

Personal Injuries Proceedings and Other Legislation Amendment Act 2022

Explanatory notes for SL 2022 No. 145

Made under the

Personal Injuries Proceedings and Other Legislation Amendment Act 2022

General Outline

Short Title

Proclamation to fix 31 October 2022 for the commencement of the provisions of the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022* that are not in force.

Authorising law

Section 2 of the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022*.

Policy objectives and the reasons for them

The objective of the Proclamation is to fix 31 October 2022 for the commencement of the provisions of the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022* (Amendment Act) that are not in force.

The Amendment Act received assent on 30 June 2022.

The main purpose of the Amendment Act is to amend the *Personal Injuries Proceedings Act 2002* (PIP Act) and the *Workers' Compensation and Rehabilitation Act 2003* (WCR Act) to address claim farming.

The Amendment Act:

- prohibits a person cold-calling or personally approaching another person without their consent and soliciting or inducing them to make a claim;
- makes it an offence for any person to pay claim farmers for the details of potential claimants or to receive payment for a claim referral or potential claim referral;
- imposes obligations on legal practitioners who represent injured claimants to certify during the claims process by way of a law practice certificate that neither they nor their associates have paid a claim farmer for the claim; and

- requires law practices retained by respondents and insurers to notify the relevant regulator if they suspect a contravention of the law practice certificate requirements.

Section 2 of the Amendment Act provides that the following provisions commence on a day to be fixed by proclamation:

- part 4, other than sections 13 to 16 and 32 to 36;
- part 6, other than section 39, section 50, section 51 to the extent it inserts part 2 and sections 52, 53 and 56;
- section 59;
- section 60, to the extent it inserts new chapter 6B, parts 2, 3 and 5; and
- section 66, to the extent it inserts section 747.

The proclamation fixes 31 October 2022 as the commencement date for these provisions. The provisions primarily concern the new law practice certificate requirements under the PIP Act and WCR Act. Under the Amendment Act, a law practice certificate is required to be provided by the law practice representing the claimant at various stages of proceedings and is required to state that the supervising principal and each associate of the law practice has not paid a claim farmer for the claim, or approached, solicited, or induced the claimant to make a claim in contravention of the claim farming provisions. It is an offence to fail to provide a law practice certificate when required or to sign or give claimant, respondent or insurer, a false or misleading certificate.

All other provisions including amendments relating to the 50:50 rule; the claim farming offences; the special investigation powers and the information sharing provision commenced on 30 June 2022 when the Amendment Act received assent.

Achievement of policy objectives

The policy objective is achieved by fixing 31 October 2022 for the commencement of provisions of the Amendment Act that are not in force.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Proclamation will assist in the effective implementation of the claim farming reforms in the Amendment Act. There will be additional costs (but not significant) in complying with the new claims processes directed to identifying claims that have been claim farmed.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

The Legal Services Commission, the Office of Industrial Relations and the Motor Accident Insurance Commission (the Regulators) were consulted on the Proclamation.

The Regulators have undertaken stakeholder consultation on the commencement of the Amendment Act with relevant legal and other stakeholders who were also consulted during the development of the Amendment Act.

A self-assessment by the Department of Justice and Attorney-General has determined that a Regulatory Impact Statement is not required as the regulatory proposal is excluded under category (g) of the *Queensland Government Guide to Better Regulation* – regulatory proposals that are of a machinery nature.