

MEDIA RELEASE

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CANBERRA'S LEGAL PROFESSION CALLS FOR A PARLIAMENTARY COMMITTEE TO REVIEW THE ACT GOVERNMENT'S UNJUST, UNNECESSARY AND UNFAIR CTP CHANGES

(Joint statement by Athol Opas, President, ACT Law Society and Philip Walker, President, ACT Bar Association)

Canberra's legal profession has called for a Parliamentary Committee review of the ACT Government's proposed changes to compulsory third party insurance [CTP] before the changes are debated in the Legislative Assembly.

In a joint statement released today, Mr Athol Opas and Mr Philip Walker said:

"The ACT legal profession is united in its opposition to the ACT Government's proposed removal of compensation for wrongfully injured motor accident victims which the legal profession believes are unfair, unjust and unnecessary. It is essential that an ACT Parliamentary Committee review the proposed changes and obtain the facts before they are considered by the Legislative Assembly. The legal profession has made various requests for evidence and data from Government, including through a Freedom of Information application, but the Government has refused to produce the evidence on the basis of "commercial-in-confidence" and "cabinet-in-confidence".

Contrary to the ACT Treasurer's claim that the proposed changes had received "broad support", Mr Opas and Mr Walker said: "None of the public submissions received by the Government have indicated support for the proposed changes to motor accident compensation." All submissions indicated concerns with the proposed changes, including submissions by the Commonwealth and Public Sector Union (CPSU) and ACT Human Rights Commissioner.

The ACT Human Rights Commissioner had expressed unease over possible breaches of the ACT Human Rights Act including disadvantage to children and the elderly and the absence of Court appeals against decisions of the medical panel. And the CPSU had also expressed concern that the changes were another blow to ACT and Commonwealth public servants who are already unable to claim workers compensation from Comcare when injured in motor accidents while travelling to and from work.

In their joint statement, Mr Opas and Mr Walker said: "The Government's changes will deny fair compensation to countless future motor accident victims (and their families) including motorists, cyclists and pedestrians. Over 80% of motor accident victims will be unable to recover fair compensation despite being wrongfully injured on ACT roads."

"The changes will make Canberra one the harshest jurisdictions in Australia for compensation entitlements where a person is negligently injured in a motor accident".

"Central to the Government's changes is a 15% "Whole Person Impairment" (WPI) threshold before accident victims can claim damages for non economic loss (ie. pain and suffering). This is a very high threshold and will exclude over 80% of accident victims from claiming compensation for pain and suffering. A wide range of seriously injured accident victims will fall below the 15%

WPI threshold, including cases of broken bones and other serious injuries requiring multiple surgeries leaving ongoing incapacity and pain.”

Mr Opas and Mr Walker said: “The ACT Government has simply failed to provide any evidence demonstrating the need for these drastic changes. “The Government has singularly failed to provide evidence that its CTP changes will result in increased competition or reduced insurance premiums. This is why it is absolutely essential that a Parliamentary Committee obtain the facts before the Government proceeds with these unfair and unjust changes.”

Referring to the Treasurer's claims that the Government's changes will place greater emphasis on rehabilitation, Mr Opas and Mr Walker said: “The changes make no allowance for additional funds for rehabilitation or medical support, despite Government's rhetoric that this was one of the key objects of the changes.”

“Nor has the Government given its 2008 CTP reforms a chance to work even though there is evidence that they are having their desired effect. It should first determine the positive effect of its 2008 CTP reforms before making more drastic changes which will deny compensation to thousands.”

A report by the Government's Actuary dated 30 June 2010 (produced under a Law Society FOI request in January 2011) stated: “...there is some evidence that claim sizes to date under the revised legislation are lower than under the previous legislative regime. Much of the reduction is attributable to a reduction in legal costs.”

“If the Government is confident that its changes will reduce insurance premiums, registration fees and allow new players to enter the insurance market it should, at the very least, have them tested before a Parliamentary Committee with the authority to question ACT Treasury and the insurance industry,” they said. “The legal profession will willingly participate in such a process.”

In summary the changes will:

- prevent over 80% of people injured on ACT roads from receiving compensation for pain and suffering through the imposition of a 15% whole person impairment threshold to be assessed by a medical panel;
- reduce compensation including for future medical treatment expenses and care by increasing what is known as the “discount rate” on compensation for future expenses;
- remove a right to claim interest on damages even in cases where injured persons may have to wait months or years before receiving compensation; and
- through the use of medical assessors appointed by the government's representative, remove the courts' ability to assess individual accident victims and compensate them accordingly.

For further information see: **Faircomp.org.au** - the joint website of the ACT Law Society, ACT Bar Association and Australian Lawyers' Alliance.

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