

Civil Liability and Other Legislation (Prescribed Amounts) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 82

Made under the

Civil Liability Act 2003

Personal Injuries Proceedings Act 2002

Workers' Compensation and Rehabilitation Act 2003

General Outline

Short title

Civil Liability and Other Legislation (Prescribed Amounts) Amendment Regulation 2018

Authorising law

Sections 74 and 75 of the *Civil Liability Act 2003*

Sections 75 and 75A of the *Personal Injuries Proceedings Act 2002*

Sections 306V and 584 of the *Workers' Compensation and Rehabilitation Act 2003*

Policy objectives and the reasons for them

Each of the *Civil Liability Regulation 2014*, *Personal Injuries Proceedings Regulation 2014* and *Workers' Compensation and Rehabilitation Regulation 2014* contains various costs and offer limits, monetary caps and thresholds in relation to common law damages for personal injury. These apply to:

- the threshold for notification by a court about a proposed award for future loss of earnings to give the parties to a proceeding a reasonable opportunity to negotiate a structured settlement;
- caps on general damages;
- declared costs limits, lower offer limits and upper offer limits; and
- the threshold which determines whether the spouse of an injured party can claim damages for loss of consortium or servitium.

Provisions in the primary legislation for each regulation require the relevant Minister to recommend to the Governor in Council on or before 1 July each year the amounts that are to be prescribed for the indexation of these costs and offer limits and monetary caps and thresholds.

The amount of indexation is determined by the amount last prescribed, adjusted by the percentage change in the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year and rounded to the nearest \$10. The amount of weekly earnings is variously described as average weekly earnings (AWE) or Queensland Ordinary Time Earnings (QOTE).

Achievement of policy objectives

Australian Bureau of Statistics data indicates that AWE/QOTE effective as of 1 July 2018 will be \$1,527.80. This represents an annual increase of 3.08% (from \$1,482.10) when applied to each costs and offer limit, monetary cap and threshold under the *Civil Liability Regulation 2014*, *Personal Injuries Proceedings Regulation 2014* and *Workers' Compensation and Rehabilitation Regulation 2014*.

The *Civil Liability and Other Legislation (Prescribed Amounts) Amendment Regulation 2018* (the amendment regulation) achieves the policy objectives by applying the relevant increase to each costs and offer limit, monetary cap and threshold for injuries occurring on or after 1 July 2018.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Civil Liability Act 2003* and the *Personal Injuries Proceedings Act 2002*, namely to facilitate the ongoing affordability of insurance through appropriate and sustainable awards of damages for personal injury; and the *Workers' Compensation and Rehabilitation Act 2003*, namely, to maintain a balance between providing fair and appropriate benefits for injured workers or dependants and ensuring reasonable cost levels for employers, and by regulating access to damages.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The amendment regulation will have a beneficial result for injured parties and their dependants, as the indexation of general damages and other relevant amounts will maintain the relative value of those amounts over time in line with wages growth.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

In accordance with the *Queensland Government Guide to Better Regulation*, the amendment regulation has been assessed as excluded from further regulatory impact analysis as a regulatory proposal of a machinery nature.