



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*.