



Our ref: ICC:GUgc:1099596

23 March 2016

The Hon Victor Dominello MP  
Minister for Innovation and Better Regulation  
52 Martin Place  
SYDNEY NSW 2000

Dear Minister,

### **Review of the CTP Scheme**

We are writing on behalf of our three organisations in relation to the current review of the NSW CTP Scheme. We note that there has been a significant increase in legally represented small claim numbers in recent years.

We have reached a consensus position on proposals to address this increase in claims. If approved, we believe that these proposals could be implemented very quickly, through amendments to the *Motor Accidents Compensation Regulation 2015* ("Regulation"). Therefore, we believe these proposals could provide immediate benefits in terms of premium relief.

#### **1. Children's claims**

We propose that the Minister should amend the Regulation to provide as follows:

- (a) *Where a claim is exempted solely on the basis of a lack of capacity related to the age of a claimant and where the ultimate settlement or judgment in the matter is \$25,000 or less, then:*
  - (i) *The maximum recoverable as party/party professional costs shall not be more than \$5,500 inclusive of GST; and*
  - (ii) *No additional professional fees may be charged on a contracted out basis*

*unless the court otherwise orders.*
- (b) *Where a claim is exempted solely on the basis of lack of capacity related to the age of a claimant and where the ultimate settlement or judgment in the matter is less than \$50,000, but greater than \$25,000 then:*
  - (i) *The maximum recoverable as party/party professional costs shall not be more than \$11,000 inclusive of GST; and*

- (ii) *No additional professional fees may be charged on a contracted out basis*

*unless the court otherwise orders.*

- (c) *Where a claim to which (a) or (b) above applies is the second or other subsequent claim brought on behalf of an occupant of the same vehicle involved in an accident, then the maximum recoverable as party/party professional costs shall not be more than \$5,500 inclusive of GST and no additional professional fees may be charged on a contracted out basis, unless the court otherwise orders.*

In addition, our organisations would seek to work with the District Court to develop a streamlined process for the court to approve settlements in these matters, by considering them in chambers.

## **2. Small Claims**

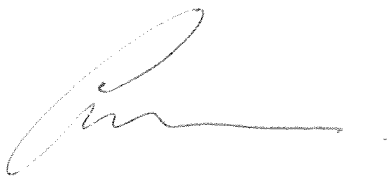
As a short term measure to contain the legal fees payable in small claims, we propose that the Regulation be amended to provide that:

*Where the total damages recovered by way of settlement, award or judgment is less than \$50,000 the legal practitioners acting in the matter may not contract out of the regulated legal fees in relation to professional costs.*

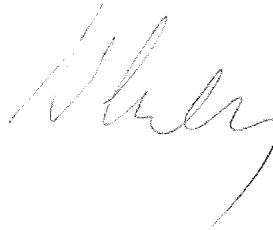
In practice, this option will reduce the incidence of such claims. It could be implemented pending consideration of the proposed broader scheme reform. However, there would need to be a corresponding consideration of a reasonable increase in the prescribed costs for these matters when this amendment is made.

We are also currently considering longer term reform options in relation to the CTP scheme. In the meantime, we would appreciate your consideration of these proposals, and would be available to meet with you to discuss any questions you may have in relation to them.

Yours sincerely,



**Gary Ulman**  
**President, Law Society of NSW**



**Noel Hutley SC**  
**President, NSW Bar Association**



**Roshana May**  
**NSW Branch President, ALA**