

Civil Liability Regulation 2014

Explanatory notes for SL 2014 No. 129

made under the

Civil Liability Act 2003

General Outline

Short title

Civil Liability Regulation 2014

Authorising law

Section 74 of the *Civil Liability Act 2003* (the Act)

Policy objectives and the reasons for them

The *Civil Liability Regulation 2003* (2003 Regulation) prescribes:

- the entities provided with indemnity from action in circumstances of emergency; and
- the ranges of injury scale values (ISV) for various injuries and psychiatric impairment ratings (PIRS) which guide the making of awards of general damages in personal injury claims.

The 2003 Regulation also prescribes:

- the threshold which determines whether the spouse of an injured person can claim damages for loss of consortium or loss of servitium (section 58(1)(b) of the Act);
- caps on general damages (section 62(2) of the Act); and
- the threshold for notification by a court about a proposed award for future loss (section 64(2) of the Act).

Under section 75 of the Act these thresholds and caps must be annually indexed by 1 July each year under a regulation.

The 2003 Regulation is due to expire on 1 September 2014 and needs to be replaced.

Achievement of policy objectives

The *Civil Liability Regulation 2014* (the Regulation) achieves these objectives by repealing and replacing the 2003 Regulation with certain adjustments.

The Act provides for a system for the assessment of any general damages component of an award of damages in a personal injury action. A court assesses an ISV for any injury ranging from 0 to 100. The scale reflects 100 equal gradations from an injury not severe enough to justify any award of general damages, to an injury of the gravest conceivable kind.

As under the 2003 Regulation, the Regulation provides for the operation of ISVs which are listed in schedule 4 to the Regulation. Schedule 3 to the Regulation is a guide to their application. For an injury not mentioned in schedule 4, a court, in assessing an injury scale value for the injury, may have regard to the ranges prescribed in schedule 4. Schedule 6 provides for PIRS which may be used with schedule 4. They are measured as a percentage for stated areas of functional impairment having regard to stated indicators, with schedule 5 as a guide to their application.

The Regulation gives effect to the annual indexation of the prescribed amounts for injuries arising on or after 1 July 2014 under sections 58(1)(b), 62(2) and 64(2) of the Act. The indexed amounts are the amounts last prescribed, adjusted by the percentage change in Average Weekly Earnings. The change is measured having regard to the amount of Queensland full-time adult persons' ordinary time earnings as declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year. For injuries arising on or after 1 July 2014, the amounts have been increased by 3.79%.

The Regulation also updates the listed entities in Schedules 1 and 2. These schedules prescribe the entities (and persons performing duties for those entities) for the purposes of sections 26 and 27 of the Act, for which civil liability does not attach in certain circumstances where they are providing first aid or other aid to persons in distress in an emergency.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Regulation, in giving effect to the indexation of general damages and other amounts, will maintain the relative value of those amounts.

Consistency with fundamental legislative principles

The Regulation does not raise fundamental legislative principles issues.

Consultation

The Office of Best Practice Regulation was consulted and confirmed that a Regulatory Impact Statement is not required.