

Civil Liability and Other Legislation (Prescribed Amounts) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 110

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 (Prescribed Amounts) Amendment Regulation 2017

Authorising law

Section s 74 and 75 of the *Civil Liability Act 2003*

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

Sections 75 and 75A of the *Personal Injuries Proceedings Act 2002*

Section s 306V and 584 of the *Workers' Compensation and Rehabilitation Act 2003*

Policy objectives and the reasons for them

Each of the *Civil Liability Regulation 2014*, the *Motor Accident Insurance Regulation 2004*, the *Personal Injuries Proceedings Regulation 2014* and the *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 of these regulations require the relevant Minister to recommend to the Governor in Council on or before 1 July each year the amounts that are to be prescribed under the respective regulations for the indexation of these various costs limits and monetary caps and thresholds.

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 dollar. 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 2017 will be \$1,482.10.

This represents an annual increase of 2.45% (the AWE effective as at 1 July 2016 was \$1,446.70) when applied to the relevant amounts under the *Civil Liability Regulation 2014*, the *Motor Accident Insurance Regulation 2004* and the *Personal Injuries Proceedings Regulation 2014*.

As section 721 of the *Workers' Compensation and Rehabilitation Act 2003* prescribes that the QOTE (effective as at 1 July 2016) was \$1,456.90, a QOTE of \$1,482.10 (effective as of 1 July 2017) represents an increase of 1.73% when applied to the relevant amounts under the *Workers' Compensation and Rehabilitation Regulation 2014*.

The *Civil Liability and Other Legislation (Prescribed Amounts) Amendment Regulation 2017* (the amendment regulation) achieves the policy objectives by applying the relevant indexation increase to the abovementioned amounts for injuries occurring on or after 1 July 2017.

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* - 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 will 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 have been consulted and support the Amendment.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category g – Regulatory proposals that are of a machinery nature).