

Civil Liability and Other Legislation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 47

made under the

Civil Liability Act 2003

Motor Accident Insurance Act 1994

Personal Injuries Proceedings Act 2002

Workers' Compensation and Rehabilitation Act 2003

General Outline

Civil Liability and Other Legislation Amendment Regulation
(No. 1) 2015

Authorising law

Section 75 of the *Civil Liability Act 2003*

Section 100A of the *Motor Accident Insurance Act 1994*

Section 75A of the *Personal Injuries Proceedings Act 2002*

Section 306V of the *Workers' Compensation and Rehabilitation Act 2003*

Policy objectives and the reasons for them

Each of the *Civil Liability Regulation 2014*, *Motor Accident Insurance Regulation 2004*, *Personal Injuries Proceedings Regulation 2014* and *Workers' Compensation and Rehabilitation Regulation 2014* contains costs limits, monetary caps and thresholds in relation to common law damages for personal injury. These apply to:

- the threshold for notification by a court about a proposed award for future loss of earnings to give the parties to a proceeding a reasonable opportunity to negotiate a structured settlement;
- caps on general damages (for pain and suffering);
- declared costs limits, lower offer limits and upper offer limits (caps and thresholds for the awarding of legal costs by a court); and
- the threshold which determines whether the spouse of an injured party can claim damages for loss of consortium or servitium.

Provisions in the primary legislation for each regulation require the relevant Minister to recommend to the Governor in Council on or before 1 July each year the indexation of particular amounts to be prescribed under a regulation.

The amount of indexation is determined by the amount last prescribed, adjusted by the percentage change in the amount of Queensland full-time adult persons ordinary time earnings 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 and rounded to the nearest ten dollars. The amount of weekly earnings is variously described as average weekly earnings (AWE) or Queensland Ordinary Time Earnings (QOTE).

Achievement of policy objectives

Australian Bureau of Statistics data indicates that AWE/QOTE effective as of 1 July 2015 will be \$1,456.90. This represents an annual increase of 2.45%. The *Civil Liability and Other Legislation Amendment Regulation (No. 1) 2015* (the amendment regulation) achieves the policy objectives by applying this increase to the abovementioned amounts for injuries occurring on or after 1 July 2015.

The amendment regulation also reformats existing provisions to simplify and improve ease of reference.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Civil Liability Act 2003* and the *Personal Injuries Proceedings Act 2002*, namely to facilitate the ongoing affordability of insurance through appropriate and sustainable awards of damages for personal injury; the *Motor Accident Insurance Act 1994*, to encourage the speedy resolution of personal injury claims resulting from motor vehicle accidents and to keep the costs of compulsory third-party motor vehicle insurance at a level the average motorist can afford; and the *Workers' Compensation and Rehabilitation Act 2003*, to maintain a balance between providing fair and appropriate benefits for injured workers or dependants and ensuring reasonable cost levels for employers, and by regulating access to damages.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The amendment regulation will have a beneficial result for injured parties and their dependants as the effect of the indexation of general damages and other relevant amounts is to maintain the relative value of those amounts over time in line with wages growth.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

The Motor Accident Insurance Commission and WorkCover Queensland were consulted and agree with the proposed subordinate legislation.

Queensland Competition Authority's Office of Best Practice Regulation (OBPR) has been consulted with regard to the obligations imposed under the Regulatory Impact Statement (RIS) system. OBPR has advised that a RIS is not required.