



New South Wales

Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Motor Accident Injuries Act 2017* (**the Act**) to prohibit claim farming practices by making it an offence to—
 - (i) make certain contact with a potential claimant under the Act, or
 - (ii) pay or receive referral fees in relation to claims for statutory benefits or damages under the Act (**claims**),
- (b) to amend the *Legal Profession Uniform Law Application Act 2014* to provide that, if the proposed claim farming practice prohibitions are contravened by a lawyer or legal practice—
 - (i) legal costs are not recoverable by the lawyer or practice in relation to the claim, and
 - (ii) the contravention is capable of constituting unsatisfactory professional conduct or professional misconduct by the lawyer,
- (c) to make certain other minor amendments to the Act and certain other instruments.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Motor Accident Injuries Act 2017 No 10

Schedule 1[2] inserts proposed Division 6.7 relating to claim farming practices.

Proposed section 6.44 provides that the proposed division applies to claims under the Act and is intended to have extraterritorial application.

Proposed section 6.45 defines certain words and expressions used in the proposed division.

Proposed section 6.46 makes it an offence to contact a person to solicit the person to make a claim or to refer the person to a third party to provide services in relation to a claim. The proposed section also makes it an offence to arrange for prohibited contact using a third party. The offences apply to contact if the person making the contact receives, or agrees or expects to receive, consideration because of the contact or asks for someone else to receive, or agrees to someone else receiving, consideration because of the contact. The proposed offences do not apply if the person is contacted—

- (a) through a notice given in relation to representative proceedings under the *Civil Procedure Act 2005*, section 175 or under an equivalent law of another Australian jurisdiction, or
- (b) by a law practice—
 - (i) that has previously supplied the claimant with legal services and reasonably believes the claimant will not object to the contact, or
 - (ii) that contacts a claimant that the practice has advised through the advisory service established under the Act, section 7.49 about the matter the law practice has given advice in relation to and reasonably believes the claimant will not object to the contact, or
 - (iii) at the request of a representative of a community legal service or industrial organisation who reasonably believes the claimant will not object to the contact.

Proposed section 6.47 makes it an offence to provide or receive consideration for the referral of a claim or enter into agreements or arrangements relating to referrals of claims for consideration. The proposed offence does not apply if a law practice, in acting for a claimant, refers a matter to another person providing a service for the claim or if a law practice is sold to another law practice.

Proposed section 6.48 provides that a person does not commit an offence under the proposed division in relation to public advertising of a law practice.

Schedule 1[1], Schedule 2.1 and Schedule 2.3[3] make amendments consequential to the insertion of proposed Division 6.7.

Schedule 1[3] amends the Act, section 7.24 to clarify that a certificate as to a matter arising from a further medical assessment prevails, to the extent of an inconsistency, over a previous certificate as to the matter.

Schedule 1[4] inserts a displacement provision into the Act, Division 9.4 to allow the provisions of that division to take precedence over inconsistent provisions of the corporations legislation, within the meaning of the *Corporations Act 2001* of the Commonwealth.

Schedule 1[5] and [7] clarify that regulations made regulating, including prohibiting, conduct relating to the marketing of services in relation to a claim may be made in relation to a person offering to refer, or act as an intermediary for, an injured person's claim. **Schedule 1[6]** makes a consequential amendment.

Schedule 1[8] contains savings, transitional and other provisions consequent on Schedule 1[2].

Schedule 2 Amendment of other legislation

Schedule 2.2[1] amends the *Legal Profession Uniform Law Application Act 2014*, section 61A to provide that if a law practice or an associate of a law practice is convicted of an offence under the

Act, proposed Division 6.7, the practice or associate is not entitled to charge or recover legal costs in relation to the claim to which the conviction relates and must refund legal costs already received in relation to the claim.

Schedule 2.2[2] amends the *Legal Profession Uniform Application Act 2014*, section 165B to provide that a lawyer's contravention of the Act, proposed Division 6.7 is capable of constituting unsatisfactory professional conduct or professional misconduct, whether or not the lawyer has been convicted of an offence in relation to the contravention. **Schedule 2.3[1] and [2]** make consequential amendments to the *Motor Accident Injuries Regulation 2017*.



New South Wales

Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Motor Accident Injuries Act 2017 No 10	3
Schedule 2	Amendment of other legislation	8

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025

No , 2025

A Bill for

An Act to amend the *Motor Accident Injuries Act 2017* to prohibit certain contact with potential claimants and the payment and receipt of referral fees; to make other minor amendments to that Act; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Act 2025*.

3

4

2 Commencement

5

This Act commences on the date of assent to this Act.

6

Schedule 1	Amendment of Motor Accident Injuries Act 2017	1
	No 10	2
[1]	Section 1.4 Definitions	3
	Omit section 1.4(1), definition of <i>claim</i> . Insert in alphabetical order—	4
	<i>associate</i> , of a law practice, for Division 6.7—see section 6.45(1).	5
	<i>claim</i> —	6
	(a) means a claim for statutory benefits or a claim for damages, and	7
	(b) for Division 6.7—includes a potential claim.	8
	<i>consideration</i> , for Division 6.7—see section 6.45(1).	9
	<i>law practice</i> , for Division 6.7—see section 6.45(1).	10
	<i>legal services</i> , for Division 6.7—see section 6.45(1).	11
	<i>potential claimant</i> , for Division 6.7—see section 6.46(1).	12
[2]	Part 6, Division 6.7	13
	Insert after Division 6.6—	14
	Division 6.7 Claim farming practices prohibition	15
	Subdivision 1 Preliminary	16
	6.44 Application of division	17
	This division—	18
	(a) applies to claims under this Act, and	19
	(b) is intended to have extraterritorial application as far as the legislative powers of the State permit.	20 21
	6.45 Definitions	22
	(1) In this division—	23
	<i>associate</i> , of a law practice, has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> .	24 25
	<i>consideration</i> means a fee or other benefit.	26
	<i>law practice</i> has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> .	27 28
	<i>legal services</i> has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> .	29 30
	<i>potential claimant</i> —see section 6.46(1).	31
	(2) In this division, a reference to a law practice, other than a reference to a purchasing law practice, includes a reference to an associate of a law practice.	32 33
	Subdivision 2 Certain contact and referral payments prohibited	34
	6.46 Prohibited contact in relation to potential claims	35
	(1) A person (a <i>contacting party</i>) commits an offence if—	36
	(a) the contacting party contacts another person (a <i>potential claimant</i>) to solicit the potential claimant to make a claim, and	37 38
	(b) the contacting party—	39

- (i) receives consideration because of the contact, or 1
 - (ii) agrees or expects to receive consideration because of the contact,
or 2
3
 - (iii) asks for someone else to receive consideration because of the
contact, or 4
5
 - (iv) agrees to someone else receiving consideration because of the
contact. 6
7
- Maximum penalty—500 penalty units. 8
- (2) A contacting party commits an offence if— 9
 - (a) the contacting party contacts a potential claimant to refer the potential
claimant to another person to provide a service in relation to a claim,
and 10
11
12
 - (b) the contacting party— 13
 - (i) receives consideration because of the contact, or 14
 - (ii) agrees or expects to receive consideration because of the contact,
or 15
16
 - (iii) asks for someone else to receive consideration because of the
contact, or 17
18
 - (iv) agrees to someone else receiving consideration because of the
contact. 19
20
- Maximum penalty—500 penalty units. 21
- (3) A person must not arrange for a third party to contact a potential claimant in
contravention of subsection (1) or (2). 22
23
- Maximum penalty—500 penalty units. 24
- (4) This section does not apply— 25
 - (a) if a potential claimant is contacted through a notice given under the
Civil Procedure Act 2005, section 175, or a corresponding law, in
relation to representative proceedings, however described, or 26
27
28
 - (b) if a law practice— 29
 - (i) contacts a potential claimant that the practice has provided legal
services to, and 30
31
 - (ii) reasonably believes the potential claimant will not object to the
contact, or 32
33
 - (c) if— 34
 - (i) a law practice contacts a potential claimant that the practice has
provided advice to through the advisory service established under
section 7.49, and 35
36
37
 - (ii) the contact is in relation to the claim about which the practice has
given advice, and 38
39
 - (iii) the practice reasonably believes the potential claimant will not
object to the contact, or 40
41
 - (d) if a law practice contacts a potential claimant after receiving— 42
 - (i) a request to do so by a representative of a community legal
service or industrial organisation, and 43
44
 - (ii) confirmation the representative reasonably believes the potential
claimant will not object to the contact. 45
46
- (5) Subsection (4) places an evidential burden on the accused. 47

- (6) This section applies regardless of whether the potential claimant—
- (a) is entitled to make a claim, or
 - (b) has decided to make, or has made, a claim.
- (7) In this section—
- community legal service** has the same meaning as in the *Legal Profession Uniform Law (NSW)*.
- contact**, in relation to a potential claimant, includes personally approaching or contacting the claimant—
- (a) in person or by mail, telephone, email or another form of electronic communication, and
 - (b) individually or as a member of a class of persons.
- corresponding law** means the following—
- (a) the *Federal Court of Australia Act 1976* of the Commonwealth, Part IVA,
 - (b) a law of another State or Territory that relates to representative proceedings, however described,
 - (c) another law prescribed by the regulations.
- industrial organisation** has the same meaning as in the *Industrial Relations Act 1996*.
- solicit** includes induce.
- 6.47 Claim referrals for consideration prohibited**
- (1) A person must not—
- (a) receive consideration for referring a claim to another person, or
 - (b) agree to receive consideration for referring a claim to another person, or
 - (c) arrange for a third party to receive consideration for the person referring a claim to another person.
- Maximum penalty—500 penalty units.
- (2) A person (the **payer**) must not—
- (a) provide consideration to another person for the referral of a claim, or
 - (b) agree to provide consideration to another person for the referral of a claim, or
 - (c) arrange for a third party to provide consideration to another person for the referral of a claim.
- Maximum penalty—500 penalty units.
- (3) Subsection (2) applies whether a claim is referred for the purpose of—
- (a) the payer providing a service in relation to the claim, or
 - (b) someone else providing a service for the claimant.
- (4) This section does not apply—
- (a) if, in acting for a claimant, a law practice refers a matter relating to a claim to another person to provide a service in relation to the claim, or
 - (b) if all or part of a law practice is being sold to a purchasing law practice and—
 - (i) the referral, including details of the consideration, is disclosed to the claimant, and

(ii)	the consideration provided by the purchasing law practice is not more than the unbilled legal costs of the claimant at the time of the sale of all or part of the practice, and	1 2 3
(iii)	the claimant is advised the referral may be refused, and	4
(iv)	the claimant approves the referral.	5
(5)	Subsection (4) places an evidential burden on the accused.	6
(6)	In this section— <i>claimant</i> includes a potential claimant. <i>legal costs</i> has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> . <i>referral</i> , in relation to a claim, includes—	7 8 9 10 11
(a)	a referral arising from services provided to a claimant, and	12
(b)	the disclosure of a claimant’s personal details.	13
	<i>sale</i> , of a law practice, includes the referral of the files of a retiring associate of the law practice.	14 15
6.48	Exceptions for advertisements of legal services	16
	A person does not commit an offence under this part by—	17
(a)	advertising, marketing or promoting a law practice to the public, or	18
(b)	giving or receiving consideration relating to advertising, marketing or promoting a law practice to the public.	19 20
[3]	Section 7.24 Further medical assessment after initial medical assessment	21
	Insert after section 7.24(6)—	22
(7)	A certificate as to a matter arising from a further medical assessment under this section prevails, to the extent of an inconsistency, over a previous certificate as to the matter.	23 24 25
[4]	Section 9.32A	26
	Insert before section 9.33—	27
9.32A	Displacement of Corporations legislation	28
	The provisions of this division are declared to be Corporations legislation displacement provisions for the <i>Corporations Act 2001</i> of the Commonwealth, section 5G, in relation to the provisions of the Corporations legislation generally.	29 30 31 32
	Note— The <i>Corporations Act 2001</i> of the Commonwealth, section 5G provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, a provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.	33 34 35 36 37
[5]	Section 11.11 Regulation of advertising and other marketing of services	38
	Omit section 11.11(1)(a). Insert instead—	39
(a)	the marketing of services provided in connection with claims under this Act, including services provided by the following persons—	40 41
(i)	an Australian legal practitioner,	42
(ii)	an agent, or	43

[6] Section 11.11(2)	1
Omit “subsection (1) (a)”. Insert instead “subsection (1)(a)(i)”.	2
[7] Section 11.11(5)	3
Insert after section 11.11(4)—	4
(5) In this section—	5
agent includes a person offering services to refer, or act as an intermediary for, a claim.	6 7
[8] Schedule 4 Savings, transitional and other provisions	8
Insert at the end of the schedule, with appropriate part and clause numbering—	9
Part Provision consequent on enactment of Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025	10 11 12
Application of Division 6.7 to acts and omissions before commencement	13
(1) Division 6.7 applies only in relation to acts done or omitted to be done on or after the commencement of the amending Act.	14 15
(2) Despite subclause (1), section 6.47 does not apply if consideration is provided or received after the commencement of the amending Act in relation to a written agreement relating to the referral of a claim if—	16 17 18
(a) the agreement was entered into before the commencement of the amending Act, and	19 20
(b) the referral was completed before the commencement of the amending Act.	21 22
(3) In this clause—	23
amending Act means the <i>Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Act 2025</i> .	24 25
consideration has the same meaning as in Division 6.7.	26
referral has the same meaning as in section 6.47.	27

Schedule 2	Amendment of other legislation	1
2.1	Claim Farming Practices Prohibition Act 2025 No 19	2
	Section 4 Application of part	3
	Insert at the end of the section—	4
	Note— The <i>Motor Accident Injuries Act 2017</i> , Division 6.7 prohibits claim farming practices in relation to claims to which that Act applies.	5 6
2.2	Legal Profession Uniform Law Application Act 2014 No 16	7
[1]	Section 61A Contravention of claim farming practices prohibition—no costs recoverable	8 9
	Omit “under the <i>Claim Farming Practices Prohibition Act 2025</i> , Part 2.” from section 61A(1).	10 11
	Insert instead—	12
	under—	13
	(a) the <i>Claim Farming Practices Prohibition Act 2025</i> , Part 2, or	14
	(b) the <i>Motor Accidents Injuries Act 2017</i> , Division 6.7.	15
[2]	Section 165B Conduct capable of constituting unsatisfactory professional conduct or professional misconduct	16 17
	Omit section 165B(1). Insert instead—	18
	(1) Without limitation, conduct of a lawyer involving contravention of one or more of the following is capable of constituting unsatisfactory professional conduct or professional misconduct, whether or not the lawyer has been convicted of an offence in relation to the contravention—	19 20 21 22
	(a) the local regulations,	23
	(b) the costs assessment rules,	24
	(c) the <i>Claim Farming Practices Prohibition Act 2025</i> , Part 2,	25
	(d) the <i>Motor Accident Injuries Act 2017</i> , Division 6.7.	26
2.3	Motor Accident Injuries Regulation 2017	27
[1]	Part 6, Division 2, Maximum legal and other costs	28
	Omit the heading to the note. Insert instead—	29
	Note 1—	30
[2]	Part 6, Division 2, note 2	31
	Insert after Part 6, Division 1, note 1, as amended by item [1]—	32
	Note 2— The <i>Legal Profession Uniform Law Application Act 2014</i> , section 61A provides that no costs are chargeable or recoverable if a law practice or an associate of a law practice is convicted of an offence under the Act, Division 6.7 in relation to the claim to which the conviction relates.	33 34 35 36

[3] Clause 41 Referral fees

Omit the clause.

1

2