition (1997) Vocational support for people with disabilities, Wellington: DPA (New Zealand) Inc.
- <sup>53</sup> *Legal Resource Manual: Legal Information Service*.
- <sup>54</sup> personal communication New Zealand Employment Service, Wellington.
- <sup>55</sup> New Zealand Employers' Federation and EEO Trust (1993) op. cit. p.27.
- <sup>56</sup> Neville B Taylor (Employment and Discrimination Solicitor of Christchurch) The Impact of Recent Legislation/ Law on the Employment of People with Disabilities, Address to 'Mainstream Beyond 2000' Conference Wellington, 18 October 1996.
- <sup>57</sup> *ibid*.
- <sup>58</sup> Wren, J. (1995) 'A survey of New Zealand occupational safety and health practitioners: dominant perspectives and the efficacy of government enforcement and promotion of occupational safety and health', *Journal of Occupational Health and Safety- Aust NZ*, 11, 4, 373-379.
- <sup>59</sup> Pamela A. Jefferies OBE, Chief Commissioner, Human Rights Commission, 'The Context of Rights for People with Disabilities', Address at the 13th Annual National Assembly and Conference of the DPA (New Zealand) Inc, Christchurch, 17 November 1995.
- <sup>60</sup> 'Privacy and EEO Monitoring', Blair Stewart, Manager Codes and Legislation, Office of the Privacy Commissioner. Revised version of an address given to the Auckland EEO Interest Group on 16 February 1995 and the State Services Commission EEO lunch, Wellington, on 26 April 1995.
- <sup>61</sup> *ibid*.
- <sup>62</sup> *ibid*.
- <sup>63</sup> Palmer op. cit.
- <sup>64</sup> Bascand, P. and Frawley, S. (1991) 'Possible consequences of the Employment Contracts Act for people with disabilities', *New Zealand Journal of Industrial Relations*, 16, 309-315.
- <sup>65</sup> CTU (1997) *Stability and Opportunity: stability of employment and equality of employment opportunity for Maori workers*, p. 20.
- <sup>66</sup> *The Employer* (March, 1997) p.3
- <sup>67</sup> CTU (1997) op. cit.
- <sup>68</sup> *ibid*. p.16.
- <sup>69</sup> Crawford, A., Harbridge, R. and Hince, K. (1996) op. cit.
- <sup>70</sup> *ibid*.
- <sup>71</sup> *ibid*.
- <sup>72</sup> *ibid*.
- <sup>73</sup> DPA (NZ) Inc (1990) *Report on Results of Consumer Consultation Process to Assist In the Development and Introduction of the Vocational Opportunities Support Programme*.
- <sup>74</sup> DPA (NZ) Inc (1991) *Vocational opportunities for People with disabilities: 'A blueprint for change'*.
- <sup>75</sup> Cheyne, C., O'Brien, M. and Belgrave, M. (1997) *Social Policy in Aotearoa New Zealand*, Oxford University Press.
- <sup>76</sup> Vash, C. L. (1995) 'Metaphysical influences on disability attitudes. Special double issue: spirituality, disability and rehabilitation', *Rehabilitation Education*, 9, 2-3: 113-127.
- <sup>77</sup> Cheer, U. (1995) 'Social policy implications arising from legal aspects of New Zealand's latest accident compensation scheme', *Social Policy Journal of New Zealand*, 5, 67-79.



- <sup>78</sup> Wilson R. (1996) op. cit.
- <sup>79</sup> McGregor Vennell, M.A. and Manning, J. (1992) 'Accident and Compensation', *NZ Recent Law Review*, 1-14.
- <sup>80</sup> Ison, T. G. (1993) 'Changes to the accident compensation system: An international perspective', *Victoria University of Wellington Law Review*, 23, 3, 25-43.
- <sup>81</sup> Duncan, G. and Nimmo, J. (1993) 'Accident compensation and labour relations: The impact of recent reforms', *New Zealand Journal of Industrial Relations*, 18, 3, 288-305.
- <sup>82</sup> Easton, B. (1997) *Commercialisation of New Zealand*, Auckland: Oxford University Press.
- <sup>83</sup> Kelsey, J. (1997) *The New Zealand Experiment*, Auckland University Press, Bridget Williams Books.
- <sup>84</sup> Department of Labour (1991) *Accident Compensation: A fairer scheme*, Wellington: Government Print.
- <sup>85</sup> ACC Advisory Group (1995) *Accident Compensation: a discussion paper*, p. 6.
- <sup>86</sup> Palmer, G. interviewed by Peter Beatson (1995) op. cit. p.96.
- <sup>87</sup> Duncan, G. (1993) 'ACC Reform and Rehabilitation', *Social Work Review*, 18-20.
- <sup>88</sup> ARCI Act 1992.
- <sup>89</sup> McGregor Venell, M.A. (1993) 'Accident Compensation', *New Zealand Recent Law Review*, 3, 251-257, p.251.
- <sup>90</sup> Duncan, G. (1995) 'Accident compensation - 1995 and still languishing', *New Zealand Journal of Industrial Relations*, 20, 3, 237-253.
- <sup>91</sup> Accident Rehabilitation & Insurance Corporation (1996) *Injury Statistics 1996*, Wellington, p. 10 and 12.
- <sup>92</sup> Mc Gregor Vennell, M.A. and Manning, J. op cit.
- <sup>93</sup> Cheer, U. (1995) op. cit.
- <sup>94</sup> Ison, T.G. (1993) op. cit.
- <sup>95</sup> Palmer, G. interviewed by Peter Beatson (1995) op. cit.
- <sup>96</sup> ACC (1997) *Work capacity assessment procedure (WCAP)*, draft - document for public consultation, March 1997.
- <sup>97</sup> McClellan, V. and Mainey, A. (1997) *Evaluation of the Work Capacity Assessment Procedure*, a report prepared for the Accident Rehabilitation & Compensation Insurance Corporation, Centre for Research Evaluation & Social Assessment.
- <sup>98</sup> *ibid.*
- <sup>99</sup> *ibid.*
- <sup>100</sup> *ibid.*
- <sup>101</sup> *ibid.*
- <sup>102</sup> *ibid.*
- <sup>103</sup> Department of Social Welfare (1996) *From Welfare to Well-Being*, Annual Report and Statistics Report.
- <sup>104</sup> *ibid.*
- <sup>105</sup> *ibid.*
- <sup>106</sup> *ibid.*
- <sup>107</sup> Palmer, G. interviewed by Peter Beatson (1995) op. cit.
- <sup>108</sup> *ibid.*, p.93.
- <sup>109</sup> Duncan, G. (1995) op. cit. p. 245.
- <sup>110</sup> Hughes, O. (1997) *Work Capacity Assessment Procedure. Final Draft*. Submission to ACC by DPA (New Zealand) Inc.
- <sup>111</sup> Rennie, D. (1995) 'Compensation for work-related injury', in C. Slappendel (ed.) *Health and Safety in New Zealand Workplaces* pp. 117-156, Palmerston North: Dunmore Press Ltd.
- <sup>112</sup> Bateman, P. (1996) 'ACC: Sacred cow or sacrificial lamb?', *Safeguard*, May/June, 19-24, p.19.
- <sup>113</sup> Duncan, G. (1993) op. cit. p.18.
- <sup>114</sup> *Work - Labour Party Newsletter on Labour and Employment Issues*, issue 14, August 1996.
- <sup>115</sup> Employer Guidelines, 1996.
- <sup>116</sup> NZ Employers' Federation (1995) op cit. p.52.
- <sup>117</sup> Pernice, R. (in press) 'Association of work attitudes and mental health with level and type of income support received by unemployed people with disabilities', *International Journal of Rehabilitation Research*.
- <sup>118</sup> Pernice, R. (in press) op. cit.
- <sup>119</sup> New Zealand Employers' Federation (1995) op. cit.
- <sup>120</sup> Disability Sector Vocational Coalition (1997) *Vocational Support for People with Disabilities*, Wellington: DPA (New Zealand) Inc.
- <sup>121</sup> The Employer (March, 1997) p.3.
- <sup>122</sup> Pernice (in press) op. cit.

- <sup>123</sup> *Developing an Integrated Policy to Facilitate Employment and Training of People with Disabilities*, Report of the Working Party on Employment and Training Policies for People with Disabilities to the Minister of Employment, August 1991
- <sup>124</sup> Caradoc-Davies T. and Hawker, A. (1996) 'The work rehabilitation impact quotient: A tool to assess the effectiveness of early rehabilitation of injured workers', *Disability and Rehabilitation*, 18, 12, pp.613-618.
- <sup>125</sup> Department of Social Welfare (1996) *From welfare to well-being*, Statistics Report.
- <sup>126</sup> Bhagavan, S. (1997) *Quarterly Review of Benefit Trends. Period ended 31. March 1997. (Third Quarter, Fiscal 97)* Wellington: Business Information Group, National Office, Income Support, pp.42 and 46.
- <sup>127</sup> ACC (1996) Annual Report 1995/1996.
- <sup>128</sup> Hughes, O. and Terrell, V. (1997) 'Review of Sickness and Invalids Benefit', Submission to Social Policy Agency by DPA (New Zealand) Inc. p.9.
- <sup>129</sup> New Zealand Income Support Services (undated) *A Guide for Designated Doctors: Invalids Benefit*.
- <sup>130</sup> *ibid.* p.12.
- <sup>131</sup> Ministers of Health and Social Welfare (1992) *Support for Independence for People with Disabilities. The New Deal*. Government statement on the funding and delivery of Health and disability services, Wellington: Parliament Buildings.
- <sup>132</sup> New Zealand Federation of Voluntary Welfare Organisations (1997) 'Policy. The coalition deal'. *Dialogue no 93*, Newsletter of the NZFVWO pp. 12 and 13.
- <sup>133</sup> Department of Labour (1996).
- <sup>134</sup> Disability Sector Vocational Coalition (1997) *op. cit.*
- <sup>135</sup> *ibid.*
- <sup>136</sup> ASENZ (1996) *Jobs for New Zealanders with Disability. The ASENZ Vision for Employment Policy and Services*. Prepared as a discussion document by the association for Supported Employment in New Zealand, Levin, NZ: Omega Publications.
- <sup>137</sup> Workbridge (circa 1995) *The next step*.
- <sup>138</sup> Disability Sector Vocational Coalition (1997) *op. cit.*
- <sup>139</sup> ARCI Act (1992) *op. cit.*
- <sup>140</sup> New Zealand Employment Service (1997) *Building better Futures through Work, Ka Mahi, Ka Ora*, Wellington: NZES Newsletter.
- <sup>141</sup> The New Zealand Employment Service (1997) *ibid.*
- <sup>142</sup> Figures cited in Bice Awan *op. cit.*
- <sup>143</sup> *ibid.*
- <sup>144</sup> Parliamentary debates: question supplement, volume 24, p.6252.
- <sup>145</sup> Winter, P. (1996) 'The next step: The future of vocational services for people with disabilities', *New Zealand Journal of Disability Studies*, 3, 24-29, p.28.
- <sup>146</sup> State Service Commission (1997) *Enhancing the Mainstream Supported Employment Programme, 2 The Research*.
- <sup>147</sup> State Service Commission (1997) *Enhancing the Mainstream Supported Employment Programme, 1 The Report*.
- <sup>148</sup> Payne, G. (1995) 'Work opportunities for people who have a mental disability', *Mental Health News*, 8-10, p.9.
- <sup>149</sup> Mendis, M. (1996) *Vocational rehabilitation under ACC and the disabled: An opportunity lost?*, LLM Research Paper, Law Faculty, Victoria University of Wellington.
- <sup>150</sup> Bennie, G. (1996) *Supported Employment: Origins, development and current status*. Palmerston North: Garth Bennie and Associates.
- <sup>151</sup> Payne, G. (1995) *op. cit.*
- <sup>152</sup> Personal communication ACC Strategic Cultural Unit.
- <sup>153</sup> Lavery, S.M. (1996) *Disability and employment: The move to market power* (no publisher/place).
- <sup>154</sup> *ibid.*
- <sup>155</sup> *ibid.*
- <sup>156</sup> Bennie, G. (1996) *op. cit.*
- <sup>157</sup> Lavery S.M. (1996) *op. cit.*
- <sup>158</sup> Garth Bennie, personal communication.
- <sup>159</sup> Workbridge Marketing - A Division of Workbridge Inc. (1996). *Workbridge Today*. Timaru, NZ: Pope Print, p.21.
- <sup>160</sup> Personal communication - sources not attributed/
- <sup>161</sup> Personal communication - sources not attributed.
- <sup>162</sup> Ministry of Health, June 1994. *Standards for needs assessment for people with disabilities*.
- <sup>163</sup> Department of Social Welfare (1996): *From welfare to well-being*, pp. 10-11.

- <sup>164</sup> New Zealand Income Support Service *A guide for designated doctors. Invalids Benefit.*
- <sup>165</sup> Figures of seven per cent stated in the annual report of the 1996 fiscal year, and recent figures of nine per cent broadcasted on National Radio, 9 September 1997.
- <sup>166</sup> Work - Labour Party Newsletter on Labour and Employment Issues, issue 14, August, 1996.
- <sup>167</sup> Disability Sector Vocational Coalition (1997) op. cit. p. 15 and p. 22.
- <sup>168</sup> Campbell, I. (1996) *Compensation for Personal Injury in New Zealand. Its Rise and Fall*, Auckland University Press.
- <sup>169</sup> Personal communication, David Guest, NZ Disability Resource Centre, Palmerston North, 10 September, 1997.
- <sup>170</sup> (NZ National Radio, September 3, 1997).
- <sup>171</sup> Personal communication New Zealand Employment Service, Wellington.
- <sup>172</sup> Personal communication, Bev Knight, Workbridge Inc., Palmerston North.
- <sup>173</sup> Moore, T.J. (1995) *Habilitation and Rehabilitation in New Zealand*, paper commissioned by the National Advisory Committee on Core Health and Disability Support Services.
- <sup>174</sup> NZ Employers' Federation (1985) *Positive Action Guide: Employing People with Disabilities.*
- <sup>175</sup> Comment by the NZ Employers' Federation on the NZ Government's Article 19 Report on the position of national law and practice in regard to matters dealt with in instruments 159 and 168.
- <sup>176</sup> *Disability Pride: Good Business Awards* (undated).
- <sup>177</sup> *People and Performance* (December, 1994).
- <sup>178</sup> ACC (undated) *Accredited Employers Programme - A New Way of Providing Rehabilitation.*
- <sup>179</sup> Twedde, G. (1996) presentation in session 'Innovations in rehabilitation and return to work: What works and what doesn't', *Congress Proceedings*, 448-454, Auckland: 18th World Conference of Rehabilitation International, September 15-20.
- <sup>180</sup> *ibid.*
- <sup>181</sup> *ibid.*
- <sup>182</sup> *ibid.*
- <sup>183</sup> *ibid.*
- <sup>184</sup> Campbell, I.B. (1996) op. cit.
- <sup>185</sup> *ibid.* p.230.
- <sup>186</sup> cited in the NZCTU Internet page.
- <sup>187</sup> New Zealand Aids Foundation (1994) *HIV and AIDS in the Workplace: A Model Policy for Employers and Suppliers of Goods and Services.*

## REFERENCES

- Able Update* (1997) The Magazine of DPA (New Zealand) Inc., 'Employment' p.12.
- ACC (undated) *Accredited Employers Programme - A New Way of Providing Rehabilitation*, Wellington: ACC.
- ACC Advisory Group (1995) *Accident Compensation: A Discussion Paper*, Wellington: Accident Rehabilitation and Compensation Insurance Corporation.
- ACC (1996) *Annual Report 1995/1996*, Wellington: Accident Rehabilitation and Compensation Insurance Corporation.
- ACC (1996) *Employer Guidelines for Return to Work Programme*. Palmerston North: ACC Palmerston North Branch Office
- ACC (1996) *Injury Statistics 1996*, Wellington: Accident Rehabilitation and Compensation Insurance Corporation.
- ACC (1997) *Work Capacity Assessment Procedure (WCAP)*, draft - document for public consultation, March 1997, Wellington: Accident Rehabilitation and Compensation Insurance Corporation.
- ACC (1997) *Work Capacity Assessment Procedure (WCAP)*, final draft - document for public consultation, July 1997, Wellington: Accident Rehabilitation and Compensation Insurance Corporation.
- Accident Rehabilitation and Compensation Insurance Act 1992.
- Angus, Q. (undated) *The Building Act 1991*, (place/publisher unknown).
- ASENZ (1996) *Jobs for New Zealanders with Disability. The ASENZ Vision for Employment Policy and Services*. Prepared as a discussion document by the Association for Supported Employment in New Zealand, Levin, NZ: Omega Publications.
- Awan, B. (1997) Information taken from the Ideas 2000 Employment Policies Template, completed by Bice Awan for New Zealand (May 1997).  
<http://www-rei.rutgers.edu/~berkowi/nz-all.doc>.
- Bascand, P. and Frawley, S. (1991) 'Possible consequences of the Employment Contracts Act for people with disabilities', *New Zealand Journal of Industrial Relations*, 16, 309-315.
- Bateman, P. (1996) 'ACC: sacred cow or sacrificial lamb?', *Safeguard*, May/June, 19-24.
- Bennie, G. (1996) *Supported Employment: Origins, Development and Current Status*, Palmerston North: Garth Bennie and Associates.

- Bhagavan, S. (1997) *Quarterly Review of Benefit Trends. Period ended 31 March 1997. (Third Quarter, Fiscal 97)*, Wellington: Business Information Group, National Office, Income Support.
- Blanchard, D. (1994) *Planning for Action - Taking the Initiative: A Follow up Study of the Employment Experiences of Conference Participants*, Victoria University, Wellington.
- Bradley, S. (1996) 'Employment, health and safety', *Chartered Accountants Journal*, September, 38-40.
- Building Industry Authority (June, 1993) *Access and Facilities for People with Disabilities: The Relationship between the Building Act and the Disabled Persons Community Welfare Act. A Statement by the Building Industry Authority*. BIA News No. 23.
- Campbell, I.B. (1996) *Compensation for Personal Injury in New Zealand. Its Rise and Fall*, Auckland: University Press.
- Campbell, I.B. (1998) *Experience Rating for Accident Compensation: A Necessity or Wishful Thinking*, Department of Management Systems, Occasional Paper No. 4, Palmerston North: Massey University.
- Caradoc-Davies, T. and Hawker, A. (1996) 'The work rehabilitation impact quotient: A tool to assess the effectiveness of early rehabilitation of injured workers', *Disability and Rehabilitation*, 18(12), 613-618.
- Cheer, U. (1995) 'Social policy implications arising from legal aspects of New Zealand's latest accident compensation scheme', *Social Policy Journal of New Zealand*, 5, 67-79.
- Cheyne, C., O'Brien, M. and Belgrave, M. (1997) *Social Policy in Aotearoa New Zealand*, Oxford University Press.
- Crawford, A., Harbridge, R. and Hince, K. (1996) *Unions and Union Membership in New Zealand: Annual Review for 1995*, Industrial Relations Centre, Victoria University, Wellington.
- CTU (1997) *Stability and Opportunity: Stability of Employment and Equality of Employment Opportunity for Maori Workers*, New Zealand Council of Trade Unions.
- Department of Labour (1991) *Accident Compensation: A Fairer Scheme*, Wellington: Government Print.
- Department of Labour (1996) *Equal Employment Opportunities. EEO for People with Disabilities: A Practical Resource*, Wellington: Department of Labour.
- Department of Labour, Industrial Relations Service (1991) *Into the 90s: Equal Employment Opportunities in NZ: A Report from the Commission for Employment Equity*, Wellington.
- Department of Labour, Occupational Safety & Health Service (1992) *A Guide to the Health and Safety in Employment Act*, Wellington: Department of Labour.
- Department of Social Welfare (1996) *Equal Employment Opportunities Programme 1995/6*, Wellington: DSW.

Department of Social Welfare (1996) *From Welfare to Well-Being, 1996 Fiscal Year, Annual Report*, Wellington: DSW.

Department of Social Welfare (1996) *From Welfare to Well-Being, 1996 Fiscal Year, Statistics Report*, Wellington: DSW.

Disability Pride (undated) *Good Business Awards*, Workbridge.

Disability Sector Vocational Coalition (1997) *Vocational Support for People with Disabilities*, Wellington: DPA (New Zealand) Inc.

Disabled Persons Employment Promotion Act 1960.

DPA (New Zealand) Inc (1990) *Report on Results of Consumer Consultation Process to Assist In the Development and Introduction of the Vocational Opportunities Support Programme*, Wellington: DPA.

DPA (New Zealand) Inc (1991) *Vocational Opportunities for People with Disabilities: A Blueprint for Change*, Wellington: DPA.

Duncan, G. (1993) 'ACC Reform and Rehabilitation', *Social Work Review*, 18-20.

Duncan, G. (1995) 'Accident compensation - 1995 and still languishing', *New Zealand Journal of Industrial Relations*, 20, 3, 237-253.

Duncan, G. and Nimmo, J. (1993) 'Accident compensation and labour relations: The impact of recent reforms', *New Zealand Journal of Industrial Relations*, 18, 3, 288-305.

Easton, B. (1997) *Commercialisation of New Zealand*, Auckland: Oxford University Press.

*The Employer* (1997) March, p.3.

Hardie, G. (1996) 'The ecstasy and the agony', *Build*, December, 18-19.

Hay, R. (1992) *Accessible Building Requirements for People with Disabilities - the Situation up to 31 December 1992, and Beyond*, Dunedin.

Health and Disability Commissioner Act 1994.

Health and Disability Commissioner (1996) *Your Rights When Receiving a Health or Disability Service*, Wellington.

Health and Disability Commissioner (1996) *Report of the Health and Disability Commissioner for the Year ended 30 June 1996* (presented to the House of Representatives pursuant to Section 16 of the Health and Disability Commissioner Act 1994).

Health and Safety in Employment Act 1992.

- Hughes, O. (1997) *Work Capacity Assessment Procedure. Final Draft*. Submission to ACC by DPA (New Zealand) Inc.
- Hughes, O. and Terrell, V. (1997) 'Review of Sickness and Invalids Benefits', submission to Social Policy Agency by DPA (New Zealand) Inc.
- Human Rights Commission (1996) *Annual Report for Year Ended 30 June 1996*, Wellington: HRC.
- Inland Revenue Department (undated) *Equal Employment Opportunity: A Suitable Work Environment for People with Disabilities: A Guide for IRD Managers and Supervisors*, Wellington: EEO Unit, Head Office, Inland Revenue.
- Inland Revenue Department (1993) *Effective Employee Selection: EEO Considerations for Appointment Panels*, Wellington: EEO Unit, Head Office, Inland Revenue.
- Ison, T.G. (1993) 'Changes to the accident compensation system: An international perspective', *Victoria University of Wellington Law Review*, 23, 3, 25-43.
- Jefferies, P.A. (1995) *The Context of Rights for People with Disabilities*, Chief Commissioner's Address, Human Rights Commission, 13th Annual National Assembly and Conference of the DPA (New Zealand) Inc, Christchurch, 17 November 1995.
- Kelsey, J. (1997) *The New Zealand Experiment*, Auckland University Press, Bridget Williams Books.
- Lavery, S.M. (1996) *Disability and Employment: The Move to Market Power* (no publisher/place).
- Legal Information Service (1997) *Legal Resource Manual*, Auckland: Legal Information Service.
- McClellan, V. and Mainey, A. (1997) *Evaluation of the Work Capacity Assessment Procedure*, A report prepared for the Accident Rehabilitation & Compensation Insurance Corporation, Centre for Research Evaluation & Social Assessment.
- McGregor Vennell, M. A. (1993) 'Accident compensation', *New Zealand Recent Law Review*, 3, 251-257.
- McGregor Vennell, M. A. and Manning, J. (1992) 'Accident and compensation', *New Zealand Recent Law Review*, 1-14.
- Mendis, M. (1996) *Vocational Rehabilitation under ACC and the Disabled: An Opportunity lost?*, LLM Research Paper, Law Faculty, Victoria University of Wellington.
- Minimum Wage Act 1983.
- Ministers of Health and Social Welfare (1992) *Support for Independence for People with Disabilities. The New Deal*. Government statement on the funding and delivery of health and disability service, Wellington: Parliament Buildings.

Ministry of Health (1994) *Standards for Needs Assessment for People with Disabilities*.

Moore, T. J. (1995) *Habilitation and Rehabilitation in New Zealand*, paper commissioned by the National Advisory Committee on Core Health and Disability Support Services.

New Zealand Aids Foundation (1994) *HIV and AIDS in the Workplace: A Model Policy for Employers and Suppliers of Goods and Services*, Auckland: NZ Aids Foundation.

*NZ Disabled* (1992) 'DPA group takes issue with Workbridge', 12(2), 47-49.

New Zealand Employers' Federation (1985) *Positive Action Guide: Employing People with Disabilities*, Wellington: NZEF.

New Zealand Employers' Federation (1995) *A New Prescription for Accident Compensation*, Wellington: NZEF.

New Zealand Employers' Federation Inc. (1997) *Human Rights Act and Equal Employment Opportunities*, 2nd Edition, Wellington: NZEF.

New Zealand Employers' Federation (1997) *Comment on the NZ Government's Article 19. Report on the Position of National Law and Practice in Regard to Matters Dealt with in Instruments 159 and 168*.

New Zealand Employers' Federation and EEO Trust (1993) *A Guide for Employers on the Human Rights Act and Equal Employment Opportunity*, Wellington: NZEF.

New Zealand Employment Service (1997) *Building Better Futures through Work, Ka Mahi, Ka Ora*, NZES Newsletter, Wellington.

New Zealand Federation of Voluntary Welfare Organisations (1997) 'Policy. The coalition deal', *Dialogue* (newsletter of the NZFVWO) no. 93.

New Zealand Income Support Services (undated) *A Guide for Designated Doctors: Invalids Benefit*.

Palmer, G. interviewed by Peter Beatson (1995) 'Accident compensation in New Zealand', *New Zealand Journal of Disability Studies*, 87-103.

Payne, G. (1995) 'Work opportunities for people who have a mental disability', *Mental Health News*, 8-10.

*People and Performance* (December, 1994), 1(3).

Pernice, R. (in press) 'Association of work attitudes and mental health with level and type of income support received by unemployed people with disabilities', *International Journal of Rehabilitation Research*.

Rennie, D. (1995) 'Compensation for work-related injury', pp. 117-156 in C. Slappendel (Ed.) *Health and Safety in New Zealand Workplaces*, Palmerston North: Dunmore Press Ltd.



Sampson, V. (1996) presentation in session 'Innovations in rehabilitation and return to work: What works and what doesn't', *Congress Proceedings*, 431-436, Auckland: 18th World Congress of Rehabilitation International, September 15-20, 1996.

State Sector Act 1988.

State Services Commission (1994) *EEO: 1984 to 1994 and Beyond*, Wellington: SSC.

State Services Commission (1996) *Equal Employment Opportunities: Progress in the Public Services*, Wellington: SSC.

State Services Commission (1997) *EEO Statistics Review: A Report on a Review of Public Service Equal Employment Opportunity Statistics*, Wellington: SSC.

State Service Commission (1997) *Enhancing the Mainstream Supported Employment Programme, 1 The Report*, Wellington: SSC.

State Service Commission (1997) *Enhancing the Mainstream Supported Employment Programme, 2 The Research*, Wellington: SSC.

Stewart, B. (1996) *Privacy and EEO Monitoring*. Revised version of an address given to the Auckland EEO Interest Group on 16 February 1995 and the State Services Commission EEO lunch, Wellington, on 26 April 1995.

Taylor, N.B. (1996) *The Impact of Recent Legislation/ Law on the Employment of People with Disabilities*, Address to "Mainstream Beyond 2000" Conference Wellington, 18 October.

Tweddle, G. (1996) presentation in session 'Innovations in rehabilitation and return to work: What works and what doesn't', *Congress Proceedings*, 448- 454, Auckland: 18th World Conference of Rehabilitation International, September 15-20, 1996.

Vash, C. L. (1995) 'Metaphysical influences on disability attitudes. Special double issue: spirituality, disability and rehabilitation', *Rehabilitation Education*, 9(2/3), 113-127.

Walsh, P. and Dickson, J. (1994) 'Defending a beachhead: Managerialism and EEO in the public sector' (1988-1992) in Sayer, J. and Tremaine, M. (eds.) *The Vision and the Reality: Equal Employment Opportunities in the NZ Workplace*, PN, Dunmore Press.

Wilson, R. (1996) 'Return to work - the New Zealand experience under the Accident Compensation Scheme', *New Zealand Journal of Industrial Relations*, 21, 2, 171-177.

Winter, P. (1996) 'The next step: the future of vocational services for people with disabilities', *New Zealand Journal of Disability Studies*, 3, 24-29.

*Work* (1996) Labour Party Newsletter on Labour and Employment Issues, issue 14, August.

Workbridge (1994) *One-Stop-Shop*.

Workbridge (circa 1995) *The Next Step*.

Workbridge Marketing - A Division of Workbridge Inc. (1996). *Workbridge Today*. Timaru, NZ: Pope Print.

Working Party on Employment and Training Policies for People with Disabilities (1991) *Developing an Integrated Policy to Facilitate Employment and Training of People with Disabilities*, Report of the Working Party on Employment and Training Policies for People with Disabilities to the Minister of Employment, August 1991.

Wren, J. (1995) 'A survey of New Zealand occupational safety and health practitioners: Dominant perspectives and the efficacy of government enforcement and promotion of occupational safety and health', *Journal of Occupational Health and Safety - Aust NZ*, 11(4), 373-379.

**International Research Project on Job Retention  
and Return to Work Strategies for Disabled Workers**

**PUBLICATIONS**

Albrecht, M. and Braun, H. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Germany.* Geneva: International Labour Organization.

Cuelenaere, B. and Prins, R. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Netherlands.* Geneva: International Labour Organization.

Duckworth, S., McGeer, P., Kearns, D. and Thornton, P. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: United Kingdom.* Geneva: International Labour Organization.

Grapin, P., Lambert, T., Fradin, N., Tizroutine, T., Jafflin, D., Halimi, C., Coda-Vaillant, M. and Mérian, I. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: France.* Geneva: International Labour Organization.

Gunderson, M., Gildiner, A. and King, A. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Canada.* Geneva: International Labour Organization.

Karlsson, A. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Sweden.* Geneva: International Labour Organization.

O'Leary, P. with Dean, D. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: USA.* Geneva: International Labour Organization.

Pernice, R. and Lunt, N. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: New Zealand.* Geneva: International Labour Organization.

Thornton, P. with others (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Key Issues.* Geneva: International Labour Organization.