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Institute for Work & Health

New Zealand

Description of the organization of the occupational health and safety system and the delivery of prevention services

Report to the
Expert Advisory Panel
Occupational Health and Safety Prevention and Enforcement System

Ontario Ministry of Labour
New Zealand

There are approximately 2.2 million economically active adults in New Zealand.

For the purpose of the series of reports to the Expert Advisory Panel, New Zealand is classified as a 'parallel authority' jurisdiction, with responsibilities for occupational health and safety held by two senior government agencies: the Department of Labour and the Accident Compensation Corporation.

The Occupational Health and Safety Service, Department of Labour, is responsible for workplace health and safety in New Zealand. The OHS assists employees, employers and others affected by work to actively manage safety and health in the workplace. The OHS offers a range of interventions and services to workplaces such as inspections, assessments and the provision of information and advice (1).

Workers' compensation in New Zealand is part of a compulsory, national, no-fault and exclusive remedy accident insurance compensation scheme. The Accident Compensation Corporation was established in 1974, following recommendations of the Royal Commission of Inquiry into Compensation for Personal Injury in New Zealand, conducted by Sir Owen Woodhouse (4). ACC insures all New Zealand citizens for rehabilitation and wage replacement benefits arising from all accidental causes, whether they occur at work, at home or the sport field. ACC administers six insurance accounts:

1) the work account covers all work-related injuries and is funded by levies paid by employers and self-employed people,
2) the earners' account covers non-work injuries to earners and is funded by earners' levies
3) non-earners account covers injuries to people not in the paid labour forces and is funded by government revenues,
4) the motor vehicle account covers all personal injuries involving motor vehicles on public roads and is funded from petrol excise taxes and motor vehicle registration fees,
5) treatment injury account covers injuries arising from medical care (medical misadventure)
6) a residual claims account.

ACC is a crown corporation created by statute. The corporation is headed by a board of directors, consisting of up to eight members who are appointed by the Minister responsible for ACC. The Chief Executive of ACC is appointed by the Board of Directors. ACC has an annual Ministerial service agreement with the government, supporting the alignment of ACC’s activities with the priorities of the government. Legislation pertaining to ACC was amended in 2001 (Injury Prevention, Rehabilitation, and Compensation Act 2001).
1.0 Organization and Structure of OHS Prevention Services

1.1 Key Elements of Legislative Authority
The Occupational Health and Safety Service, Department of Labour, administers the Health and Safety in Employment Act (1992, amended 2002), the goal of which is ‘to provide for the prevention of harm to employees at work’. The 2002 reforms provided, in particular, new means of increasing employee participation in workplace health and safety protection, alternate enforcement mechanisms and addressed issues concerning the Act's coverage.

As in many other commonwealth jurisdictions, New Zealand’s occupational health and safety legislation is based on recommendations made by Robens’ Committee in the United Kingdom (6), whereby OHS laws shifted from detailed, prescriptive standards to a more self-regulatory and performance-based approach. The Robens model includes two principal elements: a single umbrella statute containing broad ‘general duties’ based on the common law duty of care; and the incorporation of ‘self-regulation’ by empowering duty holders, in consultation with employees, to determine how they will comply with the general duties. Prescriptive requirements were replaced with a three tiered approach involving regulations and codes of practice designed to support the general duties in the Act. Robens also recommended the use of improvement and prohibition notices in compliance activities as new administrative sanctions to enable regulators to contribute to the self-regulatory culture.

The Health and Safety in Employment Act’s object is to promote the prevention of harm to all persons at work and other persons in, or in the vicinity of, a place of work. The means to achieve this object include:
- Promoting excellence in health and safety management;
- Defining hazards and harm in a comprehensive way so that all hazards and harm are covered, including harm caused by work-related stress and hazardous behaviour caused by certain temporary conditions.
- Imposing duties to ensure that people are not harmed as a result of work activities;
- Setting requirements that relate to the taking of all practicable steps to ensure health and safety, and are flexible to cover different circumstances;
- Encouraging the health and safety of volunteers;
- Requiring employee participation in the improvement of health and safety and encouraging good faith co-operation in places of work;
- Providing a range of enforcement methods in response to failure to comply with the Act.

Legislation pertaining to ACC was amended in 2001 (Injury Prevention, Rehabilitation, and Compensation Act 2001).

1.2 Responsibility for Prevention Services
The Occupational Health and Safety Service, Department of Labour, is responsible for workplace health and safety in New Zealand. The OHS offers a range of interventions and services to workplaces such as inspections, assessments and the provision of information and advice. ACC currently administers two voluntary
economic incentive programs to support employer OHS practices. ACC also provides information and guidance to workplaces.

1.3 **Source of Funding and Expenditures on Prevention Services**
Prevention services provided by the Department of Labour are funded by a levy on employers' payrolls and the taxable earnings of self-employed workers. The levy is collected with and as part of accident compensation insurance premiums.

In 2007, total expenditures by the Department of Labour on labour inspection, enforcement and compliance services was $36.4 million. In addition, ACC allocated expenditures in the amount of $16.3 million to prevention services in the ‘work account’ (5). Total expenditures of $52.7 million for prevention services represents 7.7% of total premium revenues of $683 million. Prevention services expenditures represent $24 per worker.

1.4 **Prevention Service Activities**
OHS employs approximately 150 labour inspectors and 50 technical and consultation staff. An additional 30 technical advisors are employed by the ACC to support work prevention activities. OHS labour inspectors conducted 5,000 field visits in 2008.

Neither OHS nor ACC directly provide training services. OHS Prevention services are administered regionally. Compensation services and associated prevention services administered by ACC are also administered regionally.

1.5 **Expenditures on Research**
The National Occupational Health and Safety Advisory Committee (NOHSAC) was established in July 2003 and suspended operation in 2009. The Committee’s function was to provide independent advice directly to the Minister of Labour on major occupational health and safety issues. The terms of reference for the Committee were to: 1) provide an independent assessment to the Minister on the major occupational health and safety issues for the New Zealand workforce, 2) advise the Minister on measures that would deliver the greatest benefit for the prevention of occupational injury and disease and 3) develop an evidence-based approach to occupational health and safety issues. There is also research capacity based in university centers. Total expenditures on occupational health and safety research may be in the range of $800,000 per year.
2.0 OHS Prevention Model

2.1 OHS Standards
Over the past 10 years, New Zealand has continued reforms transitioning from an historic emphasis on prescriptive regulatory standards to a performance-based approach where the employer may choose how the occupational health protection intentions of the Act is best achieved.

The Health and Safety in Employment Act sets out duties which are in turn supplemented by regulations, approved codes of practice, and guidelines developed by, or in conjunction with, the Occupational Safety and Health Service. Like the Act, regulations are enforceable, and breaches may result in prosecution and fines. Approved codes of practice are guidelines which have been approved by the Minister of Labour under the Act. Their requirements are not mandatory or enforceable as such, but their observance is accepted in Court as evidence of good practice.

The Department of Labour uses its enforcement powers when it is unable to get voluntary compliance with the law or the matter is such that a duty-holder needs to be held accountable for failure to meet minimum standards. The Department’s response to any observed breach of legislation is to choose the enforcement intervention that will best see hazards eliminated, isolated or minimised quickly and effectively and influence future compliance with the legislation. HSE Act enforcement interventions include: written warnings by the inspector, improvement notices, suspension notices, prohibition notices, revocation of registration, certificated exemptions and approvals, infringement notices and prosecutions.

2.2 Regulatory Review Process
There is no legislated requirement that OHS legislation be reviewed at mandated intervals.

Regulations are made under section 21 of the Act. They may be made to control particular hazards, by industry, or with application to a range of hazards across all industries. Current government policy is that regulations are made subject to three criteria: to reduce compliance costs by giving people a clear understanding of the general provisions of the Act; to set minimum standards for the management of particular hazards where alternative control measures are not always effective; and to provide matters contemplated by, but not specifically addressed in the Act. Consultation with industry (persons and organisations at the discretion of the Minister of Labour, and with regard to the regulations’ content) is required before, and during the preparation of regulations. There is also a specific requirement for the Minister of Labour to consult with the Environmental Risk Management Authority established under the Hazardous Substances and New Organisms Act 1996 before the making of regulations on hazardous substances or new organisms.

2.3 Regulatory Requirement for Worker Participation
Under legislation, employers have a duty to provide reasonable opportunities to employees to participate effectively in ongoing processes for the improvement of health and safety in their place of work. Safety and health committees and
representatives provide a means for such consultation and co-operation and their establishment is encouraged by the Department of Labour.

The HSE Act specifies the circumstances where a process is required to be in place to properly canvas the views of employees. If an employer employs fewer than 30 employees, the employer must establish an 'employee participation system' if requested by one or more workers. If an employer employs more than 30 employees, the employer must establish an 'employee participation system'. Consistent with the performance-based principle underlying the legislation, the structure and process of an 'employee participation system' is not specified.

The HSE Act specifies a number of mandatory requirements related to employee training. Employers must allow health and safety representatives two days of paid leave each year to attend health and safety training provided by training programs approved by the Department of Labour or 'otherwise'. This training leave requirement may be increased or decreased under the terms of an agreed system of employee participation in individual workplaces.

If a representative has completed an approved training course, then he/she may issue a 'hazard notice'. A hazard notice is intended as a communication tool between a health and safety representative and the employer. Its purpose is to describe a hazard in a place of work where there is not agreement on how the hazard should be managed. A hazard notice contains no penalty and there is no requirement to forward the notice to the OHS. However, if the hazard notice refers to a breach of the HSE Act, it may form prior warning for an infringement notice.

2.4 Economic Incentives
ACC does not use experience rating in the setting of individual employer’s insurance premiums in the work account. Insurance premium rates are established for 117 employer risk groups. In 2007/2008, ACC commissioned a broad external review of the performance of ACC relative to other work disability insurance schemes internationally (3). The review offered a recommendation that ACC consider introducing experience rating in place of the current tariff rating system for large employers. This recommendation was made principally on the basis of the wide adoption of experience rating in other jurisdictions.

ACC currently administers two economic incentive programs that provide approximately $160 million ($NZ) in benefits to participating employers. These benefits are the equivalent of 23% of insurance premium revenues.

ACC has administered a voluntary accreditation program, the Accredited Employer Program, since 1974. In 2000, the program was renamed the Partnership Program. The program provides a form of self-insurance option to employers who demonstrate that they have the capacity to perform the injury management functions and responsibilities of the corporation. The program allows accredited employers to manage their own work injury claims for the first 12 months after the injury. Accredited employers are required to submit claims data to ACC on a monthly basis. In 2007–2008, some 144 large New Zealand businesses, covering 316,000 employees (approximately 15% of the NZ workforce), chose to use the Partnership Programme to manage their employees’ work-related injuries and illnesses (5).
During the 2008, an operational review of the Partnership Programme was carried out. This was a joint initiative of ACC, the New Zealand Council of Trade Unions (NZCTU), Business New Zealand and the Department of Labour. Its purpose was to ensure the Programme continues to achieve the objectives stated in the Injury Prevention, Rehabilitation, and Compensation Act 2001. The review noted a number of opportunities for improvement, including providing benchmark data, increasing stakeholder knowledge and capability, and reducing compliance costs for businesses.

ACC Workplace Safety Management Practices is a programme that medium- and large-sized businesses can use to strengthen their existing health and safety systems. Approximately 1,800 employers, representing 230,000 workers (10% of the NZ workforce) participate in this program (5). The programme offers a range of benefits: 1) an externally audited, national safety framework within which to work, 2) proof of the business safety commitment to staff, 3) demonstration of the commitment to customers, the business community and the public and 4) ACC levy discounts. In 2007–2008, 2,140 businesses participated in the Workplace Safety Management Practices Programme.

The Workplace Safety Discount Programme provides a levy discount targeted at small businesses and self-employed people in a limited number of industries who can show sound health and safety practices. ACC is currently devoting efforts to increasing the participation rate in this program.

3.0 OHS Strategy Framework

3.1 Description of Elements of OHS Strategy

New Zealand Injury Prevention Strategy (NZIPS)
The New Zealand Injury Prevention Strategy has a vision to create a safe New Zealand, becoming injury free. ACC and the Department of Labour participate in the strategy as one of 21 government agencies with responsibility for injury prevention. ACC houses the NZIPS secretariat and is the lead agency for national efforts to prevent falls and drowning. The Department of Labour is the lead agency for the Workplace Health and Safety Strategy, one of NZIPS six priority areas (work-related injuries and occupational disease).

The Workplace Health and Safety Strategy (WHSS) was launched in June 2005, a component of the New Zealand Injury Prevention Strategy (NZIPS). The WHSS is led by the Department of Labour and is intended to: raise awareness about workplace health and safety, coordinate and prioritise workplace health and safety activities across stakeholders and improve the infrastructure that supports workplace health and safety.

3.2 Participation of employer and worker representatives
The Workplace Health and Safety Strategy was developed in consultation with worker and employer representatives.
3.3 Targeting Resources to Greatest Risks
In workplace settings, ACC focuses prevention efforts on high-risk industries, defined by the nature of the work that they undertake and the types of hazards employees can be exposed to. ACC aimed for a 2.5% reduction in new entitlement claims in five high-risk industries (sheep and beef, construction, health, forestry and meat) from forecast. There has been a 4.4% reduction in the 11 months to 31 May 2008.

4.0 Operational Co-ordination

4.1 Priorities in Operational Coordination
ACC has an annual Ministerial service agreement with the government, supporting the alignment of ACC’s activities with the priorities of the government. One of seven strategic priorities is ‘working to reduce injuries and occupational diseases’. Injury prevention is stated as ACC’s ‘overarching priority’.

When the Workplace Health and Safety Strategy was launched, government indicated an intention to review progress after three years of implementation (7). The review sought to answer four questions:
1. What progress has been made in workplace health and safety in New Zealand over the last three years?
2. What is working well and should be continued or expanded?
3. What are the main barriers to achieving the goal of “healthy people in safe and productive workplaces”?
4. What should the current and future priorities for workplace health and safety in New Zealand be?

The review, released in 2009, noted a consensus among stakeholders affirming the need for the Strategy and identified a number of practical and encouraging achievements in the last three years. The review also identified four primary deficiencies.

The Strategy needs clearer direction to focus action
The review revealed widespread agreement that the Strategy needs clearer direction to engage stakeholders at the workplace level. On broader analysis, an implementation gap has emerged between the high-level Strategy framework and concrete action at the workplace, industry or hazard level.

There is agreement on the health and safety problems that need fixing
There was collective agreement about the range of health and safety problems stakeholders want to see resolved. Specifically, the key set of priority issues that emerged included:
• improved focus and delivery for occupational health issues.
• workplace capability, guidance and standards (especially for small businesses)
• sector-based approaches (that is, high-risk industries, industry accreditation)
• competency standards for health and safety professionals.
• worker participation in workplaces, including health and safety representative training.

The Strategy needs rejuvenation to be more effective
There was widespread support across all categories of stakeholders to see the
Strategy rejuvenated and reaffirmed, emphasizing the following:
1. Improving stakeholder engagement.
2. Improving cross-agency leadership and coordination.
3. Prioritising a finite set of action areas for collective focus.

**Improving cross-agency leadership and coordination**

The review identified a clear need for improved government coordination and collaboration. Clarifying the respective roles of the Department and the Accident Compensation Corporation (ACC), improving leadership across designated agencies (Civil Aviation Authority (CAA) and Maritime NZ New Zealand (MNZ)) and the enforcement of the Hazardous Substances and New Organisms (HSNO) Act 1996 were specific issues. In addition, the review identified the public sector health and safety performance as an area in need of renewed leadership. As significant employers, public sector agencies need to be seen to be taking a proactive lead on health and safety.

**An action agenda is needed to fill the implementation gap**

There was widespread agreement about the need for clearer direction to bridge the gap between the higher level framework and implementation activities. One practical option would be for the Department to lead the development of a three-yearly national action agenda that would be: evidence-based, prioritising and targeting of health and safety activities, responsive to stakeholder needs and expectations, time bound and measurable and based on good law and reducing unnecessary compliance burdens.

**4.2 Monitoring the Effectiveness of Prevention Services**

ACC’s Board of Directors and executive management routinely monitor a series of key performance indicators. Twelve corporate performance measures are reported in the ACC 2008 annual report. One of these indicators measures progress in reducing the incidence of serious non-fatal injury. Over the period 2000-2005, ACC reports ‘no evidence of change’ in the rate of serious non-fatal work injuries per 100,000 person years at risk (19.5 / 100,000 in 2005).

The review of the Workplace Health and Safety Strategy consistently identified the lack of good data and ways to collect data and measure health and safety indicators (health and safety metrics) as an issue. Legislation governing ACC requires that OSH — as the agency that administers the HSE Act — be provided with information that relates to claims for work-related personal injury. OSH may, in turn, use the information only for the following purposes: developing a body of statistical data relating to work-related personal injury; determining trends in the incidence of such injury; developing and implementing programmes relating to the prevention of such injury; and reviewing the effectiveness of the Health and Safety in Employment Act and its administration.

Poor data and health and safety metrics are an issue at the national, enterprise, industry and hazard levels. While there are areas of progress in building a better knowledge base, priority needs to be given to build and strengthen capacity in monitoring and measurement for workplace health and safety in New Zealand.
References


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<tr>
<th>A</th>
<th>Labour Force Statistics</th>
<th>Ontario</th>
<th>New Zealand</th>
</tr>
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<tbody>
<tr>
<td>A.1</td>
<td>Population aged 15-64</td>
<td>9,068,500</td>
<td>2,816,200</td>
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<td>A.2</td>
<td>Labour force participants</td>
<td>6,590,000</td>
<td>2,165,100</td>
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<td>A.3</td>
<td>Labour force participants covered by the OHS legislation of your authority</td>
<td>5,840,000</td>
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<td>A.4</td>
<td>Labour force participants excluded, exempt or covered under a separate authority</td>
<td>531,347</td>
<td>DNA</td>
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<th>B</th>
<th>Inspection, Enforcement and Compliance Services</th>
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<td>B.1</td>
<td>Count of the number of staff in your authority's labour inspection service</td>
<td>450</td>
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<td>B.2</td>
<td>Total number of inspection/investigation hours</td>
<td>NA</td>
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<td>B.3</td>
<td>Total number of field visits conducted by staff in your authority's labour inspection service</td>
<td>101,275</td>
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<td>B.4</td>
<td>Total number of orders or citations issued by staff in your authority's labour inspection service</td>
<td>176,600</td>
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<td>B.5</td>
<td>Total number of convictions arising from the prosecution of OHS violations (if appropriate)</td>
<td>1,191</td>
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<td>B.6</td>
<td>Total value of fines levied for convictions arising from the prosecution of OHS violations.</td>
<td>$12,000,000</td>
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<td>B.7</td>
<td>Count of the number of labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction</td>
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<td>B.8</td>
<td>Total number of field visits conducted by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction</td>
<td>951</td>
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<td>B.9</td>
<td>Total number of orders or citations issued by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction</td>
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<td>B.10</td>
<td>Total number of convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction</td>
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<td>B.11</td>
<td>Total value of fines levied for convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction.</td>
<td>$290,000</td>
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<td>C.1</td>
<td>Count of number of staff funded by or employed by your authority providing training services or workplace consultation services</td>
<td>350</td>
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<td>C.2</td>
<td>Total number of participant-days of training provided</td>
<td>282,380</td>
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<td>C.3</td>
<td>Total number hours of workplace consultation services</td>
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<th>Expenditures</th>
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<td>D.1</td>
<td>Expenditures on labour inspection, enforcement and compliance services</td>
<td>$90,000,000</td>
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<td>D.2</td>
<td>Expenditures on education, training, workplace consulting, social marketing and prevention communications</td>
<td>$103,600,000</td>
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<td>D.3</td>
<td>Expenditures on research related to the prevention of work-related injury and illness</td>
<td>$5,600,000</td>
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<td>D.4</td>
<td>Economic incentives: gross value of rebates and surcharges assessed on employer insurance premiums</td>
<td>$523,000,000</td>
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<td>D.5</td>
<td>Economic incentives: value of rebates or awards to employers for OHS performance</td>
<td>$32,600,000</td>
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<td>D.6</td>
<td>Number of employers participating in OHS performance programs</td>
<td>3,200</td>
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## Ontario

### E Insurance for work-related disability

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<tr>
<td>E.1</td>
<td>4,786,088 h</td>
<td>2,165,100  j</td>
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<td>E.2</td>
<td>1,803,900</td>
<td>0</td>
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<td>E.3</td>
<td>$2,499,000,000 g</td>
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<td>E.4</td>
<td>$2,372,000,000 h</td>
<td>$233,722,000 i</td>
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<td>E.6</td>
<td>$810,000,000 h</td>
<td>$167,057,000 i</td>
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**NA:** Not available

**DNA:** Does not apply

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**g)** Annual Report 2007, Workplace Safety and Insurance Board. Premiums for the current year are reported as total premium revenue (E.3) for the purpose of this summary. Additional premium revenue is allocated to reduce the unfunded liability in Ontario. [http://www.iwh.on.ca/compensation-fact-sheets](http://www.iwh.on.ca/compensation-fact-sheets). Expenditures on short-term wage replacement benefits (E.4) and pension awards (E.5) are consolidated in Ontario. Expenditures on health care services and vocational rehabilitation services (E.6) include expenditures for the WSIB Labour Market Re-entry program.

**h)** 2008 Annual Report, Accident Compensation Corporation, combining premium revenues from the work account, p89 and the self-employed work account p87. Levies raised from employer premiums for the Residual Claims account ($534 million) do not appear in this total.

**j)** International Labour Organization. [http://laborsta.ilo.org](http://laborsta.ilo.org)


**l)** Annual Report 2007/08. Department of Labour, New Zealand. Expenditures for the provision of information, education and support to workplaces regarding effective workplace health and safety practice, and enforcement action to promote compliance with the Health and Safety in Employment Act (1992). p 55 (includes expenditures to promote and support the safe management of hazardous substances)


**n)** ACC does not use experience rating methods to establish employer insurance premiums in the work account.


**q)** OHS Compliance and Operations Unit, Labour Program, HRSDC. Custom tabulation, April 20, 2010

Trends in work injury claim rates, 1993-2007
Canada and New Zealand
(1993 = 100) (Source: ILO)

Over the period 1997-2000, administrative changes in the provision of workers’ compensation in New Zealand are acknowledged to have artificially reduced the rate of work-related injury and illness claims. IWH has imposed a simulated trend line.