

**Submission  
No 7**

**STATUTORY REVIEW OF THE STATE INSURANCE AND  
CARE GOVERNANCE ACT 2015**

**Organisation:** National Insurance Brokers Association of Australia  
**Date received:** 31 October 2017

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The Hon Shayne Mallard, MLC  
Committee Chair  
Standing Committee on Law and Justice  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Mr Mallard,

### **Statutory Review of the *State Insurance and Care Governance Act 2015***

Thank you for the opportunity to make a brief submission to the statutory review of the *State Insurance and Care Governance Act 2015*.

The National Insurance Brokers Association represents around 350 insurance broking firms across Australia, including major international insurance broking companies through to medium and smaller broking firms that operate in the cities, towns and regions across the country.

Insurance brokers act for and on behalf of their clients in order to –

- Understand and manage their risks;
- Determine appropriate insurance coverage to protect their assets and to cover the liabilities the business may incur;
- Obtain the most appropriate cover at the best possible cost from Australian authorised and (where appropriate) foreign insurers; and
- Assist and advocate on behalf of their clients when a claim needs to be made under the policy.

Insurance brokers operate predominantly in respect of commercial and industrial risks, and handle premiums of over \$18 billion each year, around half of the general insurance premium pool for Australia.

### **Objectives of the Act**

We note the Committee will examine –

- Whether the policy objectives of the Act remain valid; and
- Whether the terms of the Act remain appropriate for securing those objectives.

We have examined the terms of the legislation itself, and the Minister's Second Reading Speech at the time the Bill was introduced into Parliament.

We have been unable to identify a clear statement of the objectives of the Act, other than the desire to break up the former WorkCover Authority into three statutory bodies – ICNSW, State Insurance Regulatory Authority and SafeWork NSW.

NIBA strongly supports the separation of regulatory and operational functions, including the formation of Insurance and Care NSW and the State Insurance Regulatory Authority. We believe these core objective of the Act remain relevant and valid. In particular, we believe it was important to separate the regulatory and operational functions of the former WorkCover, and this has been achieved.

### **Whether the terms of the Act remain appropriate for securing those objectives**

At the time of preparation of this submission, the annual reports of Insurance and Care NSW and SIRA for 2016-2017 are not available. It is therefore not possible to provide an informed comment on the implementation of the legislation, or the extent to which the terms of the Act remain appropriate.

For example, there are a number of provisions of the Act which could well be of importance in the early operation of the legislation:

Section 6 – the role of ICNSW Board

Section 7 – power of the Minister to give directions in the public interest

Section 11 – ICNSW to prepare annual statement of business intent

Section 16C – prudential standards or reporting and auditing requirements.

NIBA looks forward to reviewing the Annual Reports of ICNSW and SIRA when they become available.

### **Conclusion**

In conclusion, NIBA would like to submit:

1. It is important that the Committee, the Government and preferably the legislation clearly state the policy objectives of the legislation;
2. This and any further reviews of the legislation be undertaken in the light of a clear statement of the policy intent, and an examination of whether the policy intent is actually being achieved, having regard to the implementation of the legislation since the date it took effect; and

3. Any consideration of whether the terms of the Act remain appropriate be undertaken only in the context of the statement of policy intent, the experience in practice since the legislation took effect, the current operating environment including the state of the NSW economy and the experience of the insurance and compensation schemes being administered by icare and being regulated by SIRA – so that a clear view can be formed as to whether the legislation is truly achieving its stated intent.

Please do not hesitate to contact me if you would like to discuss any aspect of this submission.

Yours sincerely,

Dallas Booth  
Chief Executive Officer