

MEDIA RELEASE

POLITICAL PARTIES MUST COMMIT TO URGENT REVIEW OF MOTOR ACCIDENTS SCHEME



NEW SOUTH WALES
BAR ASSOCIATION

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The New South Wales compulsory third party (CTP) system is manifestly inadequate and political parties should commit to an urgent review of the flawed scheme before the March 23rd election, the President of the New South Wales Bar Association Tim Game SC said today.

“The Government’s aim for this Scheme was to ‘protect those with genuine injuries and ensure the bulk of premiums go towards injured motorists rather than legal fees and administrative costs.’ While these are laudable aims and the government is committed to review the Scheme after two years, that review must be brought forward. It has now been shown that many of the assumptions the government was provided with and which underpin the Scheme are wrong. The application of the Scheme can result in seriously injured people receiving no compensation,” Mr Game said.

Government estimates demonstrate that payments to the injured under the 2017 scheme are far lower than predicted. The level of benefits paid out as at late last year was less than 39% of the amount forecast by the State Insurance Regulatory Authority. Furthermore, claims levels under the new scheme as at November last year were almost 40% lower than those estimated.

The Government’s actuaries predicted that in respect of the first year of the scheme’s operation there would have been over 32,000 disputes – in fact by the end of November 2018 there were only 645. Under the scheme the vast majority of injured claimants are left to battle the might of well-resourced insurance companies without legal representation.

“While the aim of reducing legal fees has been achieved, that has been achieved by diminishing people’s legal rights. In addition, insurance companies are making large profits from the scheme. Victims suffering ‘minor injuries’ receive no more than 26 weeks of benefits under the scheme. Yet the definition of ‘minor injury’ is so expansive it can capture injured people who may never return to work. Importantly, the determination of whether or not a person’s injury is ‘minor’ is made by insurers themselves and that determination is binding, subject to limited review. In circumstances where, to date, 60% of assessed claims have been classified as involving minor injuries, this should be a red flag to the Government and the Opposition.” Mr Game said.

“All this indicates that there are significant flaws in the assumptions underpinning the scheme, and that the scheme can result in badly injured people not being paid compensation in circumstances where ample funds are being collected that could be used to compensate them properly,” Mr Game said.

The Bar Association calls on both the Government and Opposition to commit to an immediate review of the current restrictive CTP scheme so that, whoever wins the upcoming election, fairness and equity can be restored to motor accident victims as soon as possible.

MEDIA CONTACT: Alastair McConnachie 0420314462