



## The New South Wales Bar Association

### **WORKERS COMPENSATION STYLE BENEFITS ARE NOT A PROPER FIT FOR COMPENSATING THOSE INJURED IN MOTOR ACCIDENTS**

In 2012 the New South Wales Government brought in sweeping amendments to the *Workers Compensation Act* which drastically reduced the rights of injured workers.

The need for reform of workers compensation laws was said to be the enormous deficit which had been allowed to accumulate under the management of WorkCover. Both the viability of the workers compensation scheme and the Government's AAA credit rating were said to be at risk. As a result those injured at work have far less protection than they previously enjoyed.

The *Motor Accident Injuries Amendment Bill 2013* provides much the same benefits for those injured in motor vehicle accidents as those which are now available to injured workers.

The limited statutory benefits provided under the Government's CTP reforms do not take account of the needs of the young, the elderly or those not working. It is a benefit scheme designed for those who are in the workforce at or shortly before the time they are injured.

Less than 50% of the overall population is in paid employment - the scheme for compensation that applies to injured workers and that proposed for those injured in motor accidents are not designed to meet the needs of over half the population.

Hundreds of injured workers are currently having their weekly benefits terminated once their earning capacity is assessed by the workers compensation insurer. Section 65U of the *Motor Accident Injuries Amendment Bill* gives a CTP insurer the same power. After 5 years motor accident victims will receive nothing (Section 65ZI). Even over that 5 year period, weekly benefits can be terminated for those unable to find work if the insurer's doctor determines they have the capacity to work.

An injured person's medical treatment will be determined by the CTP insurer. An insurer's decision as to what would be reasonable in the circumstances will prevail as the accident victim is not allowed assistance from a lawyer to challenge the decision.

Over 90% of those injured in motor accidents will not exceed the 10% whole person impairment threshold and so will not receive any statutory lump sum compensation.

The Government stated that it had no alternative but to deliver a much reduced benefits system for workers compensation. There is no reason why that second rate system should be imposed on those injured in motor accidents. Unlike last year's workers compensation changes, there is no budgetary justification for the proposed motor accident amendments.

The proposed CTP reforms constitute a severe attack on the rights of the citizens of New South Wales.

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