

MEDIA RELEASE

WORKERS COMPENSATION-STYLE REFORMS WILL COST INJURED MOTOR ACCIDENT VICTIMS



NEW SOUTH WALES
BAR ASSOCIATION®

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The Government's announcement that it will proceed with a CTP reform model which concentrates upon time restricted and modest no fault benefits (as opposed to common law remedies) for all but the most seriously injured will adversely affect many thousands of innocent motor accident victims, the President of the New South Wales Bar Association, Noel Hutley SC, said today.

'The experience with workers compensation changes under the current Government gives us little optimism that the rights of innocent victims of motor accidents will be protected' Mr Hutley said. 'The Bar Association is deeply concerned that the Government is heading towards a workers compensation-style scheme. Under that system 90% of the injured, including many with serious injuries, receive limited statutory benefits and have minimal access to legal representation. That leaves them to deal on their own with powerful insurance companies whose major priority is profit, not the best interests of the injured.'

'The largest flaw in the proposed new scheme is the assumption that there are only two categories of injury – 'low severity' and 'the most seriously injured'. There is in fact a wide group in between – moderate severity injury. It is this group that are being punished' said Mr Hutley.

The following examples illustrate the point.

- A labourer with an ankle fusion does not get over the government threshold for serious injury and receives 80% of their pre-accident income for five years before being abandoned to social security benefits;
- A nurse with a shoulder injury may have to leave the nursing profession but will not be covered for lost earnings beyond five years;
- An apprentice with an injured knee may need two future knee replacements in their thirties and fifties but will not be covered for those medical expenses.

These are all examples of moderate injury and are ignored by the simplistic division between 'low severity' and 'the most seriously injured'.

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‘If this approach is replicated in the CTP scheme, the interests of injured motorists seeking reviews of insurer decisions on the payment of statutory benefits will suffer, and those insurers will have the ultimate say in the vast majority of claims’ said Mr Hutley.

‘The Bar Association has participated in good faith in the Government’s CTP consultation process up to this point. Our submissions have proposed fair reforms so that small claims costs can be reined in, creating long term stability in the CTP Scheme. Apparently there is to be a further month of consultation to address issues of ‘fairness’ in the CTP scheme. It is a tragedy for moderately injured accident victims that fairness to them is an afterthought rather than the bedrock of the reforms’ Mr Hutley said.

‘The Bar Association calls on the Government to protect the rights of innocent victims of motor vehicle accidents by retaining fairness in the CTP scheme. A real scheme should protect the future wage loss and future treatment needs of accident victims. This reform would abandon 90% of accident victims after just a few years.’

Media contact: Andrew Stone SC: 0414 661 968