

Civil Liability and Other Legislation Amendment Regulation 2024

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Civil Liability and Other Legislation Amendment Regulation 2024* (Amendment Regulation) made under section 74 of the *Civil Liability Act 2003*, section 100 of the *Motor Accident Insurance Act 1994* and section 75 of the *Personal Injuries Proceedings Act 2002*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

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 as currently provided under the CL Act, MAI Act and PIP Act.

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.

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, once those notices are made.

Human Rights Issues

The Amendment Regulation does not affect or engage any human rights.

Conclusion

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

YVETTE D'ATH MP
Attorney-General and Minister for Justice
Minister for the Prevention of Domestic and Family Violence

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