



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019

MINUTES OF PROCEEDINGS

No 96

TUESDAY, 14 MAY 2019

- 1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms J. Burch) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 SRI LANKA TERRORIST ATTACKS

Mr Barr (Chief Minister) moved—That this Assembly expresses its profound sorrow at the loss of life following the devastating terrorist attacks in Sri Lanka on Sunday, 21 April 2019.

Mr Coe (Leader of the Opposition) and Mr Rattenbury (Leader of the ACT Greens) addressed the Assembly in support of the motion, and all Members present having stood, in silence—

Question—passed.

3 PETITION AND MINISTERIAL RESPONSES—PETITION AND RESPONSES NOTED—PAPER

Petition

The Clerk announced that the following Member had lodged a petition for presentation:

Mr Coe (Leader of the Opposition), from 362 residents, requesting that the Assembly vote against the Motor Accident Injuries Bill 2019 so as to retain the existing rights to compensation of ACT residents (Pet 11-19).

Ministerial responses

The Clerk announced that the following responses to petitions had been lodged:



Mr Gentleman (Minister for Planning and Land Management), dated 2 May 2019—Response to petition No 22-18, lodged by Ms Cody on 12 February 2019, concerning additional motorcycle parking near the offices between Canberra Avenue and Sydney Avenue in Forrest.

Ms Fitzharris (Minister for Transport), dated 10 May 2019—Response to petition No 4-19, lodged by Ms Lee on 13 February 2019, concerning school bus services to link Fairbairn to Campbell primary and high schools.

The Speaker proposed—That the petition and responses so lodged be noted.

Paper: Mr Coe (Leader of the Opposition) presented the following paper:

Petition which does not conform with the standing orders—Motor Accident Injuries Bill 2019—Opposition—Mr Coe (26 signatures).

Question—put and passed.

4 JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE (LEGISLATIVE SCRUTINY ROLE)—SCRUTINY REPORT 30—STATEMENT BY CHAIR

Mrs Jones (Chair) presented the following report:

Justice and Community Safety—Standing Committee (Legislative Scrutiny Role)—Scrutiny Report 30, dated 30 April 2019, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, made a statement in relation to the report.

5 EDUCATION, EMPLOYMENT AND YOUTH AFFAIRS—STANDING COMMITTEE—INQUIRY—CESSATION OF THE MUSIC FOR COLLEGES COURSE—STATEMENT BY CHAIR

Mr Pettersson (Chair), pursuant to standing order 246A, informed the Assembly that, following its consideration of petition 18-18, the Government response to the petition, and a joint briefing from the Minister for the Arts and Cultural Events and the Minister for Education and Early Childhood Development, the Standing Committee on Education, Employment and Youth Affairs had resolved to conduct an inquiry into, and report on, the cessation of funding for the Music for Colleges course.

6 JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE (LEGISLATIVE SCRUTINY ROLE)—SCRUTINY OF PROPOSED AMENDMENTS TO BILLS—STATEMENT BY CHAIR

Mrs Jones (Chair), pursuant to standing order 246A, made a statement concerning recent issues that have arisen regarding scrutiny of proposed amendments to bills by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role).

7 PLANNING AND URBAN RENEWAL—STANDING COMMITTEE—INQUIRY—A.C.T. PLANNING STRATEGY 2018—STATEMENT BY CHAIR

Ms Le Couteur (Chair), pursuant to standing order 246A, informed the Assembly that, in relation to its inquiry into the ACT Planning Strategy 2018, the Standing Committee on Planning and Urban Renewal had conducted a public hearing into the matter, but would not be drafting a formal report.

8 A.C.T. INTEGRITY COMMISSIONER—APPROVAL OF APPOINTMENT

Ms J. Burch (Speaker), by leave, moved—That this Assembly, pursuant to subsection 25(3)(b) of the *Integrity Commission Act 2018*, approves the appointment of the Honourable Dennis Cowdroy OAM QC as the ACT Integrity Commissioner.

Question—put and passed.

9 PUBLIC HOUSING GROWTH AND RENEWAL—MINISTERIAL STATEMENT—PAPER NOTED

Ms Berry (Minister for Housing and Suburban Development) made a ministerial statement concerning public housing growth and renewal and presented the following paper:

Public housing growth and renewal—Ministerial statement, 14 May 2019.

Ms Berry moved—That the Assembly take note of the paper.

Question—put and passed.

10 MATTERS OF PUBLIC IMPORTANCE—LODGMET—SPEAKER'S RULING

The Speaker ruled that four of the matters of public importance lodged for discussion today were out-of-order as they were not within the scope of ministerial responsibility.

11 SENIOR PRACTITIONER AMENDMENT BILL 2019

Ms Stephen-Smith (Minister for Disability), pursuant to notice, presented a Bill for an Act to amend the *Senior Practitioner Act 2018*.

Papers: Ms Stephen-Smith presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 10 May 2019.

Title read by Clerk.

Ms Stephen-Smith moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Coe—Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

12 MOTOR ACCIDENT INJURIES BILL 2019

The Assembly, according to order, resumed consideration at the detail stage—

Detail Stage

Clause 1—Debated and agreed to.

Clauses 2 to 13, by leave, taken together and agreed to.

Clause 14—

Mr Coe (Leader of the Opposition) was granted leave to move amendments that had not been considered or reported on by the Scrutiny Committee.

Mr Coe moved his amendment No 1 (*see* Schedule 1).

Paper: Mr Coe, by leave, presented a supplementary explanatory statement to the Opposition amendments.

Debate continued.

Amendment negatived.

Clause 14 agreed to.

Clause 15—

Mr Coe, by leave, moved his amendments Nos 2 and 3 together (*see* Schedule 1).

Amendments negatived.

Clause 15 agreed to.

Clauses 16 to 34, by leave, taken together and agreed to.

Clause 35—Debated and agreed to.

Clauses 36 to 49, by leave, taken together and agreed to.

Clause 50—

Mr Barr (Treasurer) was granted leave to move amendments that had not been considered or reported on by the Scrutiny Committee.

On the motion of Mr Barr, his amendment No 1 (*see* Schedule 2) was made, after debate.

Paper: Mr Barr presented a supplementary explanatory statement to the Government amendments.

Clause 50, as amended, agreed to.

Clause 51 agreed to.

Clause 52—

Mr Coe, by leave, moved his amendments Nos 5 to 9 together (*see* Schedule 1).

Debate continued.

Question—put.

The Assembly voted—

AYES, 10

Mr Coe	Mr Milligan
Mrs Dunne	Mr Parton
Mr Hanson	Mr Wall
Mrs Jones	
Mrs Kikkert	
Ms Lawder	
Ms Lee	

NOES, 13

Mr Barr	Ms Orr
Ms Berry	Mr Pettersson
Ms J. Burch	Mr Ramsay
Ms Cheyne	Mr Rattenbury
Ms Cody	Mr Steel
Mr Gentleman	Ms Stephen-Smith
Ms Le Couteur	

And so it was negatived.

Clause 52 agreed to.

Clause 53—

Mr Coe moved his amendment No 10 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 53 agreed to.

Clause 54—

Mr Coe moved his amendment No 11 (see [Schedule 1](#)).

Amendment negatived.

Clause 54 agreed to.

Clause 55 and 56, by leave, taken together and agreed to.

Clause 57—

Mr Coe moved his amendment No 12 (see [Schedule 1](#)).

Amendment negatived.

Clause 57 agreed to.

Clause 58 agreed to.

Clause 59—

Mr Coe moved his amendment No 13 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 59 agreed to.

Clauses 60 to 70, by leave, taken together and agreed to.

Clause 71—

On the motion of Mr Barr, his amendment No 2 (see [Schedule 2](#)) was made.

Clause 71, as amended, agreed to.

Clause 72 agreed to.

Clause 73—

On the motion of Mr Barr, his amendment No 3 (see [Schedule 2](#)) was made, after debate.

On the motion of Mr Barr, his amendment No 4 (see [Schedule 2](#)) was made.

Clause 73, as amended, agreed to.

Clauses 74 and 75, by leave, taken together and agreed to.

Clause 76—

Ms Le Couteur was granted leave to move amendments that had not been considered or reported on by the Scrutiny Committee.

On the motion of Ms Le Couteur, her amendment No 1 (see [Schedule 3](#)) was made, after debate.

Mr Coe moved his amendment No 15 (see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 10		NOES, 13	
Miss C. Burch	Mr Milligan	Mr Barr	Ms Orr
Mr Coe	Mr Parton	Ms Berry	Mr Pettersson
Mrs Dunne	Mr Wall	Ms J. Burch	Mr Ramsay
Mr Hanson		Ms Cheyne	Mr Rattenbury
Mrs Jones		Ms Cody	Mr Steel
Mrs Kikkert		Mr Gentleman	Ms Stephen-Smith
Ms Lee		Ms Le Couteur	

And so it was negatived.

On the motion of Ms Le Couteur, her amendment No 2 (see [Schedule 3](#)) was made.

On the motion of Ms Le Couteur, her amendment No 3 (see [Schedule 3](#)) was made.

Clause 76, as amended, agreed to.

Clauses 77 to 104, by leave, taken together and agreed to.

Clause 105—

Mr Coe moved his amendment No 16 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No 5 (see [Schedule 2](#)) was made, after debate.

Clause 105, as amended, agreed to.

Clause 106—

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

13 QUESTIONS

Questions without notice were asked.

14 QUESTIONS ON NOTICE NOS 2125, 2128, 2140, 2312, 2349, 2350, 2352, 2353, 2371, 2372, 2373, 2419, 2423 AND 2424—ANSWERS—EXPLANATIONS

Mrs Dunne, pursuant to standing order 118A, asked Ms Fitzharris (Minister for Health and Wellbeing) for an explanation concerning the answers to questions on notice Nos 2125, 2128, 2140, 2312, 2349, 2350, 2352, 2353, 2371, 2372, 2373, 2419, 2423 and 2424.

Ms Fitzharris gave an explanation.

15 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Auditor-General Act, pursuant to subsection 17(5)—Auditor-General's Reports—

No 3/2019—Access Canberra business planning and monitoring, dated 23 April 2019.

No 4/2019—2017-18 Financial Audits—Computer Information Systems, dated 30 April 2019.

Ombudsman Act, pursuant to subsection 21(2)—ACT Ombudsman—A report on the activities of the ACT Ombudsman—Report No 2/2019—Quarterly report for the period 1 January to 31 March 2019.

Public Accounts—Standing Committee—Report 5—*Report on Annual and Financial Reports 2017-2018*—Speaker's response to Recommendations 11 and 12, dated 6 May 2019.

Standing order 191—Amendments to:

Controlled Sports Bill 2018, dated 10 and 11 April 2019.

Fuels Rationing Bill 2018, dated 10 and 11 April 2019.

Retirement Villages Legislation Amendment Bill 2018, dated 10 and 11 April 2019.

16 PRESENTATION OF PAPERS

Mr Gentleman (Manager of Government Business) presented the following papers:

Freedom of Information Act—Freedom of Information (Accessibility of Government Information) Statement 2019 (No 1)—Notifiable Instrument NI2019-271, dated 3 May 2019.

Financial Management Act—

Pursuant to subsection 30F(3)—2018-19 Capital Works Program—Progress report—Year-to-date 31 March 2019.

Pursuant to section 26—Consolidated Financial Reports—Financial quarters ending—

31 December 2018—Revised.

31 March 2019.

University of Canberra Act, pursuant to section 36—Annual report 2018—University of Canberra (2 volumes).

Annual Reports (Government Agencies) Act, pursuant to section 13—Annual report 2018—Canberra Institute of Technology, dated 2 April 2019.

Planning and Development Act,—

Pursuant to subsection 242(2)—Statement of leases granted for the period 1 January to 31 March 2019, dated May 2019.

Pursuant to subsection 79(1)—Approval of Variation No 362 to the Territory Plan—Amendments to the West Belconnen Concept Plan for Ginninderry Stage 2 Development, dated 2 May 2019, including associated documents.

Inspector of Correctional Services Act—Report of a Review of a Critical Incident by the ACT Inspector of Correctional Services—Assault of a detainee at the Alexander Maconochie Centre on 25 October 2018—Government response.

Auditor-General Act, pursuant to subsection 21(1)—Auditor-General’s Report No 1/2019—Total Facilities Management Procurement—Government response.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Civil Law (Wrongs) Act—Civil Law (Wrongs) Professional Standards Council Appointment 2019 (No 3)—Disallowable Instrument DI2019-34 (LR, 4 April 2019).

Domestic Animals Act—Domestic Animals (Cat Containment) Declaration 2019 (No 1)—Disallowable Instrument DI2019-33 (LR, 11 April 2019).

Land Tax Act—Land Tax (Affordable Community Housing) Determination 2019 (No 1)—Disallowable Instrument DI2019-32 (LR, 27 March 2019).

Legal Aid Act—

Legal Aid (Commissioner—ACTCOSS Nominee) Appointment 2019—Disallowable Instrument DI2019-27 (LR, 25 March 2019).

Legal Aid (Commissioner—Law Society Nominee) Appointment 2019—Disallowable Instrument DI2019-26 (LR, 25 March 2019).

Legislative Assembly (Members’ Staff) Act—

Legislative Assembly (Members’ Staff) Members’ Salary Cap Determination 2019 (No 1)—Disallowable Instrument DI2019-29 (LR, 28 March 2019).

Legislative Assembly (Members’ Staff) Speaker’s Salary Cap Determination 2019 (No 1)—Disallowable Instrument DI2019-30 (LR, 28 March 2019).

Long Service Leave (Portable Schemes) Act and Financial Management Act—

Long Service Leave (Portable Schemes) Governing Board Appointment 2019 (No 3)—Disallowable Instrument DI2019-35 (LR, 8 April 2019).

Long Service Leave (Portable Schemes) Governing Board Appointment 2019 (No 4)—Disallowable Instrument DI2019-36 (LR, 8 April 2019).

Road Transport (General) Act—

Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 5)—Disallowable Instrument DI2019-25 (LR, 20 March 2019).

Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 6)—Disallowable Instrument DI2019-31 (LR, 26 March 2019).

Taxation Administration Act—Taxation Administration (Amounts Payable—Utilities (Network Facilities Tax)) Determination 2019—Disallowable Instrument DI2019-28 (LR, 25 March 2019).

University of Canberra Act—University of Canberra Council Appointment 2019 (No 1)—Disallowable Instrument DI2019-40 (LR, 11 April 2019).

Water Resources Act—

Water Resources (Water Available from Areas) Determination 2019—Disallowable Instrument DI2019-39 (LR, 11 April 2019).

Water Resources (Water Management Areas) Determination 2019—Disallowable Instrument DI2019-38 (LR, 11 April 2019).

Water Resources Environmental Flow Guidelines 2019—Disallowable Instrument DI2019-37 (LR, 11 April 2019).

17 INSPECTOR OF CORRECTIONAL SERVICES ACT—REPORT OF A REVIEW OF A CRITICAL INCIDENT BY THE A.C.T. INSPECTOR OF CORRECTIONAL SERVICES—ASSAULT OF A DETAINEE AT THE ALEXANDER MACONOCHIE CENTRE ON 25 OCTOBER 2018—GOVERNMENT RESPONSE—PAPER NOTED

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly takes note of the following paper:

Report of a Review of a Critical Incident by the ACT Inspector of Correctional Services—Assault of a detainee at the Alexander Maconochie Centre on 25 October 2018—Government response.

Debate ensued.

Question—put and passed.

18 PLANNING AND DEVELOPMENT ACT—APPROVAL OF VARIATION NO 362 TO THE TERRITORY PLAN—AMENDMENTS TO THE WEST BELCONNEN CONCEPT PLAN FOR GINNINDERRY STAGE 2 DEVELOPMENT—PAPER NOTED

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly takes note of the following paper:

Planning and Development Act, pursuant to subsection 79(1)—Approval of Variation No 362 to the Territory Plan—Amendments to the West Belconnen Concept Plan for Ginninderry Stage 2 Development.

Debate ensued.

Question—put and passed.

19 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—SENIORS IN OUR COMMUNITY—SUPPORT

The Assembly was informed that Mr Coe (Leader of the Opposition), Mrs Kikkert, Ms Le Couteur, Ms Lee, Mr Milligan, Mr Parton and Mr Wall had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Coe be submitted to the Assembly, namely, “The importance of supporting seniors in our community”.

Discussion ensued.

Discussion concluded.

20 MOTOR ACCIDENT INJURIES BILL 2019

The Assembly, according to order, resumed further consideration at the detail stage—

Detail Stage

Clause 106—

Mr Coe (Leader of the Opposition) moved his amendment No 17 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 106 agreed to.

Clause 107 agreed to.

Clause 108—Debated and agreed to.

Clause 109 agreed to.

Clause 110—

On the motion of Mr Barr (Treasurer), his amendment No 6 (see [Schedule 2](#)) was made, after debate.

Clause 110, as amended, agreed to.

Clauses 111 and 112, by leave, taken together and agreed to.

Clause 113—

Mr Coe moved his amendment No 19 (see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 10

Miss C. Burch	Mr Milligan
Mr Coe	Mr Parton
Mrs Dunne	Mr Wall
Mr Hanson	
Mrs Jones	
Mrs Kikkert	
Ms Lawder	

NOES, 13

Mr Barr	Ms Orr
Ms Berry	Mr Pettersson
Ms J. Burch	Mr Ramsay
Ms Cheyne	Mr Rattenbury
Ms Cody	Mr Steel
Mr Gentleman	Ms Stephen-Smith
Ms Le Couteur	

And so it was negatived.

Clause 113 agreed to.

Clause 114—

Mr Coe moved his amendment No 20 (see [Schedule 1](#)).

Question—put.

The Assembly voted—

AYES, 10		NOES, 13	
Miss C. Burch	Mr Milligan	Mr Barr	Ms Orr
Mr Coe	Mr Parton	Ms Berry	Mr Pettersson
Mrs Dunne	Mr Wall	Ms J. Burch	Mr Ramsay
Mr Hanson		Ms Cheyne	Mr Rattenbury
Mrs Jones		Ms Cody	Mr Steel
Mrs Kikkert		Mr Gentleman	Ms Stephen-Smith
Ms Lawder		Ms Le Couteur	

And so it was negatived.

Clause 114 agreed to.

Clauses 115 to 120, by leave, taken together and agreed to.

Clause 121—

On the motion of Mr Barr, his amendment No 7 ([see Schedule 2](#)) was made, after debate.

Clause 121, as amended, agreed to.

Clause 122 agreed to.

Clause 123—

Mr Coe moved his amendment No 21 ([see Schedule 1](#)).

Debate continued.

Mr Coe, who had already spoken, by leave, again addressed the Assembly.

Amendment negatived.

On the motion of Mr Barr, his amendment No 8 ([see Schedule 2](#)) was made, after debate.

Clause 123, as amended, agreed to.

Clauses 124 to 126, by leave, taken together and agreed to.

Clause 127—

On the motion of Mr Barr, his amendment No 9 ([see Schedule 2](#)) was made, after debate.

Clause 127, as amended, agreed to.

Clauses 128 to 132, by leave, taken together and agreed to.

Clause 133—

Mr Coe, by leave, moved his amendments Nos 23 and 24 together ([see Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 10

Miss C. Burch Mr Milligan
 Mr Coe Mr Parton
 Mrs Dunne Mr Wall
 Mr Hanson
 Mrs Jones
 Mrs Kikkert
 Ms Lawder

NOES, 13

Mr Barr Ms Orr
 Ms Berry Mr Pettersson
 Ms J. Burch Mr Ramsay
 Ms Cheyne Mr Rattenbury
 Ms Cody Mr Steel
 Mr Gentleman Ms Stephen-Smith
 Ms Le Couteur

And so it was negatived.

Clause 133 agreed to.

Clauses 134 and 135, by leave, taken together and agreed to.

Clause 136—

On the motion of Mr Barr, his amendment No 10 (see [Schedule 2](#)) was made.

Clause 136, as amended, agreed to.

Clauses 137 and 138, by leave, taken together and agreed to.

Clause 139—

Mr Coe moved his amendment No 25 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Mr Coe moved his amendment No 26 (see [Schedule 1](#)).

Amendment negatived.

Mr Coe moved his amendment No 27 (see [Schedule 1](#)).

Amendment negatived.

Clause 139 agreed to.

Clause 140 agreed to.

Clause 141—

On the motion of Mr Barr, his amendment No 11 (see [Schedule 2](#)) was made, after debate.

On the motion of Mr Barr, his amendment No 12 (see [Schedule 2](#)) was made.

Mr Coe moved his amendment No 28 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 141, as amended, agreed to.

New clause—

On the motion of Mr Barr, new clause 141A (his amendment No 13—see [Schedule 2](#)) was inserted in the Bill.

Clauses 142 to 145, by leave, taken together and agreed to.

Clause 146—

On the motion of Mr Barr, his amendment No 14 (see [Schedule 2](#)) was made.

Clause 146, as amended, agreed to.

Clauses 147 and 148, by leave, taken together and agreed to.

Clause 149—

Mr Coe moved his amendment No 29 (see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 9		NOES, 12	
Miss C. Burch	Mr Milligan	Mr Barr	Ms Le Couteur
Mr Coe	Mr Parton	Ms Berry	Ms Orr
Mrs Dunne	Mr Wall	Ms J. Burch	Mr Pettersson
Mr Hanson		Ms Cheyne	Mr Ramsay
Mrs Jones		Ms Cody	Mr Rattenbury
Ms Lawder		Mr Gentleman	Mr Steel

And so it was negatived.

On the motion of Mr Barr, his amendment No 15 (see [Schedule 2](#)) was made.

Clause 149, as amended, agreed to.

Clause 150—

On the motion of Mr Barr, his amendment No 16 (see [Schedule 2](#)) was made.

On the motion of Mr Barr, his amendment No 17 (see [Schedule 2](#)) was made.

Clause 150, as amended, agreed to.

Clause 151 agreed to.

New clause—

On the motion of Mr Barr, new clause 151A (his amendment No 18—see [Schedule 2](#)) was inserted in the Bill.

Clause 152—

Debate continued.

On the motion of Mr Barr, by leave, his amendment Nos 19 and 20 (see [Schedule 2](#)) were made together.

Clause 152, as amended, agreed to.

Clause 153—

Debate continued.

On the motion of Mr Barr, by leave, his amendment Nos 21 and 22 (see [Schedule 2](#)) were made together.

Clause 153, as amended, agreed to.

Clause 154—

Mr Coe moved his amendment No 33 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No 23 (see [Schedule 2](#)) was made.

On the motion of Mr Barr, his amendment No 24 (see [Schedule 2](#)) was made.

Clause 154, as amended, agreed to.

Clause 155—

Mr Coe moved his amendment No 35 (see [Schedule 1](#)).

Amendment negatived.

On the motion of Mr Barr, his amendment No 25 (see [Schedule 2](#)) was made.

On the motion of Mr Barr, his amendment No 26 (see [Schedule 2](#)) was made.

Clause 155, as amended, agreed to.

Clause 156—

Mr Coe moved his amendment No 37 (see [Schedule 1](#)).

Amendment negatived.

On the motion of Mr Barr, his amendment No 27 (see [Schedule 2](#)) was made.

Clause 156, as amended, agreed to.

Clause 157 agreed to.

Clause 158—

On the motion of Mr Barr, his amendment No 28 (see [Schedule 2](#)) was made.

Clause 158, as amended, agreed to.

Clause 159—

On the motion of Mr Barr, by leave, his amendments Nos 29 and 30 (see [Schedule 2](#)) were made together.

Clause 159, as amended, agreed to.

Clause 160—

Debate continued.

On the motion of Mr Barr, his amendment No 31 (see [Schedule 2](#)) was made.

Clause 160, as amended, agreed to.

Clause 161—

Mr Coe, by leave moved his amendments Nos 39 and 40 together (see [Schedule 1](#)).

Amendments negatived.

Mr Coe moved his amendment No 41 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No 32 (see [Schedule 2](#)) was made, after debate.

Mr Coe moved his amendment No 42 (see [Schedule 1](#)).

Amendment negatived.

Clause 161, as amended, agreed to.

Clause 162—

Mr Coe, by leave, moved his amendments Nos 43 and 44 together (see [Schedule 1](#)).

Amendments negatived.

Mr Coe moved his amendment No 45 (see [Schedule 1](#)).

Amendment negatived.

On the motion of Mr Barr, his amendment No 33 (see [Schedule 2](#)) was made.

Clause 162, as amended, agreed to.

Clause 163—

On the motion of Mr Barr, his amendment No 34 (see [Schedule 2](#)) was made, after debate.

Clause 163, as amended, agreed to.

New clause—

On the motion of Mr Barr, new clause 163A (his amendment No 35—see [Schedule 2](#)) was inserted in the Bill, after debate.

Clause 164—

On the motion of Mr Barr, his amendment No 36 (see [Schedule 2](#)) was made.

Clause 164, as amended, agreed to.

Clauses 165 to 179, by leave, taken together and agreed to.

Part 2.9 heading—Debated and agreed to.

Clause 180 agreed to.

Proposed new clause—

Mr Coe moved his amendment No 47 (see [Schedule 1](#)), which would insert a new clause 180A in the Bill.

Debate continued.

Amendment negatived.

Clauses 181 and 182, by leave, taken together and agreed to.

Clause 183—

On the motion of Mr Barr, his amendment No 37 (see [Schedule 2](#)) was made, after debate.

Clause 183, as amended, agreed to.

Clause 184—

Mr Coe moved his amendment No 49 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 184 agreed to.

Clauses 185 to 187, by leave, taken together and agreed to.

Clause 188—

On the motion of Mr Barr, his amendment No 38 (see [Schedule 2](#)) was made.

Clause 188, as amended, agreed to.

Clause 189—

On the motion of Mr Barr, his amendment No 39 (see [Schedule 2](#)) was made.

Clause 189, as amended, agreed to.

Clauses 190 to 194, by leave, taken together and agreed to.

Clause 195—

On the motion of Mr Barr, his amendment No 40 (see [Schedule 2](#)) was made, after debate.

Clause 195, as amended, agreed to.

Clause 196—

On the motion of Mr Barr, his amendment No 41 (see [Schedule 2](#)) was made.

Clause 196, as amended, agreed to.

Clauses 197 to 199, by leave, taken together and agreed to.

Clause 200—Debated.

Question—put.

The Assembly voted—

AYES, 12		NOES, 9	
Mr Barr	Ms Le Couteur	Miss C. Burch	Mr Milligan
Ms Berry	Ms Orr	Mr Coe	Mr Parton
Ms J. Burch	Mr Pettersson	Mrs Dunne	Mr Wall
Ms Cheyne	Mr Ramsay	Mr Hanson	
Ms Cody	Mr Rattenbury	Mrs Jones	
Mr Gentleman	Mr Steel	Ms Lawder	

And so it was resolved in the affirmative—Clause 200 agreed to.

Clause 201 agreed to.

Chapter 3—

Debate continued.

Clauses 202 to 217, by leave, taken together—

Debate continued.

On the motion of Mr Barr, by leave, his amendments Nos 42 and 43 together (see [Schedule 2](#)) were made together.

Clauses 202 to 217, as amended, agreed to.

Clause 218 agreed to.

Clause 219—

Mr Coe moved his amendment No 54 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 219 agreed to.

Clauses 220 to 235, by leave, taken together and agreed to.

Clause 236—

Mr Coe moved his amendment No 55 (see [Schedule 1](#)).

Amendment negatived.

Mr Coe moved his amendment No 56 (see [Schedule 1](#)).

Amendment negatived.

Mr Coe moved his amendment No 57 (see [Schedule 1](#)).

Amendment negatived.

Mr Coe moved his amendment No 58 (see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 9		NOES, 12	
Miss C. Burch	Mr Milligan	Mr Barr	Ms Le Couteur
Mr Coe	Mr Parton	Ms Berry	Ms Orr
Mrs Dunne	Mr Wall	Ms J. Burch	Mr Pettersson
Mr Hanson		Ms Cheyne	Mr Ramsay
Mrs Jones		Ms Cody	Mr Rattenbury
Ms Lawder		Mr Gentleman	Mr Steel

And so it was negatived.

On the motion of Mr Barr, his amendment No 44 (see [Schedule 2](#)) was made.

Clause 236, as amended, agreed to.

Clause 237 agreed to.

Clause 238 agreed to.

Clause 239—

On the motion of Mr Barr, his amendment No 45 (see [Schedule 2](#)) was made.

Clause 239, as amended, agreed to.

Clause 240—

Mr Coe moved his amendment No 69 (see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 8		NOES, 11	
Miss C. Burch	Mr Milligan	Mr Barr	Ms Orr
Mr Coe	Mr Parton	Ms Berry	Mr Pettersson
Mrs Dunne		Ms J. Burch	Mr Ramsay
Mr Hanson		Ms Cheyne	Mr Rattenbury
Mrs Jones		Ms Cody	Mr Steel
Ms Lawder		Ms Le Couteur	

And so it was negatived.

On the motion of Mr Barr, his amendment No 46 (see [Schedule 2](#)) was made.

Mr Coe moved his amendment No 70 (see [Schedule 1](#)).

Amendment negatived.

Clause 240, as amended, agreed to.

Clauses 241 and 242, by leave, taken together and agreed to.

Clause 243—Debated and agreed to.

Clause 244—

Mr Coe, by leave, moved his amendments Nos 72 and 73 together (see [Schedule 1](#)).

Amendments negatived.

Clause 244 agreed to.

Clause 245 agreed to.

Clause 246—Debated and agreed to.

Clauses 247 to 254, by leave, taken together and agreed to.

Clause 255—

On the motion of Mr Barr, his amendment No 47 (see [Schedule 2](#)) was made.

Clause 255, as amended, agreed to.

Clauses 256 to 259, by leave, taken together and agreed to.

Clause 260—

Mr Coe moved his amendment No 75 (see [Schedule 1](#)).

Amendment negatived.

Clause 260 agreed to.

Clauses 261 and 262, by leave, taken together and agreed to.

Clause 263—

Mr Coe moved his amendment No 76 (see [Schedule 1](#)).

Debate continued.

Amendment negatived.

Mr Coe moved his amendment No 77 (see [Schedule 1](#)).

Amendment negatived.

Clause 263 agreed to.

Clause 264 agreed to.

Clause 265 agreed to.

Clauses 266 to 268, by leave, taken together and agreed to.

Proposed new clause—

Mr Coe moved his amendment No 79 (see [Schedule 1](#)), which would insert a new clause 268A in the Bill.

Debate continued.

Amendment negatived.

Clauses 269 to 272, by leave, taken together and agreed to.

Clause 273—

Mr Coe moved his amendment No 80 (see [Schedule 1](#)).

Amendment negatived.

Clause 273 agreed to.

Clauses 274 to 278, by leave, taken together and agreed to.

Clause 279—

Debate adjourned (Mr Barr) and the resumption of the debate made an order of the day for the next sitting.

21 ADJOURNMENT

Mr Barr (Chief Minister) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.45 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

MOTOR ACCIDENT INJURIES BILL 2019

Amendments circulated by the Leader of the Opposition

1

Clause 14, definition of *independent medical examiner*

Page 8, line 9—

omit the definition, substitute

independent medical examiner (or *IME*) means a doctor who, under an arrangement with an authorised IME provider, conducts medical examinations for WPI assessments.

2

Clause 15 (2) (a)

Page 8, line 18—

omit clause 15 (2) (a), substitute

(a) has expertise in arranging medical examinations for WPI assessments; and

3

Clause 15 (3) (c)

Page 9, line 4—

omit

and SOI assessments

4

Clause 35

Page 20, line 18—

[oppose the clause]

5

Clause 52 (2) (f)

Page 40, line 2—

omit

10%

substitute

5%

6**Clause 52 (2) (g)**
Page 40, line 8—*omit*

10%

substitute

5%

7**Clause 52 (2) (g)**
Page 40, line 10—*omit*

10%

substitute

5%

8**Clause 52 (2) (g)**
Page 40, line 11—*omit*

10%

substitute

5%

9**Clause 52 (2) (h)**
Page 40, line 17—*omit*

10**Clause 53**
Page 41, line 3—*omit clause 53, substitute***53** **Meaning of *information*—pt 2.3**

(1) In this part:

information means a required document or relevant application information for an application for defined benefits.

(2) In this section:

relevant application information, for an application for defined benefits, means information about the following things:

- (a) the nature of the personal injury caused by the motor accident and any consequent disabilities;

- (b) any medical treatment and rehabilitation services the applicant has sought or obtained for the personal injury;
- (c) the applicant's medical history, to the extent that it is relevant to the application for defined benefits;
- (d) any claims for damages for personal injury made by the claimant;
- (e) the applicant's claim for past and future economic loss;
- (f) any claim for gratuitous services consequent on the applicant's personal injury.

required document, for an application for defined benefits, means each of the following:

- (a) a report, or other document, about the motor accident to which the application relates;
- (b) a report, or surveillance film, about the applicant's medical condition or prospects of rehabilitation;
- (c) a report, or surveillance film, about the applicant's cognitive, functional or vocational capacity.

11

Clause 54 (1) (b) (E)
Page 41, line 24—

omit

12

Clause 57 (5), definition of *information disclosure consent*,
paragraph (a) (i) (E)
Page 46, line 8—

omit

13

Clause 59 (2) (b)
Page 48, line 14—

omit clause 59 (2) (b), substitute

- (b) the relevant insurer is satisfied the applicant has a reasonable excuse for the late application.

14

Clause 71 (2)
Page 58, line 6—

before

suspects

insert

reasonably

15**Clause 76 (b) (i)**
Page 62, line 17—*omit*

16**Proposed new clause 105 (1A)**
Page 84, line 7—*insert*

- (1A) For subsection (1), a request is not reasonable if it requires the injured person to undergo a medical or other examination more than once every 13 weeks after the person is first paid income replacement benefits.

17**Clause 106**
Page 85, line 1—*omit clause 106, substitute***106 Failure to notify changed circumstances**

- (1) This section applies if—
- (a) an injured person receives income replacement benefits from an insurer; and
 - (b) the insurer tells the person they must notify the insurer about any change in circumstances within the prescribed period after the change happens; and
 - (c) the injured person—
 - (i) has a change in circumstances; and
 - (ii) fails to notify the insurer about the change in circumstances within the prescribed period after the change happens.
- (2) The relevant insurer may recover as a debt from the injured person the amount of any overpayment of income replacement benefits that happens as a result of the change in circumstances.
- (3) A regulation may prescribe how notice under subsection (1) (b) must be given.
- (4) In this section:
- change in circumstances***—a person receiving income replacement benefits has a ***change in circumstances*** if—
- (a) the person returns to or starts paid work; or
 - (b) if the person is in paid work—the amount of income the person receives for the work changes.

prescribed period means—

- (a) 20 business days; or
- (b) if a regulation prescribes a longer period—the longer period.

18

Clause 108

Page 87, line 8—

[oppose the clause]

19

Clause 113, definition of *treatment and care expenses*, paragraph (b) (iii) and example

Page 91, line 3—

omit

20

Clause 114 (1), note 2

Page 91, line 20—

omit

21

Proposed new clause 123 (3) (c)

Page 96, line 5—

insert

- (c) incorporate in the final version of the recovery plan changes that give effect to the comments of the injured person’s doctor.

22

Proposed new clause 127 (3)

Page 98, line 12—

insert

- (3) If the relevant insurer amends the recovery plan, the relevant insurer must—
 - (a) allow the injured person’s doctor a reasonable opportunity to consider the proposed amendments; and
 - (b) incorporate in the final version of the amendments changes that give effect to the comments of the injured person’s doctor.

23

Clause 133 heading

Page 103, line 1—

omit the heading, substitute

133

WPI taken to be 5% in certain circumstances

24**Clause 133 (1)****Page 103, line 2—**

omit clause 133 (1), substitute

- (1) A person injured in a motor accident is taken to have a WPI of 5% for this Act if—
- (a) the person was a child on the date of the motor accident; and
 - (b) either—
 - (i) the person's doctor certifies, in writing, that the injured person will need treatment and care more than 4 years and 6 months after the date of the motor accident; or
 - (ii) the person is a participant in the LTCS scheme in relation to the person's injury.

Note The MAI guidelines may make provision about the information that may be given to a person mentioned in s (1) about the time limits for making a motor accident claim and seeking legal advice about whether to make a motor accident claim (see s 52 (2) (f)).

25**Clause 139 (2) (c)****Page 106, line 1—**

omit clause 139 (2) (c), substitute

- (c) that the insurer will not refer the person for a WPI assessment unless the person confirms the request for the assessment.

26**Clause 139 (3)****Page 106, line 6—**

omit

and pays the excess payment,

27**Clause 139 (4)****Page 106, line 8—**

omit clause 139 (4), substitute

- (4) If the injured person's WPI is 0%, the injured person must pay an excess payment to the relevant insurer for the assessment.

28**Clause 141 (4)****Page 108, line 13—**

omit

29**Clause 149****Page 112, line 13—***omit clause 149, substitute***149 WPI assessment—both physical and psychological injuries**

- (1) If an injured person sustains both a physical injury and a psychological injury resulting from a motor accident, the person is entitled to quality of life benefits for whole person impairment resulting from both injuries.
- (2) The injured person may have a WPI assessment for each kind of injury.
- (3) Each WPI assessment may be carried out by a different independent medical examiner.
- (4) The WPI assessments may be combined in accordance with the WPI assessment guidelines to decide the injured person's WPI.
- (5) The relevant insurer for the motor accident is liable for the costs of each WPI assessment.
- (6) In this section:

psychological injury, resulting from a motor accident, means an injury that is—

- (a) a psychological or psychiatric disorder, including the physiological effect of a psychological or psychiatric disorder on the nervous system; and
- (b) diagnosed by a psychiatrist or clinical psychologist.

30**Clause 150 (2)****Page 113, line 23—***omit*

31**Clause 152****Page 114, line 10—***[oppose the clause]*

32**Clause 153****Page 115, line 4—***[oppose the clause]*

33**Clause 154 heading****Page 116, line 4—***omit the heading, substitute***154****WPI 5% or more—injured person not entitled to make motor accident claim**

34**Clause 154 (1) (a)****Page 116, line 8—***omit*

10%

substitute

5%

35**Clause 155 heading****Page 117, line 7—***omit the heading, substitute***155****WPI 5% or more—injured person entitled to make motor accident claim**

36**Clause 155 (1) (a)****Page 117, line 11—***omit*

10%

substitute

5%

37**Clause 156 (1)****Page 118, line 24—***omit*

section 152, section 153,

38**Clause 160****Page 121, line 21—***[oppose the clause]*

39
Clause 161 heading
Page 123, line 1—

omit the heading, substitute

161 **Final offer WPI 5% or more—injured person not entitled to make motor accident claim**

40
Clause 161 (1) (a)
Page 123, line 5—

omit

10%

substitute

5%

41
Clause 161 (3)
Page 123, line 26—

omit

42
Clause 161 (4)
Page 124, line 1—

omit

(or is taken to accept)

43
Clause 162 heading
Page 124, line 15—

omit the heading, substitute

162 **Final offer WPI 5% or more—injured person entitled to make motor accident claim**

44
Clause 162 (1) (a)
Page 124, line 19—

omit

10%

substitute

5%

45**Clause 162 (4)**
Page 125, line 23—*omit*

46**Part 2.9 heading**
Page 137, line 1—*omit the heading, substitute*

Part 2.9 **Defined benefits—periodic and lump sum payments**

47**Proposed new clause 180A**
Page 138, line 9—*insert*

180A **Lump sum agreement for payment of certain defined benefits**

- (1) This section applies if an insurer must pay treatment and care benefits or income replacement benefits to a person injured in a motor accident.
- (2) The insurer and the injured person may agree that the insurer pay the defined benefits expected to be payable to the injured person by giving the injured person a lump sum payment to cover the amount of the defined benefits (a *lump sum agreement*).
- (3) The insurer—
 - (a) must continue to pay the injured person the defined benefits to which the person is entitled until the insurer and injured person have entered into a lump sum agreement; but
 - (b) may agree with the injured person about the frequency (not more than fortnightly) of the payment of the defined benefits.
- (4) If the insurer and injured person enter into a lump sum agreement, the injured person—
 - (a) ceases to be entitled to the defined benefits to which the lump sum agreement relates; and
 - (b) if the lump sum agreement includes an amount for treatment and care benefits—is not eligible for compensation in relation to the person's treatment and care needs under the LTCS Act or the *Workers Compensation Act 1951*.

- (5) If the injured person makes a motor accident claim in relation to the motor accident, the amount of the lump sum under the lump sum agreement must be taken into account when assessing damages for the motor accident claim.
- (6) This section is subject to section 181.

48

Clause 183, definition of *internally reviewable decision* and note
Page 141, line 15—

omit the definition and note, substitute

internally reviewable decision means a decision of an insurer mentioned in schedule 1A, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

49

Clause 184 (3) (a)
Page 142, line 21—

omit clause 184 (3) (a), substitute

- (a) the applicant satisfies the insurer that they have a reasonable excuse for the delay; and

50

Clause 189, definition of *ACAT reviewable decision* and note
Page 144, line 18—

omit the definition and note, substitute

ACAT reviewable decision means a decision of an insurer reviewing an internally reviewable decision of the insurer.

51

Proposed new clause 195 (1A)
Page 148, line 4—

insert

- (1A) However, the ACAT must not award the costs of, or incidental to, an application for external review against an injured person seeking review of an ACAT reviewable decision honestly.

52

Clause 200
Page 150, line 2—

[oppose the clause]

53

Chapter 3
Page 151, line 1—

omit

54**Clause 219 (1) (b)****Page 161, line 12—***omit clause 219 (1) (b), substitute*

- (b) the person's doctor certifies, in writing, that the person is likely to need medical treatment after the relevant date for the motor accident; and

55**Clause 236 (1) (a)****Page 171, line 7—***omit*

10%

substitute

5%

56**Clause 236 (1) (b) (ii)****Page 171, line 13—***omit*

10%

substitute

5%

57**Clause 236 (1) (c)****Page 171, line 20—***omit clause 236 (1) (c), substitute*

- (c) is taken, under section 133 (WPI taken to be 5% in certain circumstances), to have a WPI of 5% as a result of the accident;
or

Note For procedures for a claim for a personal injury suffered by a child, see the *Limitation Act 1985*, s 30A (Special provision for injuries to children).

58**Proposed new clause 236 (1) (ca) and (cb)****Page 171, line 26—***insert*

- (ca) is taken to have a WPI of 5% as a result of the motor accident because the person has sustained an injury that, having regard to the person's vocation, is likely to have a permanent impact on the person's capacity to engage in the vocation; or
- (cb) has sustained a serious injury as a result of the motor accident;
or
-

59**Clause 236 (1) (d)**
Page 172, line 1—*omit clause 236 (1) (d), substitute*

- (d) has made a successful application for workers compensation benefits in relation to the injury and been assessed as having a WPI of at least 5% as a result of the motor accident; or

60**Clause 236 (3), proposed new definition of *serious injury***
Page 172, line 12—*insert*

serious injury as a result of a motor accident—a person injured in a motor accident has sustained a *serious injury* as a result of a motor accident if the person has sustained 1 or more of the following as a result of the motor accident:

- (a) long-term impairment of a bodily function;
- (b) loss of a bodily function;
- (c) permanent physical disfigurement;
- (d) ongoing mental health disorder or behavioural disturbances;
- (e) loss of a foetus.

61**Clause 237 (2) (a)**
Page 173, line 16—*omit*

10%

substitute

5%

62**Clause 238 (3) (f)**
Page 174, line 24—*omit*

63**Clause 238 (4) (a)**
Page 175, line 2—*omit*

64**Clause 238 (4) (b)**
Page 175, line 3—*omit*

10%

substitute

5%

65**Clause 238 (4) (c)**
Page 175, line 5—*omit*

10%

substitute

5%

66**Clause 238 (4) (d)**
Page 175, line 7—*omit*

67**Clause 238 (4) (e)**
Page 175, line 9—*omit the paragraph, substitute*

- (e) section 161 (2) (c), (d) (i) and (4) (Final offer WPI 5% or more—
injured person not entitled to make motor accident claim);

68**Clause 238 (4) (f)**
Page 175, line 12—*omit the paragraph, substitute*

- (f) section 162 (2) (c), (d) and (e) (i) (Final offer WPI 5% or more—
injured person entitled to make motor accident claim).

Note An injured person to whom this part applies is not entitled to receive
income replacement benefits, treatment and care benefits or quality of life
benefits (see s 50).

69**Clause 240 (1) and table 240 and note**
Page 177, line 4—*omit clause 240 (1) and table 240 and note, substitute*

- (1) The maximum amount of quality of life damages that may be awarded
to a claimant is \$500 000.
-

70
Clause 240 (5)
Page 178, line 4—

omit

71
Clause 243
Page 178, line 20—

[oppose the clause]

72
Clause 244 (1), note
Page 179, line 8—

omit

73
Clause 244 (2) (a)
Page 179, line 12—

omit clause 244 (2) (a), substitute

(a) the amount of any defined benefits received by the claimant; and

74
Clause 246
Page 180, line 8—

[oppose the clause]

75
Clause 260 (3)
Page 190, line 23—

omit

10%

substitute

5%

76
Clause 263 (2)
Page 191, line 17—

omit

but for more than \$30 000

77
Clause 263 (3)
Page 191, line 20—

omit

78**Clause 265 (2), note**
Page 193, line 15—*omit*

79**Proposed new clause 268A**
Page 195, line 6—*insert***268A Need for urgent proceeding**

- (1) The court, on application by a claimant, may give leave to the claimant to begin a proceeding in the court based on a motor accident claim despite noncompliance with this chapter if satisfied there is an urgent need to begin the proceeding.
- (2) The order giving leave may be made on conditions the court considers appropriate having regard to the circumstances of the case.
- (3) If leave is given, the proceeding started by leave is stayed until the claimant complies with this chapter or the proceeding is discontinued or otherwise ends.
- (4) However, the proceeding is not stayed if—
 - (a) the court is satisfied that—
 - (i) the claimant is suffering from a terminal condition; and
 - (ii) the trial of the proceeding should be expedited; and
 - (b) the court orders the proceeding be given priority in the allocation of a trial date.
- (5) If, under subsection (4), the proceeding is not stayed, the following provisions do not apply to the personal injury:
 - (a) division 5.7.2 (Compulsory conferences before court proceedings);
 - (b) division 5.7.3 (Mandatory final offers);
 - (c) this division (other than this section).

80**Clause 273 (3) and (4)**
Page 197, line 19—*omit clause 273 (3) and (4), substitute*

- (3) If the amount of damages is less than a mandatory final offer made by the respondent, the respondent may apply to the court for an order that—
 - (a) the respondent pay the claimant's costs on a party and party basis up to the day the offer was made; and

- (b) the claimant—
 - (i) is not entitled to an order against the respondent for the claimant's costs in relation to the claim after the day the offer was made; and
 - (ii) is not required to pay the respondent's costs in relation to the claim on and from the day the offer was made.
-

Schedule 2

MOTOR ACCIDENT INJURIES BILL 2019

Amendments circulated by the Treasurer

1

Clause 50 (3), proposed new note

Page 36, line 7—

insert

Note If an injured person who has made a successful application for compensation under a workers compensation scheme in relation to a motor accident does not withdraw that application within 13 weeks after the date of the motor accident, the person will continue to be entitled to compensation in accordance with the scheme.

2

Clause 71 (2)

Page 58, line 6—

before

suspects

insert

reasonably

3

Clause 73 (1), proposed new note

Page 59, line 18—

insert

Note There is no requirement for both an application for defined benefits and an application for workers compensation to be made in relation to a motor accident.

4

Clause 73 (4), proposed new note

Page 60, line 13—

insert

Note If an injured person makes a successful application for compensation under a workers compensation scheme in relation to a motor accident and does not withdraw that application within 13 weeks after the date of the motor accident, the injured person is not required to give notice under s (4).

5**Proposed new clause 105 (5)****Page 84, line 25—***insert*

- (5) The MAI guidelines may make provision in relation to the following:
- (a) the conduct of medical and other examinations under this section;
 - (b) the information a health practitioner may ask a person injured in a motor accident for in relation to a medical or other examination of the person by the health practitioner under this section;
 - (c) the information a health practitioner may ask the relevant insurer for a motor accident in relation to a medical or other examination of a person injured in the motor accident by the health practitioner under this section;
 - (d) the circumstances in which the relevant insurer for a motor accident may ask for a medical or other examination of a person injured in the motor accident under this section.

6**Clause 110 (1), definition of *treatment and care*, paragraph (a) (i)****Page 88, line 8—***after*

including

insert

mental health treatment and

7**Clause 121 (4)****Page 95, line 1—***omit clause 121 (4), substitute*

- (4) If the relevant insurer decides to suspend the injured person's treatment and care benefits and income replacement benefits, the insurer must give the injured person written notice (a ***suspension notice***) stating—
- (a) the reasons for the suspension; and
 - (b) the actions the injured person may take to avoid the benefits being suspended; and
 - (c) the date the suspension takes effect; and
 - (d) that the injured person may seek internal review of the suspension under part 2.10 (Defined benefits—dispute resolution).

- (5) A suspension notice must be given at least 2 weeks before the date the suspension takes effect.
- (6) The MAI guidelines may make provision in relation to the conduct of assessments under this section.

8**Proposed new clause 123 (3A)****Page 96, line 5—***insert*

- (3A) The relevant insurer may include in the recovery plan any recommendations by the injured person's doctor for treatment and care that is reasonable and necessary.

9**Proposed new clause 127 (3) and (4)****Page 98, line 12—***insert*

- (3) If the relevant insurer proposes to amend the recovery plan, the relevant insurer must give the injured person and the injured person's doctor a reasonable opportunity to consider the proposed amendments.
- (4) The relevant insurer may include in the amended recovery plan any recommendations by the injured person's doctor for treatment and care that is reasonable and necessary.

10**Clause 136****Page 104, line 9—***omit*

damages for loss of quality of life

substitute

quality of life damages

11**Clause 141 (3) (b)****Page 108, line 9—***omit clause 141 (3) (b), substitute*

- (b) for a person who is not a person mentioned in subsection (3A)—
the estimated WPI is taken to be the person's WPI.

12**Proposed new clause 141 (3A) to (3E)****Page 108, line 12—***insert*

- (3A) Subsections (3B) and (3C) apply if—
- (a) if—
 - (i) separate reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries—the higher estimated WPI is at least 5%; or
 - (ii) only 1 WPI report from an independent medical examiner assesses an injured person’s WPI—the estimated WPI is at least 5%; and
 - (b) the injured person is entitled to make a motor accident claim in relation to the motor accident.
- (3B) The relevant insurer for the motor accident must, within 14 days after receiving the WPI report about the injured person, give the injured person a written notice—
- (a) including a copy of the report; and
 - (b) telling the person that the person must, within 26 weeks after receiving the notice—
 - (i) accept the estimated WPI as the person’s WPI; or
 - (ii) make a motor accident claim and apply to stay a proceeding on the claim until the person’s injuries have stabilised; and
 - (c) telling the person that if the person decides to take the action mentioned in paragraph (b) (ii)—
 - (i) the person must notify the relevant insurer when the person’s injuries have stabilised; and
 - (ii) that the relevant insurer will refer the person to an authorised IME provider for a second WPI assessment; and
 - (iii) that the person is liable for the costs of the second WPI assessment; and
 - (iv) that if the WPI report from the second WPI assessment assesses the person’s WPI as less than 10%, the person is not entitled to proceed with the motor accident claim and is liable for their own costs in relation to the claim.
- (3C) The injured person must make a decision under subsection (3B) within 26 weeks after the date the person is notified of the person’s estimated WPI.

Note If the injured person’s estimated WPI is taken to be the person’s WPI, div 2.6.3 and ch 3 apply to the person.

- (3D) If the injured person does not notify the insurer within the 26 weeks, the injured person is taken to have accepted the estimated WPI as the person's WPI.
- (3E) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer as stated in the notice under subsection (3B) within the 26 weeks.

Examples—reasonable steps

- 1 including information in the written notice under s(3B) about the consequences of failing to notify the insurer within the 26 weeks
- 2 sending the injured person a reminder notice before the end of the 26 weeks

13

Proposed new clause 141A

Page 108, line 15—

insert

141A WPI assessment—injured person's injuries stabilised

- (1) This section applies if an injured person to whom section 141 (3A) applies—
 - (a) makes a motor accident claim in relation to the motor accident; and
 - (b) applies to stay a proceeding on the claim until the person's injuries have stabilised.
- (2) The injured person must tell the relevant insurer for the motor accident, in writing, that the person's injuries have stabilised.
- (3) The relevant insurer must refer the injured person to an authorised IME provider for a second WPI assessment.
- (4) The injured person is liable for the costs of the second WPI assessment.

Note The IME provider must give the WPI report about the assessment to the relevant insurer (see s 151).
- (5) If the WPI report assesses the injured person's WPI as 10% or more, the injured person is entitled to proceed with the motor accident claim.
- (6) If the WPI report assesses the injured person's WPI as less than 10%, the relevant insurer must, within 14 days after receiving the report, give the injured person a written notice—
 - (a) stating that the person—
 - (i) is not entitled to proceed with the motor accident claim; and
 - (ii) is liable for their own costs in relation to the motor accident claim; and
 - (iii) is not entitled to a further WPI assessment; and
 - (iv) is not entitled to an SOI assessment; and

- (b) offering the person the amount of quality of life benefits payable for their WPI under division 2.6.4 (Quality of life benefits—amount payable); and
 - (c) telling the person that the person must, within 28 days after receiving the notice, notify the insurer, in writing, whether they accept the offer.
- (7) If the injured person does not notify the relevant insurer within the 28 days, the person is taken to have accepted the offer.
- (8) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer as stated in the notice under subsection (6) within the 28 days.

Examples—reasonable steps

- 1 including information in the written notice under s(6) about the consequences of failing to notify the insurer within the 28 days
- 2 sending the injured person a reminder notice before the end of the 28 days

- (9) If the injured person accepts (or is taken to accept) the offer—
- (a) the person’s application for quality of life benefits is taken to have been finally dealt with; and
 - (b) the relevant insurer must pay to the person the amount of quality of life benefits payable for their WPI under division 2.6.4.

14**Proposed new clause 146 (1) (e)****Page 110, line 24—***insert*

- (e) section 141A (WPI assessment—injured person’s injuries stabilised).

15**Clause 149****Page 112, line 13—***omit clause 149, substitute***149 WPI assessment—both physical and psychological injuries**

- (1) This section applies if an injured person sustains both a physical injury and a primary psychological injury resulting from a motor accident.
- (2) The injured person may request separate WPI assessments of—
 - (a) the physical injury; and
 - (b) the primary psychological injury.
- (3) However, the injured person may request a WPI assessment of the primary psychological injury only if the person has received—

- (a) mental health treatment for the injury; and
 - (b) a notice, in writing, from a psychiatrist or clinical psychologist that the psychiatrist or clinical psychologist reasonably believes the person is likely to have a permanent psychological injury resulting from the motor accident.
- (4) To remove any doubt—
- (a) a WPI assessment of a physical injury may take into account a secondary psychological injury; but
 - (b) a WPI assessment of a primary psychological injury must not take into account a secondary psychological injury.
- (5) The relevant insurer for the motor accident is only liable for the costs of 1 WPI assessment for each kind of injury.
- (6) In this section:

primary psychological injury—

- (a) means an injury that is—
 - (i) a psychological or psychiatric disorder, including the physiological effect of a psychological or psychiatric disorder on the nervous system, that results directly from a motor accident; and
 - (ii) diagnosed by a psychiatrist or clinical psychologist; but
- (b) does not include a psychological or psychiatric disorder that results from a physical injury resulting from a motor accident.

Example—psychological injury resulting from a motor accident

post-traumatic stress disorder as a result of witnessing the motor accident

secondary psychological injury means an injury that is—

- (a) a psychological or psychiatric disorder that results from a physical injury resulting from a motor accident; and
- (b) diagnosed by a psychiatrist or clinical psychologist.

Example—psychological injury that results from physical injury

depression and anxiety as a result of ongoing pain from the physical injury

16

Clause 150 (1) (c)

Page 113, line 21—

omit clause 150 (1) (c), substitute

- (c) the WPI assessments of each physical body system may be combined in accordance with the WPI guidelines to decide the injured person's WPI for the person's physical injuries; and
- (d) the WPI assessments of each psychological body system may be combined in accordance with the WPI guidelines to decide the injured person's WPI for the person's psychological injuries.

17
Clause 150 (2)
Page 113, line 23—

omit

18
Proposed new clause 151A
Page 114, line 9—

insert

151A WPI—both physical and psychological injuries

- (1) This section applies if—
 - (a) a WPI assessment of an injured person’s physical injuries and psychological injuries has been carried out; and
 - (b) the WPI for each kind of injury is assessed at more than 0%.
- (2) The relevant insurer for the motor accident may take into account the WPI for each kind of injury to determine the amount of quality of life benefits the insurer may offer the injured person.

19
Clause 152 (1)
Page 114, line 11—

omit clause 152 (1), substitute

- (1) This section applies if—
 - (a) if separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries—the higher WPI assessment assesses the person’s WPI as less than 5%; or
 - (b) if only 1 WPI report from an independent medical examiner assesses an injured person’s WPI—the person’s WPI is assessed as less than 5%.
- (1A) The relevant insurer for the motor accident must give the injured person a written notice—
 - (a) including a copy of each report; and
 - (b) if there are separate WPI reports for the person’s physical and psychological injuries, and the insurer considers that it is appropriate to make an offer to the person—offering the person the amount of quality of life benefits payable for their WPI under division 2.6.4 (Quality of life benefits—amount payable), taking into account each WPI report; and
 - (c) telling the person that the person must, within 26 weeks after receiving the notice—

- (i) notify the insurer, in writing, whether they accept or disagree with each report; and
 - (ii) if the person disagrees with a report and wishes to have a second WPI assessment carried out—
 - (A) arrange a second WPI assessment at their own expense; and
 - (B) give the insurer the second WPI report.
- (1B) The relevant insurer for the motor accident must give the notice to the injured person—
- (a) if there are separate WPI reports for the person’s physical and psychological injuries—within 14 days after receiving the later report; or
 - (b) if there is only 1 WPI report—within 14 days after receiving the report.

20**Proposed new clause 152 (2A)****Page 114, line 27—***insert*

- (2A) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, as stated in the notice under subsection (1) within the 26 weeks.

Examples—reasonable steps

- 1 including information in the written notice under s (1) about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, within the 26 weeks
- 2 sending the injured person a reminder notice before the end of the 26 weeks

21**Clause 153 (1)****Page 115, line 5—***omit clause 153 (1), substitute*

- (1) This section applies if—
- (a) if separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries—the higher WPI assessment assesses the person’s WPI as at least 5% but not more than 9%; or
 - (b) if only 1 WPI report from an independent medical examiner assesses an injured person’s WPI—the person’s WPI is assessed as at least 5% but not more than 9%.
- (1A) The relevant insurer for the motor accident must give the injured person a written notice—
- (a) including a copy of each report; and

- (b) offering the person the amount of quality of life benefits payable for their WPI under division 2.6.4 (Quality of life benefits—amount payable); and
 - (c) telling the person that the person must, within 26 weeks after receiving the notice—
 - (i) notify the insurer, in writing, whether they accept or disagree with each report; and
 - (ii) if the person disagrees with a report and wishes to have a second WPI assessment carried out—
 - (A) arrange a second WPI assessment at their own expense; and
 - (B) give the insurer the second WPI report.
- (1B) The relevant insurer for the motor accident must give the notice to the injured person—
- (a) if there are separate WPI reports for the person’s physical and psychological injuries—within 14 days after receiving the later report; or
 - (b) if there is only 1 WPI report—within 14 days after receiving the report.

22**Proposed new clause 153 (2A)****Page 115, line 24—***insert*

- (2A) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, as stated in the notice under subsection (1) within the 26 weeks.

Examples—reasonable steps

- 1 including information in the written notice under s (1) about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, within the 26 weeks
- 2 sending the injured person a reminder notice before the end of the 26 weeks

23**Clause 154 (1) and (2)****Page 116, line 6—***omit clause 154 (1) and (2), substitute*

- (1) This section applies if—
- (a) if—
 - (i) separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries—the higher WPI assessment assesses the person’s WPI as at least 10%; or

- (ii) only 1 WPI report from an independent medical examiner assesses an injured person's WPI—the person's WPI is assessed as at least 10%; but
 - (b) the injured person is not entitled to make a motor accident claim in relation to the motor accident.
- (2) The relevant insurer for the motor accident must give the injured person a written notice—
 - (a) including a copy of each report; and
 - (b) offering the person the amount of quality of life benefits payable for their WPI under division 2.6.4 (Quality of life benefits—amount payable); and
 - (c) telling the person that the person must, within 26 weeks after receiving the notice—
 - (i) notify the insurer, in writing, whether they accept or disagree with each report; and
 - (ii) if the person disagrees with a report and wishes to have a second WPI assessment carried out—
 - (A) arrange a second WPI assessment at their own expense; and
 - (B) give the insurer the second WPI report.
- (2A) The relevant insurer for the motor accident must give the notice to the injured person—
 - (a) if there are separate WPI reports for the person's physical and psychological injuries—within 14 days after receiving the later report; or
 - (b) if there is only 1 WPI report—within 14 days after receiving the report.

24
Proposed new clause 154 (3A)**Page 116, line 28—***insert*

- (3A) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, as stated in the notice under subsection (2) within the 26 weeks.

Examples—reasonable steps

- 1 including information in the written notice under s (2) about the consequences of failing to notify the insurer, and failing to give the insurer the second WPI report, within the 26 weeks
 - 2 sending the injured person a reminder notice before the end of the 26 weeks
-

25**Clause 155 (1) and (2)****Page 117, line 9—***omit clause 155 (1) and (2), substitute*

- (1) This section applies if—
 - (a) if—
 - (i) separate WPI reports from an independent medical examiner assess an injured person's physical injuries and psychological injuries—the higher WPI assessment assesses the person's WPI as at least 10%; or
 - (ii) only 1 WPI report from an independent medical examiner assesses an injured person's WPI—the person's WPI is assessed as at least 10%; and
 - (b) the injured person is entitled to make a motor accident claim in relation to the motor accident.
- (2) The relevant insurer for the motor accident must give the injured person a written notice—
 - (a) including a copy of each report; and
 - (b) offering the person the amount of quality of life benefits payable for their WPI under division 2.6.4 (Quality of life benefits—amount payable); and
 - (c) explaining the consequences of accepting the offer, including—
 - (i) that the person is entitled to make a motor accident claim in relation to the motor accident; and
 - (ii) that if the person accepts the offer and makes a motor accident claim, the person is not entitled to damages for loss of quality of life under chapter 5 (Motor accident injuries—common law damages); and
 - (d) telling the person that the person must, by the due date—
 - (i) notify the insurer, in writing, whether they accept or disagree with each report; and
 - (ii) if the person disagrees with a report and wishes to have a second WPI assessment carried out—
 - (A) arrange a second WPI assessment at their own expense; and
 - (B) give the insurer the second WPI report.
- (2A) The relevant insurer for the motor accident must give the notice to the injured person—
 - (a) if there are separate WPI reports for the person's physical and psychological injuries—within 14 days after receiving the later report; or

- (b) if there is only 1 WPI report—within 14 days after receiving the report.

26**Proposed new clause 155 (4A)****Page 118, line 17—***insert*

- (4A) The relevant insurer must take all reasonable steps to notify the injured person about the due date and the consequences of failing to notify the insurer as stated in the notice under subsection (2) by the due date.

Examples—reasonable steps

- 1 including information in the written notice under s (2) about the due date and the consequences of failing to notify the insurer by the due date
- 2 sending the injured person a reminder notice before the due date

27**Proposed new clause 156 (5A)****Page 119, line 7—***insert*

- (5A) The relevant insurer must reimburse the injured person for the amount of the second WPI assessment if—
- (a) the first WPI report assesses the person's WPI as less than 10%; and
 - (b) the second WPI report assesses the person's WPI as at least 10%; and
 - (c) the person makes a motor accident claim in relation to the motor accident.

28**Clause 158 (3)****Page 120, line 15—***omit clause 158 (3), substitute*

- (3) The final offer WPI must be not less than—
- (a) if the insurer has not requested the IME provider to arrange a review of the first WPI report under section 157—the WPI assessed in the first WPI report; or
 - (b) if the insurer has requested the IME provider to arrange a review of the first WPI report under section 157—the affirmed or increased assessment of WPI stated in the notice of affirmation or increase.

29**Clause 159 (1) (b) (ii)****Page 121, line 10—***omit*

30**Proposed new clause 159 (1) (c)****Page 121, line 12—***insert*

- (c) offering the person the amount of quality of life benefits payable for their final offer WPI under division 2.6.4 (Quality of life benefits—amount payable), if the insurer considers it appropriate to make an offer.

31**Proposed new clause 160 (2A)****Page 122, line 15—***insert*

- (2A) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer as stated in the notice under subsection (1) within the 28 days.

Examples—reasonable steps

- 1 including information in the written notice under s (1) about the consequences of failing to notify the insurer within the 28 days
- 2 sending the injured person a reminder notice before the end of the 28 days

32**Proposed new clause 161 (3A)****Page 123, line 27—***insert*

- (3A) The relevant insurer must take all reasonable steps to notify the injured person about the consequences of failing to notify the insurer as stated in the notice under subsection (2) within the 28 days.

Examples—reasonable steps

- 1 including information in the written notice under s (2) about the consequences of failing to notify the insurer within the 28 days
- 2 sending the injured person a reminder notice before the 28 days

33**Proposed new clause 162 (4A)****Page 125, line 28—***insert*

- (4A) The relevant insurer must take all reasonable steps to notify the injured person about the due date and the consequences of failing to notify the insurer as stated in the notice under subsection (2) by the due date.

Examples—reasonable steps

- 1 including information in the written notice under s (2) about the due date and the consequences of failing to notify the insurer by the due date
 - 2 sending the injured person a reminder notice before the due date
-

34**Clause 163 (2)****Page 126, line 15—**

omit clause 163 (2), substitute

- (2) Unless an injured person has injuries to more than 1 body system, the relevant insurer is only liable for the costs of—
- (a) 1 WPI assessment of the person’s physical injuries; and
 - (b) if the person may request a WPI assessment of the person’s psychological injuries under section 149—1 WPI assessment of the person’s psychological injuries.

35**Proposed new clause 163A****Page 126, line 20—**

insert

163A Effect of certain WPI assessments on motor accident claim

Despite the *Limitation Act 1985*, section 16AA (Motor accident claims), a person injured in a motor accident who has had a WPI assessment has 3 months from whichever of the following dates applies:

- (a) if the injured person receives a notice under section 141 (3B) (WPI assessment 4 years 6 months after motor accident)—the date that is 26 weeks after the date of the notice;
- (b) if the injured person receives a notice under section 155 (2) (WPI 10% or more—injured person entitled to make motor accident claim) or section 162 (2) (Final offer WPI 10% or more—injured person entitled to make motor accident claim)—the due date for the notice.

36**Clause 164 (1) (a) and (b)****Page 127, line 6—**

omit clause 164 (1) (a) and (b), substitute

- (a) if there are separate WPI reports for the person’s physical and psychological injuries—as at the date of the later WPI report; or
- (b) if there is only 1 WPI report—as at the date of the WPI report; or
- (c) if a WPI report is reviewed under section 157 (4) (Second WPI report—original WPI may be affirmed or increased)—
 - (i) if separate WPI reports for the person’s physical and psychological injuries are reviewed—as at the date of the notice of affirmation or increase of the later review; or

- (ii) if only 1 WPI report is reviewed—as at the date of the notice of affirmation or increase.

37**Clause 183, definition of *internally reviewable decision*, except note
Page 141, line 15—**

omit the definition, substitute

internally reviewable decision means a decision of an insurer—

- (a) mentioned in schedule 1A, part 1A.1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision; or
- (b) prescribed by regulation.

38**Proposed new clause 188 (2A)
Page 144, line 9—**

insert

- (2A) A decision by the insurer under subsection (1) takes effect on the day the internally reviewable decision was made.

39**Clause 189, definition of *ACAT reviewable decision*, except note
Page 144, line 18—**

omit the definition, substitute

ACAT reviewable decision means a decision of an insurer—

- (a) mentioned in schedule 1A, part 1A.2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision; or
- (b) prescribed by regulation.

40**Proposed new clause 195 (1A) and (1B)
Page 148, line 4—**

insert

- (1A) However, the ACAT must not award the costs of, or incidental to, an application for external review against an injured person if—
 - (a) the injured person made the application in good faith; and
 - (b) the ACAT is satisfied that the applicant has an arguable basis for the application.
 - (1B) The ACAT may be satisfied an applicant has an arguable basis for an application for external review if the applicant appears in person.
-

41**Clause 196 (2) (b)**
Page 148, line 26—

omit clause 196 (2) (b), substitute

- (b) takes effect—
- (i) for an order relating to an application for external review of an internally reviewable decision—on the day the internally reviewable decision was made, unless the ACAT otherwise orders; and
 - (ii) in any other case—on the day the externally reviewable decision was made, unless the ACAT otherwise orders.

42**Clause 206 (1) (b)**
Page 154, line 9—

omit clause 206 (1) (b), substitute

- (b) the person's WPI is—
- (i) if separate WPI reports from an independent medical examiner assess the person's physical injuries and psychological injuries—the higher WPI assessment assesses the person's WPI as less than 10%; or
 - (ii) if only 1 WPI report from an independent medical examiner assesses the person's WPI—the person's WPI is less than 10%; and

43**Proposed new clause 206 (3)**
Page 154, line 14—

insert

- (2) The relevant insurer for a motor accident is liable for the costs of an SOI assessment, unless otherwise provided in this chapter.

44**Proposed new clause 236 (2A)**
Page 172, line 10—

insert

- (2A) For this section, a person has been assessed as having a WPI of at least 10% as a result of the accident if—
- (a) if separate WPI reports from an independent medical examiner assess the person's physical injuries and psychological injuries—the higher WPI assessment assesses the person's WPI as at least 10%; or
 - (b) if only 1 WPI report from an independent medical examiner assesses the person's WPI—the person's WPI is at least 10%.
-

45**Clause 239 (1)****Page 176, line 16—**

omit clause 239 (1), substitute

- (1) A claimant for a motor accident claim who is the injured person to whom the claim relates may be awarded damages for non-economic loss (*quality of life damages*) only in accordance with—
- (a) if the claimant was a child on the date of the motor accident—section 241; or
- (b) in any other case—section 240.

46**Clause 240 (1) to (3)****Page 177, line 4—**

omit clause 240 (1) to (3), substitute

- (1) The amount of quality of life damages that may be awarded to a claimant is—
- (a) the amount stated in table 240 as at the date of the WPI report that the claimant relies on for the motor accident claim; and
- (b) an additional amount that is not more than 20% of the amount awarded under paragraph (a) if the court considers that the WPI report that the claimant relies on for the motor accident claim did not take into account a particular injury, or a particular effect on the claimant's quality of life.

Example—particular effect on claimant's quality of life

chronic pain

Table 240 Amount of quality of life damages payable

column 1 item	column 2 WPI %	column 3 amount payable
1	10%	\$25 000 AWE indexed
2	11% to 20%	\$25 000 AWE indexed + [(W-10) x \$3 500 AWE indexed]
3	21% to 50%	\$60 000 AWE indexed + [(W-20) x \$4 000 AWE indexed]
4	51% to 99%	\$180 000 AWE indexed + [(W-50) x \$6 400 AWE indexed]
5	100%	\$500 000 AWE indexed

Note **AWE indexed**, for an amount—see s 18.

- (2) However, the court must not award an additional amount under subsection (1) (b) if the claimant is awarded damages for the particular injury or particular effect on the claimant's quality of life under another head of damages.

47**Proposed new clause 255 (1A)****Page 186, line 20—***insert*

- (1A) However, if the claimant brings a proceeding based on the claim, and applies to stay the proceeding, under section 141 (3B) (WPI assessment 4 years 6 months after motor accident), the parties to the claim must have a compulsory conference before the proceeding can proceed.

Note The *Civil Law (Wrongs) Act 2002*, s 79 (Need for urgent proceeding) applies to a claimant in relation to a motor accident claim.

Schedule 3

MOTOR ACCIDENT INJURIES BILL 2019

Amendments circulated by Ms Le Couteur

1

Proposed new clause 76 (a) (vii)

Page 62, line 15—

insert

- (vii) if the injured person's pre-injury income AWE adjusted is less than \$800 AWE indexed—any contribution paid or payable on behalf of the person by the person's employer to a superannuation scheme for the benefit of the person; but
-

2

Clause 76 (b) (i)

Page 62, line 17—

omit clause 76 (b) (i), substitute

- (i) if the injured person's pre-injury income AWE adjusted is \$800 AWE indexed or more—any contribution paid or payable on behalf of the person by the person's employer to a superannuation scheme for the benefit of the person; but
-

3

Proposed new clause 76 (2)

Page 62, line 27—

insert

- (2) In this section:

AWE adjusted, for an injured person's pre-injury income—see section 94.
