

3 May 2016

Ms Sue Cawcutt  
Research Director  
Education, Tourism, Innovation and Small Business Committee  
Parliament House  
George Street  
Brisbane QLD 4000

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Dear Ms Cawcutt,

### **Submission on National Injury Insurance Scheme (Queensland) Bill 2016**

The Actuaries Institute welcomes the opportunity to submit comments in respect of the National Injury Insurance Scheme (Queensland) Bill.

#### **Background**

The National Injury Insurance Scheme (Queensland) Bill (the Bill) was introduced into the Queensland Parliament on 19 April 2016. Key features of the proposed Queensland National Injury Insurance Scheme (QLD NIIS), as set out in the Bill, are as follows:

- proposed to commence on 1 July 2016;
- intended to meet the lifetime care and support needs of people who sustain serious personal injury in Queensland, in a motor vehicle accident, regardless of fault;
- where fault of another person can be established, provides an option to exit the QLD NIIS and receive a lump sum settlement covering future care and support costs;
- provides a mechanism for people to re-enter the QLD NIIS if their lump sum settlement is exhausted.

#### **Actuaries Institute Comments**

In our previous submission to the Queensland Parliament, "Submission on inquiry into a suitable model for the implementation of the National Injury Insurance Scheme", dated 6 January 2016 as well as in our witness statement at a public hearing held on 17 February 2016, we set out the relative advantages of the following two options being explored:

- a no-fault lifetime care scheme (Option A); and
- a hybrid common law and no-fault care and support arrangement (Option B).



We note that the proposed model outlined in the Bill is a variant on the original Option B, with an individual having the choice to either stay in the QLD NIS for their lifetime, or to exit from the QLD NIS via a lump sum settlement. Although the adversarial nature of a common law model will still be present under the proposed model, we are pleased to note that:

- all participants, regardless of fault, will initially enter the NIS, receiving appropriate care and support from day one and, at least initially, focusing on return to health and independence; and
- participants will be given the option of remaining within the NIS to receive their future care and support needs.

However, we feel that significant moral hazard will be introduced under the proposed model, due to the inclusion of an option to re-enter the scheme at a later date if a participant's lump sum settlement is exhausted. Moral hazard occurs when one person takes more risks because someone else bears the cost of those risks. In this case, the design of the proposed model will result in participants using less care in managing their lump sum settlements, as they expect to be able to re-enter the NIS once their settlement has been exhausted.

While the option to re-enter the NIS removes the significant longevity and investment risk for participants, it creates a one-sided financial risk for the scheme. Lump sum settlements which are more than adequate due to, say, the untimely early death of a participant, will not be repaid to the scheme. On the other-hand, lump sum settlements that are exhausted early will result in increased costs to the scheme, resulting in a more expensive scheme for Queensland taxpayers.

As outlined in our previous submission, lump sum settlements can prove to be inadequate for a number of reasons such as:

- participants living beyond their life expectancy;
- participant's lifetime daily care needs exceeding those expected;
- settlements earning less than the 5% real rate of return allowed within the settlement calculation, or even incurring investment losses;
- plaintiff legal fees being taken from a significant portion of the settlement awarded;
- use of settlements for non-injury related costs (eg purchase of housing, luxury cars, gifts to family members, excessive holidays, gambling, alcohol).

Some of the above scenarios represent legitimate reasons for a lump sum to be exhausted and are largely outside an individual participant's control. However, the last scenario provides an example of how a lump sum may be exhausted due to mismanagement of the money by the participant or their family.



It is difficult to imagine how judgement may be applied to determine the legitimacy of exhaustion of lump sum settlements. It is also unclear what regulation could be drafted to safeguard against “unjust” return to the QLD NIS. As a result, the model is likely to provide little or no incentive for participants to carefully manage their lump sum settlements.

We recommend that this moral hazard introduced by the design of the proposed model be carefully considered both in the final costing and adoption of this option.

The Actuaries Institute would be pleased to discuss this submission with the Committee. Please contact our CEO David Bell on (02) 9239 6106 or via e-mail [david.bell@actuaries.asn.au](mailto:david.bell@actuaries.asn.au).

Yours sincerely,

Lindsay Smartt  
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