

Compensation – Questions and Answers

February 2020

1. What is the purpose of the Compensation for Live Organ Donors Act?

The purpose of the Compensation for Live Organ Donors Act is to remove a financial deterrent to donation of live organs by the payment of earnings compensation to qualifying donors who will lose earnings while they recover from their surgery and in limited circumstances prior to their scheduled surgery.

2. Am I eligible for compensation?

Compensation is available to qualifying donors for up to 12 weeks from the date of their surgery. Most donors, however, are fit to return to work in up to 6 or 7 weeks.

Find out more about compensation from the Ministry of Health's website:

www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/compensation-loss-earnings

In limited circumstances, compensation can be paid if you will lose earnings prior to your surgery to attend medical appointments that are required for your surgery to go ahead on the scheduled date (refer question 19 for more information).

3. When do I apply for compensation?

There is a two step process to apply for compensation. Once your DHB starts to assess your suitability to be a live donor, you should register your intent to apply for compensation if you are found to be suitable.

The registration form can be found at: www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/live-organ-donation-guides-and-forms

The transplant coordinator, donor liaison coordinator or social worker in your DHB can help you complete the registration form or you can contact the Ministry of Health's Live Organ Donation Team on liveorgandonation@health.govt.nz

4. When do I send my application form for compensation?

You must send your application form, with the required earnings and tax information to the Ministry of Health when your DHB has confirmed that you are suitable to be a live organ donor and has given you a date for your surgery.

The application form can be found at: www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/live-organ-donation-guides-and-forms

We require your application 60 days before your surgery, but we can accept an application closer to your surgery date if we have all the information we need and we can reasonably consider and make a decision on your application before your date of surgery.

To comply with the Compensation for Live Organ Donors Act we cannot accept applications after your date of surgery.

The transplant coordinator, donor liaison coordinator or social worker in your DHB can help you complete the application form or you can contact the Ministry of Health's Live Organ Donation Team on liveorgandonation@health.govt.nz.

5. How will my compensation be calculated?

The Compensation for Live Organ Donors Act sets out how the Ministry of Health must calculate compensation.

The Ministry's website contains more information about how compensation is calculated for donors according to their type of employment, that is, an employee or self-employed or shareholder employee: www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/compensation-loss-earnings

In general terms, weekly compensation for donors is calculated as follows:

- For employees: based on their earnings in the 52 weeks prior to the date of their application divided by the number of weeks in which the earnings were earned
- For shareholder employees and self-employed persons: based on their earnings as filed in their income tax return for the most recently completed tax year divided by the number of weeks in the tax year.
- However, for specific advice regarding a particular situation, please refer to the Ministry's website, as above, or contact the Ministry on liveorgandonation@health.govt.nz.

6. What earnings documents do I need to include with my application?

To calculate compensation for your loss of earnings, we need your earnings verified with your employer (for donors who are employees) or tax return documentation for the most recently completed tax year (for donors who are shareholder employees or self-employed persons).

The Ministry's website contains information about what documents you need to include with your application: www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/compensation-loss-earnings or contact the Ministry on liveorgandonation@health.govt.nz.

7. If I take paid sick or annual leave from my employment while I recover from surgery, am I eligible for compensation too?

No. To be eligible for compensation you must lose earnings by taking unpaid leave to allow for your recovery after surgery, and in limited circumstances prior to surgery.

When you send in your application for compensation, you will need to tell the Ministry of Health's Live Organ Donation Team about any paid leave that you are taking so they can correctly calculate your compensation payments.

8. I am on a benefit, can I still receive compensation?

No. If you receive a benefit and have no earnings from employment, your benefit payments will continue as usual while you recover from surgery, but you will not be eligible for weekly earnings compensation. During your recovery period you may be exempt from work test obligations. Please discuss this with your case manager at Work and Income, Ministry of Social Development.

If you have supplementary earnings from employment in addition to receiving your benefit, you may be eligible for compensation equal to the supplementary earnings. Please discuss this with your case manager at Work and Income, Ministry of Social Development, and the Ministry of Health's Live Organ Donation Team.

9. I've received weekly compensation from ACC within the last year. Will my compensation calculation for live organ donation be based on my earnings including the ACC weekly compensation payments?

No, ACC weekly compensation payments are excluded from your earnings for the purposes of calculating compensation under the Compensation for Live Organ Donors Act.

10. Will the Ministry of Health pay my superannuation during my approved compensation period?

The Ministry of Health will deduct your contributions for KiwiSaver and/or the Government Superannuation Fund from your compensation payments. The Ministry of Health will pay the employer contribution of 3% to the providers of these superannuation schemes.

If you belong to any other superannuation scheme, the Ministry will not deduct your contributions from your compensation payments. You will need to make arrangements directly with your superannuation provider during the time that the Ministry of Health pays you compensation.

11. How long will it take before I know what the compensation calculation is?

Once the Ministry of Health has received your application, we will make a decision on your application as quickly as possible once we have your earnings and tax information. We aim to decide all applications and advise applicants of the compensation calculated within 30 days following the date of receipt of the application.

12. When will the compensation payments start?

As long as the Ministry of Health has been able to decide your application in sufficient time, we will make the first payment of compensation in the week following your surgery on a Wednesday, and weekly after that on a Wednesday until the end of the approved compensation period.

13. What action can I take if I don't agree with the compensation calculation?

You can apply for an internal review by the Ministry of Health's Discretionary Compensation Committee (DCC). They will make a decision within 10 working days of receipt of your request for review.

If you don't agree with the DCC's decision, you can apply for an external review up to 30 days after you have been advised of the DCC's decision. The independent reviewer is FairWay Resolution Ltd.

You can request an internal or external review by completing the review request form, which can be found in the following link, and sending it to the Ministry:

www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/live-organ-donation-guides-and-forms

14. I am an overseas donor, what earnings documentation do I require?

If you are an employee, we require your earnings information over the last 52 weeks from the tax department in your home country.

If you are a self-employed person or shareholder employee, we require your earnings for the most recently completed tax year from the tax department in your home country.

All overseas donors are required to obtain an IRD number from the Inland Revenue Department in New Zealand. Please refer to the following link about applying for an IRD number while living overseas: www.ird.govt.nz/tasks/apply-for-an-ird-number-when-living-overseas

15. What happens if my surgery is cancelled or rescheduled after the Ministry agrees my application?

Your approved application is valid for three months. If your surgery is rescheduled within the three month period, you do not need to take any further action. As long as your DHB advises the Ministry of Health's Live Organ Donation Team of the rescheduled date of surgery and confirms when you have had your surgery, your compensation payments will be made at the amount previously advised following your surgery.

If your surgery is re-scheduled after 3 months, you will need to make a new application for compensation.

16. I am an overseas donor, what exchange rate will be used to pay my compensation in New Zealand dollars to my nominated bank account in New Zealand.

Your compensation will be calculated using the exchange rate between the New Zealand dollar and the currency of your home country at the date your application form was received by the Ministry of Health.

17. I am an overseas donor, do I still get paid compensation if I decide to return home during the period I am receiving compensation payments?

If you decide to return home during the compensation period, you may still be paid compensation to your nominated bank account in New Zealand, until the end of the period approved for the payment of compensation or your return to work on your usual hours, whichever occurs first.

18. Am I eligible for compensation if I donate under the Australian and New Zealand Paired Kidney Exchange Programme?

If you are a donor who is registered with the New Zealand Kidney Exchange Programme and you donate as part of the Australian and New Zealand Paired Kidney Exchange programme, you may be eligible for compensation in New Zealand.

When you register for compensation, indicate on the Registration form that you are looking to donate under the kidney exchange programme.

If you donate under the Australian and New Zealand Paired Kidney Exchange Programme and are **not** registered with the New Zealand Kidney Exchange Programme, you are not eligible for compensation in New Zealand.

19. Can I receive compensation, prior to surgery?

Yes, in limited circumstances if your application for compensation is approved and you will lose earnings because you must attend medical appointments that are required for your surgery to go ahead on the scheduled date. The period of compensation approved prior to surgery will be additional to the period of compensation approved for your recovery from the date of surgery.

If your surgery doesn't go ahead as planned and is rescheduled within three months of the date your compensation was approved, your eligibility for continued weekly compensation prior to surgery will depend on whether you continue to meet the criteria in the Compensation for Live Organ Donors Act for payment of compensation prior to surgery.

If your surgery does not go ahead within three months of the approval of your application for compensation, you will need to make a new application for compensation prior to surgery and following surgery.

20. What happens if I don't feel well enough to go back to work when my compensation ends?

Contact your DHB or your GP. If they agree that you are not well enough to go back to work within 12 weeks following the date of your surgery, they will issue another medical certificate. You will need to provide a copy of the new medical certificate to the Ministry of Health's Live Organ Donation Team, so they can extend your compensation payments (but this extension cannot be greater than 12 weeks after the date of surgery).

21. Can I return to work on reduced hours during the period I am being paid compensation?

Yes.

If you plan to return to work on reduced hours during your recovery period, please indicate this when you complete your application form.

If you did not plan to return to work on reduced hours at the time of your application, but after the start of your compensation period you decide to do so, please complete the 'Application for compensation for return to work on reduced hours' form (refer link at the end of this question) and send it to the Ministry of Health's Live Organ Donation Team on liveorgandonation@health.govt.nz so they can adjust your weekly compensation payments. The medical certificate from your doctor needs to cover the period when you are not recovered sufficiently to resume work on your usual weekly hours of work.

If your compensation period ends and you return to work on your usual hours but you still feel unwell because of the effects of your surgery which means that you need to reduce your hours within the 12 weeks following your surgery, you will need to request a new medical certificate from your DHB doctor or GP. You will also need to complete the 'Application for compensation for return to work on reduced hours' form and send the documentation to the Ministry of Health's Live Organ Donation Team on liveorgandonation@health.govt.nz

The 'Application for compensation for return to work on reduced hours' can be found on the Ministry's website: www.health.govt.nz/your-health/conditions-and-treatments/treatments-and-surgery/organ-donations-and-transplants/live-organ-donation/live-organ-donation-guides-and-forms

22. What happens if there are complications during my donor surgery which means I need a longer time to recover?

Complications from donor surgery don't happen very often. However, you should talk to your DHB doctor about the risks.

In the event that a donor experiences a complication from surgery which delays their recovery, the maximum period that the Ministry of Health can pay compensation under the Compensation for Live Organ Donors Act is 12 weeks following the date of surgery. We cannot pay compensation for any longer.

The DHB where the donor experienced the injury, will help them lodge a Treatment Injury Claim with ACC and provide a medical certificate for the time that they are unable to work because of the injury. If ACC approves the Treatment Injury Claim, the donor could be eligible for weekly earnings from ACC if they are working in New Zealand as a taxpayer at the time of the injury date. ACC weekly earnings are based on 80% of weekly earnings before the injury happened.

An overseas donor is unlikely to be eligible for ACC weekly earnings. Therefore, before overseas donors travel to New Zealand for their donor surgery, we suggest that they investigate whether they investigate taking out travel insurance cover for loss of earnings due to injury while they are in New Zealand, and/or investigate possible financial assistance that could be available in their home country if they are not fit enough to return to work after their entitlement in New Zealand under the Compensation for Live Organ Donors Act stops.

