

Legislation Review Committee



PARLIAMENT OF
NEW SOUTH WALES

Correspondence received in response
to the Legislation Review Committee
Digest No. 45 – 21 June 2022



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The Hon. Victor Dominello MP
Minister for Customer Service and Digital Government

OFFICIAL

Our reference: COR-03530-2022
Your reference: D22/30800

Mr David Layzell MP
Chair, Legislation Review Committee
By email: legislation.review@parliament.nsw.gov.au

Dear Mr Layzell

Thank you for your correspondence dated 27 June 2022 regarding the publication of the Motor Accident Guidelines version 8.2, which shares the Legislation Review Committee's comments about the surveillance provisions in the latest Legislation Review Digest No 45/57.

The State Insurance Regulatory Authority (SIRA) acknowledges the concerns raised by the Committee about the surveillance of claimants with pre-existing mental health conditions. I am advised that the introduction of clause 4.146 into Part 4 of the Guidelines was made in consultation with key industry stakeholders, including peak legal bodies, who supported the changes.

I note that the Guidelines are subject to parliamentary scrutiny as per section 10.6 of the *Motor Accident Injuries Act 2017* (the Act) and disallowance under section 41 of the *Interpretation Act 1987*. SIRA takes the issue of personal rights and liberties seriously when proposing changes to the Guidelines. There are a number of guiding principles that the insurer must consider when conducting investigations and surveillance operations. Specifically, clause 4.134 of the Guidelines require that such investigations are appropriate and undertaken only when the required information cannot be obtained by less obtrusive means. Clauses 4.139 to 4.145 also regulate the type of circumstances where the surveillance of claimants can take place whilst respecting the privacy and rights of the individual concerned.

As the Committee has noted, there are now additional safeguards in place, such as the requirement for a risk mitigation plan by the insurer, to help mitigate the potential for any adverse impact that surveillance operations may have on a claimant's pre-existing mental health condition. This change was made in recognition that existing regulation of insurer surveillance was not sufficient to address the particular risks associated with this vulnerable group. The new Guidelines provide these stronger protections, which is balanced against the public interest and object of the Act to detect and deter fraudulent claims in the Compulsory Third-Party (CTP) Scheme.

SIRA will continue to review and monitor any potential impact on claimants and more broadly the CTP Scheme as a result of the Guideline changes. SIRA will also undertake consultations on additional proposed changes to the Guidelines later this year in response to the three-year Statutory Review of the Act, offering stakeholders further opportunity to provide input and feedback to the Guidelines.

If you have any further queries about the Motor Accident Guidelines, please contact Bronwyn Martin, Director Scheme Design, Policy and Performance, SIRA on [REDACTED].

Yours sincerely

The Hon. Victor Dominello MP
Minister for Customer Service and Digital Government

Date: 18/07/22

OFFICIAL



The Hon. Victor Dominello MP

Minister for Customer Service and Digital Government
Minister for Small Business
Minister for Fair Trading

OFFICIAL

Our reference: COR-03657-2022

Mr David Layzell MP
Chair
Legislation Review Committee
Parliament of New South Wales
By email: legislation.review@parliament.nsw.gov.au

Dear Chair

Thank you for your correspondence about the Work Health and Safety Amendment (Food Delivery Riders) Regulation 2022 (the Regulation).

I note the items identified within the Legislation Review Committee's Digest, No 45/57 following the Committee's consideration of the Regulation.

The Regulation establishes much needed protections for food delivery workers through the provision of personal protective equipment (PPE), induction training, and enhanced record keeping and verification requirements.

On the introduction of penalty notices, I note the Committee's statement that the Regulation does not remove a person's right to elect to have the matter heard by a court and provides practical compliance benefits.

On the requirement for riders to produce their training verification, I note the Committee's observation that without the provision, the requirement for riders to carry their training verification records would be unenforceable, and that the information contained in training verification records is a fairly narrow range. I consider that this requirement is crucial to ensuring that food delivery riders have the training to carry out their work safely. In some circumstances, SafeWork NSW is already able to use existing powers to compel food delivery platforms to disclose information of this kind.

I trust this above information is of assistance.

Yours sincerely

The Hon. Victor Dominello MP

Minister for Customer Service and Digital Government
Minister for Small Business
Minister for Fair Trading

Date: 09/08/22

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The Hon. Anthony Roberts MP
Minister for Planning
Minister for Homes

Your ref: D22/30798
Our ref: MDPE22/1371

Mr Dave Layzell MP
Chair
Legislation Review Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Via email: legislation.review@parliament.nsw.gov.au

Dear Mr  Layzell

Thank you for your correspondence to the Hon. Wendy Tuckerman MP, Minister for Local Government, regarding the *Local Government (General) Amendment (Temporary Emergency Accommodation) Regulation 2022*. As this matter is being progressed through the Planning portfolio, your correspondence was referred to me.

The Department of Planning and Environment (the Department) appreciates the Legislative Review Committee's (the Committee) feedback on the *Local Government (General) Amendment (Temporary Emergency Accommodation) Regulation 2022*. The Department also notes that the Committee provides no further comment on the matter.

Should the Committee have any questions, it is welcome to contact Ms Paulina Wythes, Director, Policy Legislation and Economic Policy at the Department on [REDACTED] or [REDACTED]

Yours sincerely



The Hon. Anthony Roberts MP
Minister for Planning
Minister for Homes

CC: The Hon. Wendy Tuckerman MP, Minister for Local Government



The Hon. Matt Kean MP
Treasurer
Minister for Energy

OFFICIAL

Our ref: P22/1922
Your ref: D22/30794

Mr Dave Layzell
Chair of Legislation Review Committee (LRC)
legislation.review@parliament.nsw.gov.au

Dear Mr Layzell, *Dave*

Thank you for writing about the Treasury Legislation Amendment (Miscellaneous) Bill 2022. I appreciate your feedback and comments and can advise as follows on the matters raised by the Legislation Review Committee.

Proposal to insert a new section 14 into the *Parliamentary Contributory Superannuation Act 1971*

Whilst consideration was given to specifying the grounds on which a trustee could be removed, it was decided that it was not possible or desirable to seek to identify all such grounds as there could be many reasons as to why a trustee may no longer be suitable to hold the office of trustee. Accordingly, in consultation with the Parliamentary Counsel's Office, the phrase 'on reasonable grounds', which has meaning at law, was adopted. The trustees were also closely consulted in the drafting of these provisions and were comfortable with the wording of the provision.

Proposal to insert a new section 19CC into the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*

The intention of the new section 19CC was to allow other governing documents to replace the AUSCOAL Rules and AUSCOAL Trust Deed which would no longer apply to the Subsidy Fund upon the separation of AUSCOAL's functions in respect of the Superannuation Fund and Subsidy Fund. The replacement of the AUSCOAL Rules or AUSCOAL Trust Deed with a new rule or document was also subject to the approval of the Minister.

It is common for arrangements of this kind (e.g., superannuation schemes and other trusts) to have separate governing documents, as is the case with the existing arrangements under the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*. Such governing documents are long (the current AUSCOAL Trust Deed is 75 pages) and also contain operational matters relating to the scheme/fund/trust.

In any event, I note that the amendments to this Act were removed from the Treasury Legislation Amendment (Miscellaneous) Bill 2022 and were therefore not passed by Parliament.

Thank you for your consideration of the Bill and if you need any more information, please contact John Lynam, Director, Strategic Asset Balance Management at NSW Treasury at [REDACTED]

Yours sincerely,

The Hon. Matt Kean MP
Treasurer
Minister for Energy

6.7.22

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