



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SERVICES  
Ms Elizabeth Lee MLA (Chair), Ms Bec Cody MLA (Deputy Chair)  
Mr Michael Petterson MLA

## Submission Cover Sheet

Inquiry into Motor Accident Injuries Bill 2018—Exposure Draft and Guide to the  
Motor Accident Injuries Bill 2018 Exposure Draft

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Ms Elizabeth Lee MLA  
Chair  
Standing Committee on Justice & Community Safety  
ACT Assembly  
Via Email: LACommitteeJCS@parliament.act.gov.au

Dear Ms Lee,

## **Submission to the Inquiry into Motor Accident Injuries Bill 2018**

Thank you for the opportunity to make this submission to the Standing Committee regarding the proposed Motor Accident Injuries Bill 2018.

UnionsACT is the peak council for the ACT's union movement, representing 24 unions and over 33,000 union members. Many tens of thousands more have their conditions of employment shaped by the work and representation performed by our affiliates. We have a long and proud history of independently and fearlessly advocating on behalf of union members, and our mission is to improve working standards and living standards for all working people.

UnionsACT has strong reservations regarding the new model for compulsory third party insurance and the substantial erosion of rights of injured drivers; we do not support the Bill.

The Bill appears to reduce rights of workers injured in a work-related road accident while handing substantial power to profit-driven insurance companies, who will have an incentive to restrict compensation payments.

UnionsACT is concerned about the following elements of the proposed system:

- The interaction between the changes and the Workers Compensation scheme. Our understanding is that currently a person injured in a work-related motor accident can access the larger compensation benefit of the two schemes (either CTP or Workers Compensation). The proposed scheme appears to require that the injured worker choose between the two schemes at an early time, and then be excluded from the other scheme. We are also concerned that a person receiving Workers Compensation could be prevented from accessing compensation under the new CTP scheme.
- The proposed thresholds for whole-person impairment injuries is draconian and unfair. A 10% WPI threshold to access common law damages is too high and there is no justification for such a high threshold to be set.
- The ability for insurance companies to determine an injured person's entitlements under the scheme is worrying. For example it appears that the proposed scheme would allow insurers to determine how much lost income an injured person is entitled to, and what medical treatment will be paid for. As the banking royal commission has demonstrated, insurance companies have an irreconcilable conflict of interest (the profits motive) and it is manifestly inappropriate for insurance companies to make decisions about the rights and medical needs of an injured person.

- Our understanding is that injured people will have few avenues to appeal or dispute decisions of insurance companies, and no guarantee that they will be able to seek cost orders if they go to court. Injured people without the assistance of specialist legal advice will be expected to navigate disputes about their medical treatment and work capacity directly with well-resourced insurers, and without their own independent legal advice. This will exacerbate the inappropriate power imbalance in favour of insurers over injured people who will often be under extreme financial and emotional distress will only be exacerbated. Furthermore, the experience in other jurisdictions is that advice provided by insurance companies is often wrong, or biased towards the financial interests of the insurance company.

Overall, the scheme appears to have been designed principally with the interests of insurance companies, rather than injured people, in mind.

While the model scheme was developed through a 'citizen jury' process, we believe there are substantial alterations to rights of workers that were not discussed in that process.

Further, neither UnionsACT nor our affiliates, were consulted by the ACT Government prior to the Bill being tabled about the changes to the rights of injured workers.

UnionsACT makes the following recommendations:

1. That all sections of the Bill that would restrict or otherwise affect the rights of injured workers who are injured in a work related motor accident or an accident on the way to or from work be removed from the Bill.
2. That the threshold for whole-person impairment be removed and replaced with a 'narrative test'.
3. That rights for injured people to access their own legal advice be guaranteed.
4. That given there is no pressing need for change, the ACT Government delay further debate on the Bill and further consult with stakeholders, including people injured in road accidents, workers injured on the road, and unions.

Overall, UnionsACT does not support the Bill as presented.

Thank you again for the opportunity to make this submission to the Standing Committee.

Yours sincerely



**Alex White**  
Secretary  
UnionsACT