

**Submission
No 8**

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

Organisation: State Insurance Regulatory Authority

Date received: 31 October 2017

Submission to the
Legislative Council
Standing Committee on
Law and Justice statutory
review of the State
Insurance and Care
Governance Act 2015

State Insurance Regulatory Authority

31 October 2017

Contents

- 1. Context..... 3
- 2. Introduction..... 3
- 3. SIRA Background & Overview 3
 - Who we are 3
 - What we do..... 3
 - Our purpose..... 4
 - Our mission 4
 - Our customers 4
- 4. SIRA Functions 5
 - Motor Accidents Insurance Regulation..... 5
 - Workers Compensation Regulation..... 5
 - Home Building Compensation Regulation..... 6
 - Dispute Resolution Services 6
- 5. SIRA’s Key Achievements..... 7
 - Motor Accidents Insurance Regulation..... 7
 - Workers Compensation Regulation..... 8
 - Home Building Compensation Regulation..... 10
 - Dispute Resolution Services 10
- 6. Conclusion 10

1. Context

The Standing Committee on Law and Justice has been designated by resolution of the Legislative Council to review the *State Insurance and Care Governance Act 2015* (including the amendments made by this Act) to determine whether the policy objectives of the Act or those amendments remain valid and whether the terms of the Act (or of the Acts so amended) remain appropriate for securing those objectives.

2. Introduction

The State Insurance Regulatory Authority (SIRA) welcomes the opportunity to make a submission to the Legislative Council Standing Committee on Law and Justice's statutory review of the SICG Act.

3. SIRA Background & Overview

Who we are

The State Insurance Regulatory Authority was established on 1 September 2015 through the *State Insurance and Care Governance Act 2015*. SIRA aims to ensure people who suffer injury or loss are supported, and insurance is affordable, well managed and sustainable.

We are a statutory body and NSW Government agency constituted under section 17 of the *State Insurance and Care Governance Act 2015*, and are governed by a Board consisting of five members.

The staff of SIRA are employed by and are located within the NSW Department of Finance, Services and Innovation (DFSI).

What we do

We regulate workers compensation insurance and related activities, motor accidents compulsory third party (CTP) insurance and home building compensation insurance in NSW. We also provide independent dispute resolution services.

We approve premium, licensing and policy frameworks for insurers, effectively supervise insurers, and monitor the financial solvency and performance of the three abovementioned compulsory insurance schemes.

We also have specific functions within the Lifetime Care and Support Scheme and the Dust Diseases Scheme and to promote injury prevention in relation to the schemes we regulate.

Our purpose

We advance the wellbeing and confidence of the people and businesses of NSW through sustainable insurance and support systems, so they can actively engage in the economy and society.

There are certain risks in our community - like motor vehicle accident injuries, injuries at work, and home building company insolvencies - that if left unmanaged will erode wellbeing and confidence. As a result we have compulsory insurance and support systems that address these risks.

As a regulator, our purpose is to ensure that these insurance and support systems are easy to deal with and deliver protection, entitlements and good outcomes, at an affordable price, in a sustainable way.

Our mission

We undertake, through effective regulation and system-wide stewardship to make sure our insurance and support systems deliver confidence to engage in the economy and society through affordable protection and support for recovery, restoration and wellbeing.

Our customers

Our customers include:

- Motor vehicle owners and road users
- those injured in motor vehicle accidents or while working
- compulsory third party (CTP) motor accident insurance policy holders
- workers and employees
- employers
- builders and homeowners who are customers of the home building compensation scheme

4. SIRA Functions

Motor Accidents Insurance Regulation

SIRA regulates the Compulsory Third Party (CTP) insurance scheme for motor vehicles registered in NSW.

CTP insurance, also known as Green Slip insurance, is compulsory in all Australian States and Territories and a requirement of motor vehicle registration.

When a vehicle owner purchases Green Slip insurance, they are insuring themselves from their own liability for injuries or death of other road users caused by the fault of that vehicle.

The NSW scheme provides compensation for pedestrians, passengers, cyclists, motorcyclists, drivers of other vehicles and, to a limited extent, the driver at fault. It also provides compensation to close relatives for people killed in a motor vehicle accident.

One of our key activities is to licence and regulate private insurers that underwrite the scheme so that premiums are affordable and competitive, and injured people receive fair benefits, early and appropriate treatment, and rehabilitation to achieve optimal recovery.

In 2016-17, 5.4 million CTP policies were sold, \$2.7 billion in premiums collected and there were 13,649 reported CTP claims.

Workers Compensation Regulation

SIRA supervises the whole NSW workers compensation system, which is the largest defined benefit insurance scheme in Australia.

In 2016-17, the system protected 4.5 million workers, collecting \$3.33 billion in premiums, and returning \$2.8 billion in claims costs. There were 91,031 newly-reported claims this financial year.

SIRA regulates four insurance segments within the workers compensation system:

- Nominal insurer – a statutory insurer responsible for the Workers Compensation Insurance Fund (managed by icare NSW)
- Specialised insurers – six insurers licenced to operate within a particular industry
- Self-insurers – 57 large employers licenced to self-insure
- Treasury Managed Fund – the government’s managed fund scheme. The scheme is administered by the NSW Self-Insurance Corporation (under icare NSW).

Home Building Compensation Regulation

In September 2015, SIRA began supervising the Home Building Compensation scheme, formerly known as home warranty insurance, a mandatory form of building insurance in NSW.

The insurance helps homeowners, as a last resort, if their builder cannot complete building work or fix defects because they have become insolvent, died, disappeared or had their licence suspended for failing to comply with a court or tribunal order to compensate a homeowner.

Builders must buy this insurance before starting work or accepting payment for residential building work costing more than \$20,000, such as new home constructions (including multi-unit buildings of three storeys or less) or home renovations.

This insurance scheme protects an average of 55,500 home building works annually in NSW. Each year, about 650 claims are made.

In 2016-17, 74,499 home building and renovation projects were covered, with a value of \$16.56 billion, and 864 new notifications or claims were received.

Since 2010, the NSW Government has been the only provider of this insurance. Insurance and Care NSW (icare) markets the insurance as 'icare hbcf' and issues cover through two contracted scheme agents.

Dispute Resolution Services

SIRA assumed the dispute resolution functions of the former Motor Accidents Authority (MAA) and WorkCover.

The Dispute Resolution Services Division is responsible for delivering SIRA's independent statutory alternative to court dispute resolution services, including the:

- Motor Accidents Medical Assessment Service (MAS)
- Motor Accidents Claims Assessment and Resolution Service (CARS)
- Workers Compensation Merit Review Service (MRS)
- NSW CTP Lifetime Care Dispute Reviews and
- ACT CTP and Workers Compensation Lifetime Care Dispute Reviews.

In 2016-17, more than 10,500 applications were lodged with our independent dispute resolution services, with around the same volume finalised, an increase of about 500 applications (4.5 per cent) from 2015-16, and significantly more than in recent years.

The number of dispute applications has increased by over 40 per cent in the past five years, flowing on directly from the increase in the number of new claims lodged in the NSW Motor Accidents CTP scheme over the prior seven years.

5. SIRA's Key Achievements

Motor Accidents Insurance Regulation

- Supported Government in significant reform to improve the CTP scheme, which will see significant reductions in premiums from 1 December 2017 and a new risk sharing mechanism after extensive consultation with stakeholders.
- Commenced work on a complete rebuild of the Green Slip calculator which provides motor vehicle owners with an online CTP insurer price comparison. Behind the scenes, the Green Slip calculator will integrate with insurance rating engine-software.
- Published two reports on our website, informing legislative change:
 - Insurer claims handling and dispute resolution in compulsory third party (CTP) motor accident insurance (January 2017)
 - Reforming insurer profit in compulsory third party (CTP) motor vehicle insurance (January 2017).
- Completed extensive consultation with CTP insurers, the Insurance Council of Australia, legal professional associations and clinical and academic subject matter experts with experience in motor vehicle injuries, on the drafting of regulatory inclusions and the Motor Accident Guidelines.
- Worked closely with the NSW Police Force to tackle fraud in the CTP Scheme through the success of the NSW Police Force Strikeforce Ravens initiative.
- Worked collaboratively with the National Transport Commission (NTC) and Transport NSW to regulate the emerging automated vehicle industry, and led ongoing national discussions in relation to autonomous vehicles and CTP insurance through the Heads of Australian and New Zealand Motor Accidents Insurance Schemes.
- Held roundtable discussions with the taxi and ride-share industry and developed a new pricing system for CTP insurance for taxis and ride-share services that making premiums fairer and more affordable.
- Issued new *Motor Accident Guidelines: Claims handling and medical (treatment, rehabilitation and care)*, to insurers clarifying what is expected of them when they handle a claim in the current scheme, and marked a move to a principles-based approach to insurer supervision and regulation with a self-assessment audit being required in late 2017.
- Delivered an Online Claim Notification capability, which enables people injured in motor vehicle accidents to submit a notification digitally to SIRA, who will then identify the insurer responsible for the claim and forward the notification to that insurer. This allows insurers to connect with injured people faster and move them quickly into the claims process.

- Introduced an automated insurance policy data collection system enabling insurers to submit policy data to SIRA electronically.
- Completed a review of the CTP premium system in consultation with licensed insurers and actuaries in preparation for the implementation of the new CTP Scheme.
- Designed and implemented a Risk Equalisation Mechanism (REM) to promote affordability and competition in the scheme by minimising the opportunity for insurer anti-competitive behaviour. The REM re-allocates premiums for certain classes of vehicle on a whole of industry basis, thereby sharing selected good and bad risks between insurers.
- Reviewed the Premium Determination Guidelines for insurers in accordance with the *Motor Accidents Injuries Act 2017*. Premium relativities based on risk for vehicle class and geographic regions were reviewed and updated, together with the reference base rate.
- Provided support to people injured in motor vehicle accidents to recover from their injuries by providing information and education, and promoting evidence-based treatment. Various other targeted initiatives conducted during the year including:
 - online training for health service providers about working in the scheme, delivering services to claimants
 - relaunching the updated online Injury Advice Centre, to provide easy to use advice to help injured people recover.
- Collaborated with key agencies including the NSW Centre for Road Safety to prevent and minimise road trauma and improve road safety, with key initiatives including:
 - a data linkage project between Transport for NSW, NSW Health and SIRA to inform evidence based policy by connecting injury, claims, payments and crash data
 - funding for road safety campaigns on motorcycle riders, fatigue, speeding reduction, drink driving impaired driving, and child restraints
 - funding for research, projects and initiatives including the National Road Safety Partnership Program, the Used Car Safety Rating guide and the Australian Naturalistic Driving Study.

Workers Compensation Regulation

- Led and supervised the implementation of the 2015 Benefit Reform Program, which was delivered in 2016.
- Developed a risk-based insurer supervision model to monitor, regulate and manage 113 current and former insurers in the workers compensation system.

- Reviewed and designed a new self-insurance licensing framework involving significant stakeholder feedback to provide strong, fair, results-focused regulation of self-insurers and improved outcomes for both injured workers and employers.
- Introduced independent regulatory supervision of workers compensation premiums for the first time in NSW in 2016.
- Published the Market Practice and Premiums Guidelines (MPPG), which provide insurers with SIRA's requirements for setting workers compensation premiums.
- Developed guidelines for workplace return to work programs that replace the 2010 version. The guidelines clearly articulate the obligations of the different categories of employers and ensure they are aligned with legislative intent. They will support, inform and guide employers and other stakeholders in the development of an effective workplace return to work program.
- Updated and created several tools and resources for employers including the:
 - return to work program checklist for Category 1 employers
 - standard return to work program for Category 2 employers
 - standard consent form for release of personal information
 - recovery at work planning tool
 - 'if you get injured at work' poster.
- Developed a compliance and investigation program including:
 - Approving allied health providers, hearing providers, workplace rehabilitation providers, and whole person impairment assessors
 - Auditing claims management
 - Reviewing cost of claims, wages and workers compensation industry classification appeals
 - Approving commutations to the ongoing liability of a person's claim under section 87EA
 - Reviewing private rulings to determine whether a person was a worker
 - Investigating various allegations of workers compensation fraud and undertaking prosecutions.
- Worked in collaboration with SafeWork NSW, the Office of the NSW Small Business Commissioner and key business and industry bodies to develop a Work Health and Safety, and Workers Compensation Small Business Strategy.
- Provided support and guidance to employers and medical practitioners including permanent impairment training for doctors on the National Guide and launching the revised allied health practitioner management framework.
- Provided ongoing support and assistance to workers, employers and insurers including education sessions with the Self-Insurer Association, workshops with insurers and education via webinars and seminars on the guidelines for claiming workers compensation.

Home Building Compensation Regulation

- Supported Government in changes to the Home Building Compensation scheme.
- Consulted with various government and non-government stakeholders to develop a proposal for legislative reform. The Home Building Amendment (Compensation Reform) Bill 2017 was passed by Parliament on 20 June 2017. Some provisions of the *Home Building Amendment (Compensation Reform) Act 2017* commenced on 30 June 2017.
- Referred matters to NSW Fair Trading concerning possible false certificates and failure of builders to provide insurance before taking deposits for residential building work.
- Introduced independent regulatory supervision of Home Building Compensation premiums for the first time.

Dispute Resolution Services

- Reduced the timeframe for Claims Assessment and Resolution Service (CARS) special assessments of procedural disputes by a further 13 per cent in 2016-2017, down to 48 days, which is now seeing 20 per cent more applications being determined 40 per cent faster than five years ago.
- Appointed panels of expert independent external decision makers including 28 CARS Claims Assessors to June 2019 and over 150 Medical Assessors of the Medical Assessment Service (MAS) to June 2018.
- Delivered a comprehensive program of performance monitoring, briefing sessions, workshops and seminars to MAS, CARS and MRS decision makers, insurers and the legal profession to share information, improve claims management decision making and minimise scheme disputation.
- Published notable Merit Review Service (MRS) decisions on the SIRA website to increase transparency, inform scheme participants, promoting consistency across the scheme and minimising disputation.
- Reduced the finalisation time of MRS Merit Reviews to 20 working days (29 calendar days including weekends and public holidays.)
- Developed an online Merit Review Portal for the Merit Review Service (MRS), with significant benefits for injured workers, insurers, representatives, staff and decision makers including more accessibility, greater fairness and transparency, greater timeliness, higher quality and better for the environment.

6. Conclusion

SIRA would be pleased to provide further information as required by the Committee.