

Civil Liability Indexation Notice 2024

Explanatory notes for SL 2024 No. 89

Made under the

Civil Liability Act 2003

General Outline

Short Title

Civil Liability Indexation Notice 2024

Authorising law

Section 75 of the *Civil Liability Act 2003*

Policy objectives and the reasons for them

Section 75 of the *Civil Liability Act 2003* (CL Act) provides for the annual indexation of the following monetary caps and thresholds relating to damages for personal injury:

- the threshold which determines whether a court can award damages for loss of consortium or loss of servitium (CL Act, section 58(1)(b));
- caps on general damages (CL Act, section 62(2)(a) and (b)); and
- the threshold for notification by a court about a proposed award for future loss to give the parties to a proceeding a reasonable opportunity to negotiate a structured settlement (CL Act, section 64(2)).

Prior to 1 July 2024, these monetary caps and thresholds were indexed by the making of a regulation prescribing the amounts which would apply for each new financial year. On 1 July 2024, the CL Act will be amended to implement a new process for the annual indexation of these amounts by Ministerial notice instead of by regulation. The formula by which the indexation of these amounts is calculated (the percentage change in average weekly earnings between the current financial year and the last financial year) will remain the same.

The policy objective of the *Civil Liability Indexation Notice 2024* (CL Indexation Notice) is to fix the indexed amounts for or under sections 58(1)(b), 62(2)(a) and (b) and 64(2) of the CL Act for the 2024-25 financial year.

Achievement of policy objectives

The CL Indexation Notice, which commences on 1 July 2024, achieves the policy objective by fixing the indexed amounts for or under sections 58(1)(b), 62(2)(a) and (b) and 64(2) of the CL Act for the 2024-25 financial year.

The CL Indexation Notice also includes, for information only, the monetary caps and thresholds applying to periods prior to 1 July 2024 which were previously prescribed in the *Civil Liability Regulation 2014*.

Consistency with policy objectives of authorising law

The CL Indexation Notice is consistent with the policy objectives of the CL Act, which provides for the annual indexation of various monetary caps and thresholds relating to damages for personal injury.

Inconsistency with policy objectives of other legislation

The CL Indexation Notice is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of the CL Indexation Notice is that it simplifies the annual indexation process for the monetary caps and thresholds under the CL Act. There are no costs associated with implementation of the CL Indexation Notice.

Consistency with fundamental legislative principles

The CL Indexation Notice is consistent with fundamental legislative principles.

Consultation

As the new indexation process is purely machinery in nature (ie. the formula by which the indexation of the monetary caps and thresholds under the CL Act is calculated has not changed), consultation on the CL Indexation Notice was not considered necessary.