

MOTOR ACCIDENT INJURIES AMENDMENT BILL 2013

Bill introduced on motion by Mr Mike Baird, read a first time, and printed.

Second Reading

Mr MIKE BAIRD (Manly—Treasurer, and Minister for Industrial Relations) [3.16 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Motor Accident Injuries Amendment Bill 2013. This bill introduces important reforms to the motor accident injuries scheme in New South Wales that will reduce premiums for motorists and ensure that the majority of the money paid out of the scheme goes to people injured by motor vehicles. The amendments proposed by the bill make provision for a simpler, easier-to-access, no-fault, first party statutory compensation scheme for motor accident injuries, while retaining the right for the more seriously injured also to seek fault-based common law damages. The bill also will improve the claims handling and dispute resolution process with the aim of delivering benefits to claimants as quickly and fairly as possible. These reforms are complemented by provisions to strengthen the powers of the Motor Accidents Authority in premium setting and claims handling.

The current fault-based motor accident injuries scheme means that in order to receive compensation most injured persons must prove that someone else was at fault. This adversarial approach makes the scheme inefficient and expensive to run. The current motor accident injuries scheme also sees injured people having to wait several years prior to receiving benefits and requires injured people to prove disability or incapacity many years after the actual injury. Perversely, this discourages a quick recovery and creates a lump-sum compensation mindset. The need to reform the scheme is pressing because premiums in New South Wales are now the least affordable in the country, with prices having risen 70 per cent since 2008.

First party cover means that those injured can bring a claim against the insurer of the vehicle they were in at the time of the accident—often their own insurer—who will manage the claim from the outset. If a person is injured outside a motor vehicle, such as a pedestrian or a cyclist, then they simply notify the Motor Accidents Authority, which will refer the claim to the relevant insurer. Injured people who are earners will be entitled to statutory benefits based on their pre-injury weekly earnings. If an injured person is still incapacitated after 78 weeks, they will be entitled to receive compensation for their loss of earning capacity. Injured people whose assessed permanent impairment exceeds 20 per cent will be eligible for statutory benefits until retirement age, based on their loss of earning capacity. Other injured people will be eligible for benefits for up to five years. Statutory benefits will not be available to people who are charged with a serious driving offence unless they are later found not guilty of the offence. An at-fault driver knowingly driving an uninsured motor vehicle at the time of the motor accident or injured as a result of a deliberate, self-inflicted act will also be precluded from claiming statutory benefits.

A child who is injured in a motor accident may also be eligible for benefits for loss of earning capacity from the age of 18. If the child has more than 20 per cent permanent impairment, the child will be eligible for weekly benefits until retirement age. Other children will be eligible for benefits for loss of earning capacity if they turn 18 within five years of the date of the accident. Children will still be entitled to bring a modified common law claim for damages against a driver at fault, and it is anticipated that the majority of seriously injured children will do so. Injured people whose assessed permanent impairment exceeds 10 per cent will be eligible for reasonable and necessary treatment and care benefits for life, including the loss of capacity by an injured person to care for dependants. Other injured people will be entitled to reasonable and necessary treatment and care benefits for up to five years. Under the proposals, a defined lump sum payment for permanent impairment will also be payable for injured persons with a permanent impairment of more than 10 per cent.

Should an injured person dispute a decision of an insurer with regard to defined statutory benefits, the bill establishes a simple and effective process that does not require claimants to have legal representation, by way of internal review, or external review by an independent claims assessor. An Independent Review Office will also be established. These processes provide a clear and simple pathway for the resolution of statutory benefits disputes, which is accessible to the injured person, not adversarial in nature, and removes the need to pursue lengthy and complex legalistic process when a dispute arises.

Injured people who have more than 10 per cent assessed permanent impairment, and who are not at fault in an accident, will continue to have access to modified common law damages for past and future loss of earnings and earning capacity, and for non-economic loss. The bill extends the time frame for making a claim for damages from six to 12 months from the date of accident, to minimise costly technical disputes about late claims and encouraging injured people to notify insurers early. Damages will no longer be paid for treatment and care expenses, because they will be met under the statutory benefit provisions, and damages for gratuitous attendant care services will not be recoverable.

In order to complement the introduction of no-fault benefits, the bill will also give enhanced powers to the Motor Accidents Authority to introduce new, more rigorous rules for the premiums charged to motorists by insurers. The bill also allows the Motor Accidents Authority to publish information with regard to insurer compliance and performance in claims and premiums. The bill makes provision for government bodies to be approved as self-insurers to issue third party policies in respect of motor vehicles owned by the government body or another government body. The Motor Accident Injuries Amendment Bill 2013 contains the most important changes to the motor accident injuries scheme since its inception in 1999. The implementation of no-fault benefits for people injured in motor accidents, including income support, will improve the health outcomes of all injured people, while at the same time implementing a sustainable, cost-effective framework to contain the costs of green slips into the future. I commend the bill to the House.

PROOF 9 MAY 2013

Debate adjourned on motion by Mr Michael Daley and set down as an order of the day for a future day.