

Civil Liability and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 94

Made under the

Civil Liability Act 2003

Motor Accident Insurance Act 1994

Personal Injuries Proceedings Act 2002

General Outline

Short Title

Civil Liability and Other Legislation Amendment Regulation 2024

Authorising law

Section 74 of the *Civil Liability Act 2003*

Section 100 of the *Motor Accident Insurance Act 1994*

Section 75 of the *Personal Injuries Proceedings Act 2002*

Policy objectives and the reasons for them

The *Civil Liability Act 2003* (CL Act), *Motor Accident Insurance Act 1994* (MAI Act) and *Personal Injuries Proceedings Act 2002* (PIP Act) each provide for the annual indexation of various costs and offer limits and monetary caps and thresholds relating to damages for personal injury. These apply to:

- the threshold which determines whether a court can award damages for loss of consortium or loss of servitium;
- caps on general damages;
- 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; and
- declared costs limits, lower offer limits and upper offer limits.

Prior to 1 July 2024, these costs and offer limits and 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 *Justice and Other Legislation Amendment Act 2023* will amend the CL Act, MAI Act and PIP Act to implement a new process for the annual indexation of these amounts by Ministerial notice instead of by regulation (new indexation process).

The new indexation process will simplify the indexation of these amounts. 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.

Under the new indexation process, Ministerial notices will be prepared under the CL Act, MAI Act and PIP Act to fix the indexed amounts under those Acts for the 2024-25 financial year. The notices will also include, for information only, the monetary amounts applying to periods prior to 1 July 2024 (historical amounts) which were previously prescribed in the *Civil Liability Regulation 2014* (CL Regulation), *Motor Accident Insurance Regulation 2018* (MAI Regulation) and *Personal Injuries Proceedings Regulation 2014* (PIP Regulation).

The Ministerial notices will be amended before 1 July each year to include the indexed amounts for the new financial year. This will allow both the historical amounts, and the indexed amounts for future years, to be consolidated in the one notice for ease of use by courts, legal practitioners, insurers and the public.

Achievement of policy objectives

The *Civil Liability and Other Legislation Amendment Regulation 2024* (Amendment Regulation) makes consequential amendments to the CL Regulation, MAI Regulation and PIP Regulation to remove the entries for the historical amounts prescribed in those regulations which will now appear in the respective Ministerial notices.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the CL Act, MAI Act and PIP Act, each of which provides for the annual indexation of various costs and offer limits and monetary caps and thresholds relating to damages for personal injury.

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 benefit of the Amendment Regulation is that it simplifies the annual indexation process for the monetary amounts under the CL Act, MAI Act and PIP Act. There are no costs associated with implementation of the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

As the Amendment Regulation is purely machinery in nature (ie. the formula by which the indexation of the monetary amounts under the CL Act, MAI Act and PIP Act is calculated has not changed), consultation on the Amendment Regulation was not considered necessary.