





Injury Schemes - a lawyer's perspective

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Injury schemes – a lawyer's perspective

- The role of lawyers in ensuring the maintenance of viable injuries compensation schemes
- A brief outline of the relevant histories of the motor accident and workers compensation schemes in Queensland and the role played by the legal profession in ensuring the viability of those schemes
- A discussion of the recent changes to the workers compensation scheme in Queensland – a case study in how the contribution of the legal profession to appropriate actuarial analysis can be critical to the future viability of injury compensation schemes







Motor Accident Provided a legislative framework around the Insurance Act existing common law process. 1994

injured persons

Key objectives: 1 September 1994 • Provide for licensing and supervision of CTP motor vehicle insurers

Encourage the speedy resolution of claims Promote and encourage the rehabilitation of

16 Jun 2002 -Restrictions of advertising from plaintiff lawyers

10-12 November 2013 • Sheraton Mirage Gold Coast

Personal Injuries Proceedings Act 2002 (Qld) places a restriction on lawyers advertising in Queensland

Motor Accident

Amendment Act

Insurance

1999

Establish and keep a register of claims to help administer the statutory insurance scheme.

Prohibited touting

Civil Liability and Other **Legislation Amendment** Act 2010

1 July 2010

Re-based and facilitates the future indexation of monetary amounts including the legal costs thresholds and caps on general damages

14 December 1999 **Motor Accident** Insurance **Amendment Act** 2000

1 July 2000 & 1

October 2000

- Competitive premium filing model Simplified Notice of Accident Claim Form Introduction of a medical certificate
- Requirement for insurers to make early
- decision on rehabilitation Thresholds for recovery of legal costs
- A mediation process for rehabilitation disputes
- Requirement to report accidents to Police Compulsory pre-proceedings conference







Pre court process for claims introduced Interest on general damages abolished. Gratuitous care awards abolished in common law

Irrevocable election to access common law 1 Jan

10-12 November 2013 • Sheraton Mirage Gold Coast Inquiry into workers compensation scheme announced 7 June 2012

1 Jul 1997 -WorkCover

Pre-1997

claims Changed definition of worker to PAYE taxpayer Changed the definition of injury to 'the major

provisions

contributing factor'.

Prohibits touting for claims

Loss of earnings claims capped

damages through ISV

statutory duty

1996.

23 May 2013

Queensland Act 1996 1 Jul 1999 -WorkCover

contributing factor' Self insurance for large employers Changed the definition of worker to working under a contract of service. Changed definition of injury to 'a significant

Personal Injuries Proceedings Act 2002 (Qld) places a

Adverse costs order if injured worker's claim dismissed

restriction on lawyers advertising in Queensland

Introduction of regulated common law general

Abolition of private right of action for breach of

14 October

law

Queensland **Amendment Act** 1999 1 Jul 2001 -

Amended contributory negligence and mitigating loss Introduction of the common law only process.

Legislation passed

WorkCover Queensland 15 October 2013

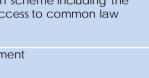
2013

2013



Amendment Act 2001

18 October



16 Jun 2002 -

Restrictions on

advertising by

plaintiff lawyers

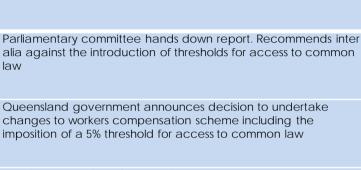
Compensation &

Rehabilitation & Other Legislation

Amendment Act

1 Jul 2010 - Workers' •







The recent changes to workers compensation in Queensland

- Limited consultation
- Rapid legislation
- 5% impairment threshold to access common law
- Unforeseen consequences of introducing an access threshold
- Evidence of detailed actuarial analysis?
- Increased costs
- Increased delay
- Unfairness and inequitable outcomes
- No evidence of detailed actuarial analysis of the changes and if undertaken then no broad stakeholder consultation