

FOIL

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| Claimant lawyers incredulous as Government say it will increase the small claims limit to £5,000 for whiplash claims 0

BY MAREK HANDZEL ON FEBRUARY 23, 2017

INJURY, NEWS, REGULATION

The Government has confirmed that it will increase the small claims limit to £5,000 for whiplash claims and create a new threshold of £2,000 for all other personal injury claims.

To the incredulity of claimant lawyers, the Ministry of Justice has unveiled its plans in the the new Prisons and Courts Bill before even officially responding to a consultation on whiplash claim reform, which closed on 6 January.

In unveiling the the Bill, Justice Secretary Elizabeth Truss said that new fixed tariffs capping whiplash compensation pay-outs and a ban on claims without medical evidence would also be introduced. Truss said that the reforms would be cut around by around £40 a year. No figures have been released on the level of damages that the fixed tariffs will provide.

It is thought that the small claims limit changes will be implemented by October 2018.

The Association of Personal Injury Lawyers (APIL) said that the Bill would mean that people injured in traffic accidents would be robbed of fair compensation in the “deluded belief” that insurance premiums will fall.

“Data from the insurance industry shows that since 2013, the annual cost of motor-related personal injury claims has fallen by £536 million, yet insurance premiums have continued to rise,” said Neil Sugarman, the president of APIL.

“Expensive motor repairs and repeated hikes in insurance premium tax are both major factors in the cost of motor premiums, yet the Government is fanatical about supressing the right to claim for legitimate injuries instead,” he said.

Sugarman added that proposals to force more claims into the small claims court system would mean that nuisance calls and texts about personal injury claims would reach “epidemic” proportions.

Andrew Twambley, the spokesperson for Access to Justice (A2J), which is lobbying against the government’s reforms said that the group was extremely disappointed that the Government seemed “hell bent” on removing the rights of ordinary people to gain redress for injuries that weren’t their fault.

Echoing Sugarman’s comments, he said: “Increasing the small claims limit to £5,000 discriminates against ordinary people suffering whiplash injuries and will open the doors for claims management companies and cold callers to wreak further havoc on the market.”

"The government has not even waited to issue a response to the consultation exercise, confirming that it is uninterested in due process and deaf to the serious concerns raised by legal firms, the judiciary and consumer groups."

"Insurers will be rubbing their hands in glee. They have the government in their pocket, and will themselves be pocketing any savings made, for themselves and their shareholders. Motor insurance is compulsory, but the millions of people who buy the product understand that, in doing so, they take out a contract with an insurer to be compensated if they are injured. The government has driven a coach and horses through that principle and insurers are complicit in helping to break this fundamental relationship with their customers," added Twambley.

Vidisha Joshi, the managing partner and head of PI at Hodge Jones & Allen also attacked the Bill and the insurance industry, saying that the legitimate injury of whiplash was being used by insurers for their own advantage.

"They claim insurance premiums will fall as a result of a fixed tariff – we know from past experience premiums do not fall. It will once again be individuals in our society who pay the price, with the growing profits going straight to shareholders," said Joshi.

Qamar Anwar, the managing director of First4Lawyers, said that the Government and insurance sector valued the damage caused to vehicles "more than they do to humans".

Anwar said that the consultation on the small claims limit had simply paid lip service to a decision that had already been made by the Government and insurers "behind closed doors".

"We are shocked at the government's lack of concern for innocent victims of road traffic accidents," he said.

"Unfortunately, this move will lead to the 'PPI-ification' of road traffic accidents. Far from helping improve the perception of fraudulent claims, it will simply drive up complaints and potential fraud."

Unsurprisingly, the Forum of Insurance Lawyers (FOIL) welcomed the Bill, saying that it had consistently argued that the system was in need of reform as the level of whiplash claims are too high.

Nigel Teasdale, the President of FOIL and a partner at DWF, also pointed out that it was important for Ministers to ensure that relevant safeguards were put in place for the proposed tariff system.