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Government to go ahead with ‘scandalous’ whiplash reforms

Claimant lawyers promise to fight and influence Civil Liability Bill

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The government’s new Civil Liability Bill, designed to address the ‘compensation culture’ around motor insurance claims, has been described by lawyers as ‘scandalous’, ‘fanciful’, and ‘predictably bad’ for the personal injury sector and victims of road traffic accidents.



At the [state opening of parliament](#) today, the Queen said her government would introduce legislation ‘to modernise the courts system and to help reduce motor insurance premiums’.

The bill is expected to include controversial proposals on [whiplash reform](#) – previously included in the Prisons and Courts Bill – which were abandoned after the snap general election was called in April.

The briefing notes to the Queen’s speech state the new bill will ‘crack down on fraudulent whiplash claims and is expected to reduce motor insurance premiums by about £35 per year’.

The bill will also ban offers to settle claims without the support of medical evidence and introduce a new fixed tariff of compensation for whiplash injuries with a duration of up to two years.

Responding to the news, Brett Dixon, president of the Association of Personal Injury Lawyers, accused the government of ‘continuing to fire in the wrong direction’ with its reforms to the sector.

‘Insurers are already making savings of £500m a year since the costs in personal injury claims were slashed in 2013. Meanwhile, the cost of motor repairs has risen by almost a third and the insurance premium tax rate has doubled,’ said the Smith Jones solicitor.

‘The government tries to appease motorists but, in reality, their right to redress when they are injured will be diminished in exchange for a promise of lower premiums which will not be kept.’

Dixon urged MPs ‘not to be taken in by the hyperbole prevalent in the sector’ and think how society would want to deal those who has been genuinely injured due to another’s negligence.

Donna Scully, director at Carpenters, remarked: ‘Despite all the warnings about the likely consequences, the gaping regulatory holes, and the unanswered questions about how it will work in practice, it appears that the government has missed an opportunity to engage on agreeing workable solutions and chosen once again to hurtle us down a path that will be predictably bad for the sector.’

Pure spin

Vidisha Joshi, managing partner and head of personal injury at Hodge Jones & Allen, said it was 'hugely disappointing' the government was ploughing ahead with its reforms, but vowed lawyers would continue to fight and influence every stage of the bill's progression through parliament.

'As we said in our [consultation response](#), it is the young, the elderly, the mentally incapacitated, those with special physical and educational needs, and those for whom English is not their first language who will be disproportionately hit by these reforms.'

Joshi added that the government's reforms will put more pressure on the National Health Service, as well as employers, because injuries could well last longer than they would otherwise have done.

'The proposals are nothing short of scandalous – taking money from innocent accident victims and giving it to insurance companies and motorists, even though they actually affect all personal injury claims, not just road traffic related. The idea that motorists will save £35 is nothing but pure spin. Insurers have never passed on savings to date, I doubt very much they will start doing so now.'

Qamar Anwar, managing director, First4Lawyers, agreed, saying that idea motorists could save £35 a year through cheaper car insurance because of the reforms was 'fanciful' and that there is no way of monitoring and enforcing it.

'We are undeterred and will continue to fight these unjust proposals,' said Anwar. 'The initial consultations about these proposals recognised that even the Ministry of Justice doesn't expect insurers to pass on all the savings. Besides, the introduction of the increased insurance premium tax will put a stop to any hope consumers had of actually seeing their insurance bills cut.'

'I have a better idea for passing on £35 to every motorist: when it comes to renewal time the industry could cease their annual premium hike charade designed to get time poor individuals to stump up more cash and instead just give the real price.'

Anwar called on the new justice secretary, David Lidington, to ensure an honest debate about how personal injury victims are treated, the way in which insurers operate, and the importance of the whole sector coming together to stamp out fraud.

Simon Stanfield, chair of the Motor Accident Solicitors Society (MASS), said it was disappointing that new ministers at the MoJ 'have not taken the time to consider the implications of these proposals and work constructively to address some of the practical issues that the proposed legislation throws up'.

'These reforms are unfair and fundamentally flawed in their rationale, and MASS will continue to make this case, while seeking to mitigate some of the worst consequences of the reforms.'

Insurers' perspective

Stephen Hines, vice president of the Forum of Insurance Lawyers welcomed the bill: 'Whiplash claims have shown no signs of falling and continue to be a very significant factor in motor insurance costs, so it is encouraging to see the wheels have now been set in motion in what is a very specific piece of legislation rather than as a small element of broader reforms.'

'Looking forward, we hope the government will also turn its sights to resolving the Discount Rate in the coming months, another aspect of the system which is in urgent need of reform.'

Also commenting on news of the bill, Ian Davies, a partner at Kennedys, said the government's proposals would likely receive a mixed response from insurers.

'The decision to press ahead with proposals to introduce fixed tariffs in proportion to whiplash injuries will be welcomed by many insurance companies,' he said. 'The controversial decision to ban pre-medical report offers will have a mixed response among insurers in the absence of any further significant reform of the MoJ Portal and we urge the government to remain mindful of not overly interfering with the commercial objectives of businesses.'

'We will now wait to see whether proposals to introduce two small claim thresholds - £5,000 for whiplash injuries and £2,000 for all personal injuries – will go ahead.'

James Dalton, director of general insurance policy at the Association of British Insurers, said it will be important to 'strike the right balance between the interests of claimants and those of premium paying motorists'.

'This bill also offers an opportunity that must be seized to reform the discount rate,' he said. 'We have repeatedly said that the current Rate means significantly higher costs for compensators, such as the tax-payer funded NHS, and for insurers, so making premium increases for millions of motorists and businesses inevitable.'

'The government must urgently commit to ensuring we have a system that is fit for purpose for claimants, compensators, and insurance paying customers.'

John van der Luit-Drummond is deputy editor of Solicitors Journal

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