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# The Motor Accident Insurance and Other Legislation Amendment Bill 2010 (Qld) – Bans on Commissions for Compulsory Third Party (CTP) Insurance Premiums

<b>Bill:</b>	Motor Accident Insurance and Other Legislation Amendment Bill 2010 (Qld)
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<b>Portfolio:</b>	Treasury
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## BACKGROUND

In his [Second Reading Speech](#), introducing the [Motor Accident Insurance and Other Legislation Amendment Bill 2010 \(Qld\)](#) (the [Bill](#)), the Queensland Treasurer, the Hon Andrew Fraser MP, said (p 2517) that the Bill's amendments to the [Motor Accident Insurance Act 1994 \(Qld\)](#) were the culmination of the Queensland Government's 2010-2011 State Budget commitment to deliver a Compulsory Third Party (CTP) insurance scheme that provides value for money for Queensland motor vehicle owners. The Treasurer noted past reforms to the Scheme to ensure that '*premiums remain competitive*'. However, he said that a [Motor Accident Insurance Commission](#) (in-house) review of the CTP Scheme earlier in 2010 had found further room for improvement, including the need for more price competition between CTP insurers. Mr Fraser MP said that the reforms intended to be made by the Bill will '*deliver a cut to the total registration bill paid by Queenslanders from 1 October this year*'.<sup>1</sup>

In particular, the Bill seeks to address what the Treasurer regarded as one of the 'key drivers' of the rising cost of CTP insurance premiums – the payment of commissions and inducements by insurers to intermediaries, such as car dealers, to obtain CTP business.<sup>2</sup> A further contribution to the growing cost of premiums is that 'trailing commissions' are often paid to car dealers or intermediaries when a purchaser of the motor vehicle renews his or her CTP policy with an insurer and these payments continue beyond the year the vehicle was purchased. The costs of this are built into the CTP by the insurer and are included in the cost base that insurers use when they are filing their premium prices with the MAIC. The costs are ultimately borne by consumers.<sup>3</sup>

In a [Media Statement](#) on 8 June 2010, the Treasurer said that the Bill's reforms would give motor vehicle owners a \$24 reduction in their CTP insurance premiums, comprising a \$20 cut in scheme delivery costs and the decision by the Government to remove the current \$4 HIH surcharge included in the Nominal Defendant levy that forms part of the CTP premium cost.

## THE COMPULSORY THIRD PARTY (CTP) INSURANCE SCHEME

As explained on the [Motor Accident Insurance Commission](#) (MAIC) website, since 1936, Queensland has had a Compulsory Third Party (CTP) insurance scheme. Under s 20 of the [Motor Accident Insurance Act 1994 \(Qld\)](#) (the [Act](#)) it is compulsory for all owners of a motor vehicle to have CTP insurance to drive (either themselves or someone else) on a road or in a public place.<sup>4</sup> The CTP insurance policy indemnifies the motor vehicle owner and drivers of the vehicle for any personal injury caused by, through, or in connection with the use of that insured vehicle in incidents to which the [Act](#) applies (see s 5 which also states incidents to which the Act does not apply).

If a person is injured as a result of a motor vehicle accident (e.g. other drivers, cyclists, passengers in that vehicle or another vehicle, pedestrians), the injured person (third party) has the right to sue at common law for compensation from the person at fault for the injury and related losses. As the CTP scheme is 'fault based' it is necessary for the third party to be able to prove that the owner or driver of the motor vehicle in question was negligent (i.e. the injury is wholly or partly caused by a wrongful act or omission in respect of the vehicle by a person other than the third party: s 5(1)). Part 4 of the [Act](#) deals with claims made to licensed insurers for compensation. If a third party's common law negligence action is successful, his or her compensation is paid from the relevant insurer's premium pool.

## Licensed Insurers

The insurance scheme is underwritten by private licensed insurers. The current licensed CTP insurers are Allianz; AAMI; NRMA Insurance; QBE Insurance; RACQ Insurance; and Suncorp Insurance. A motorist chooses one of these insurers to be the insurer under the CTP policy for the vehicle when he or she applies for motor vehicle registration. Licensed insurers handle insurance applications and manage the claims of policy holders (usually motor vehicle owners).

Part 5 of the [Act](#) covers the licensing process for and supervision of insurers. Part 5, Div 1 allows body corporate insurers to apply to the MAIC for a licence to provide CTP insurance and sets out the decision making process for granting a licence. An insurer's licence can be withdrawn or suspended in a number of circumstances (s 66): at the insurer's request; or if the insurer contravenes the Act, licence condition or the industry deed; or for another reason justifying such action. The departing insurer's CTP policies are then randomly allocated among the remaining licensed insurers in proportion to their respective market shares (see s 67). As discussed below, the [Bill](#) seeks to make some amendments to this allocation process and enables the State to underwrite CTP policies in certain circumstances.

The supervisory requirements for licensed insurers under Part 5, Div 2 include that licensed insurers must submit business plans to the MAIC as required by the MAIC (describing how the business is to be conducted); keep accounts and other business records and file returns with the MAIC; allow a MAIC appointed auditor to

inspect accounts; and provide information to the MAIC in the event of a financial position issue. The Supreme Court can also make orders to protect the CTP scheme where an insurer may be in financial difficulty or has acted prejudicially to the interests of persons insured under CTP policies.<sup>5</sup>

## Premiums

Part 2, Division 3 of the [Act](#) deals with insurance premiums under the CTP scheme.

The CTP insurance premium payable by a motor vehicle owner depends upon the type and the use of the vehicle.<sup>6</sup> Licensed insurers can set their premiums for each class of insurance, on the basis it is to cover a registration period of one year, within the upper and lower limits set by the MAIC. Premiums will vary between insurers (s 13). The process for setting premiums and the upper (ceiling) and lower (floor) limits of the premium for each class of CTP insurance for each assessment period under s 13(1) is described by s 13A of the Act. In fixing the limits of the premium for each class of CTP insurer, the MAIC must consider the financial soundness of the scheme in light of the latest analysis and quarterly review as well as the licensed insurers' and motorists organisations' submissions to it and other relevant material. Insurers must then submit their premiums to the MAIC.

Premiums are collected through the Department of Transport and Main Roads when a vehicle is registered or the registration is renewed. When a person lodges his or her motor vehicle registration application, he or she must select one of the licensed insurers to be the insurer under the CTP policy for the vehicle. When the registration is renewed or at any other time, the registered operator of the vehicle can change the insurer as from the end of the current registration period (s 21). This is when one 'shops around' to compare the premiums and the products offered by each insurer before paying one's registration. The CTP insurance policy comes into force when the registration or renewal takes effect and the licensed insurer selected becomes the insurer (s 23).

The CTP insurance premium includes (s 12):

- the insurer's premium;
- the statutory insurance scheme levy (to cover the estimated costs of the administration of the Act);<sup>7</sup>
- the hospital and emergency service levy (to fund a reasonable proportion of the cost of public hospital and emergency services for potential claimants under the CTP scheme who are injured and use those services);
- the Nominal Defendant levy (to fund the cost of claims where the vehicle involved is uninsured and/or unregistered or cannot be identified. The Nominal Defendant will seek to recover from the vehicle owner or driver where possible); and
- the administration fee.<sup>8</sup>

In the period 1 July to 31 December 2009, the average class 1 (pertaining to cars and station wagons) filed [premium](#) (including levies) was \$341 for AAMI; \$342 for Allianz; and \$343.50 for NRMA, QBE, RACQI, and Suncorp.<sup>9</sup> The Insurance Commissioner's Report contained in the MAIC's [Annual Report 2008-2009](#) (p 7) notes that premiums increased over the reporting year so that, from 1 July 2009, the lowest available premium was \$337 for a Class 1 vehicle (compared with \$275.80 for 1 July 2008). The Commissioner believed that the main factors pushing up premium prices were a downward change in interest rate markets and an increase in claim costs (especially claims for economic loss). It has also been reported that industry sources believe that the current pricing reflected tight margins in CTP.<sup>10</sup>

## THE MOTOR ACCIDENT INSURANCE COMMISSION

The [Motor Accident Insurance Commission](#) (MAIC) is established under Part 2 of the [Motor Accident Insurance Act 1994 \(Qld\)](#). It is a statutory body, reporting to the Treasurer, and is constituted by the Insurance Commissioner. The Commissioner is also the Nominal Defendant. The MAIC is funded by the abovementioned statutory insurance scheme levy which is paid along with the CTP insurance premium.<sup>11</sup> The MAIC's functions (s 10) include:

- supervising insurers operating under the CTP insurance scheme and issuing, suspending or withdrawing licences for such CTP insurers;
- establishing and revising prudential standards that CTP insurers must comply with;
- monitoring the management of claims by CTP insurers under the CTP scheme and insurers' compliance with their statutory obligations;
- fixing for each class of CTP insurance, the range within which an insurer's premium must fall

and recommending to the Government the levies and administration fee payable;

- monitoring the availability, adequacy and use of rehabilitation services for personal injury claimants and developing programs, resources and guidelines to overcome service deficiencies;
- providing funds for rehabilitation research and education and for the provision of infrastructure to facilitate the rehabilitation of injured persons;
- carrying out, or contributing to, advertising and public awareness campaigns regarding causes of motor vehicle accidents and the consequences thereof;
- promoting and, if funds are available, financially contributing towards regular safety and roadworthiness inspections of vehicles; driver training; first aid training; and provision, maintenance and support of the infrastructure required to reduce accidents and minimise the results of accidents;
- monitoring the efficiency of the statutory insurance scheme and keeping the scheme under review; and
- administering the Nominal Defendant Fund (s 29). The [Nominal Defendant](#) is a statutory body established under Part 2, Div 4 of the *Motor Accident Insurance Act 1994* to compensate persons injured as a result of the wrongful act or omission of the driver of an unidentified and/or uninsured (no CTP insurance) vehicle. It is funded by a levy within the CTP insurance premium (see also s 29 which establishes the Nominal Defendant Fund).

## SOME STATISTICS

The MAIC's, [Statistical Information – 1 July to 31 December 2009](#) sets out information regarding the operation of the CTP insurance scheme with some of the features being:

- the claim frequency (number of CTP claims per '000 registered vehicles) for 2007-2008 was 1.9;<sup>12</sup>
- from 1 July to 31 December 2009, Brisbane accounted for 53.0% of all Queensland motor vehicle accidents; other southeast Queensland areas for 27.0%; and regional areas for 15.7% (4.3% were interstate) (p 6);
- from 1 September 1994 to 31 December 2009, where relevant details are available, the age group of most claimants (25.7%) was the 16 to 25 year olds. The adult age group of the least number of claimants was the over 66 year olds (5.1%). In most age groups, female claimants outnumbered males (p 7);
- most claims from 1 September 1994 to 31 December 2009 were for injuries of minor severity (71.2%) and 1.3% were claims for injuries of maximum severity (predominantly fatalities) (p 8).<sup>13</sup> Most injury claims were for the spine, including whiplash (around 59%) (p 9);
- during 2008-2009, Suncorp had over 46% of the market share by premium collected (p 16). The next in line was Allianz with over 21% of the market share;
- the average duration of claims from the determination of liability to settlement was 15.4 months (p 15);
- during the 2008-2009 financial year, payments on finalised claims amounted to around \$12,591,000, with around 22% of payments being for general damages and over 52% for past and future economic loss (p 12).<sup>14</sup> In relation to finalised claims from 1 January 2009 to 31 December 2009 for accidents from 1 September 1994 to 31 December 2009, over \$676,000,000 had been paid out to claimants, with past and future economic loss accounting for most (over 47%) payouts. Most were for minor injuries (pp 13-14).

## PAST REFORMS TO THE *MOTOR ACCIDENT INSURANCE ACT 1994* (QLD)

In 1999, the Queensland CTP insurance scheme and the *Motor Accident Insurance Act 1994* underwent a [review](#) pursuant to the National Competition Policy Agreement. The review committee considered the fundamentals of the CTP scheme including its design, affordability for the Queensland motorist, and the appropriate role for Government in the scheme.<sup>15</sup> The committee's recommendations were adopted by the Government and, accordingly, amendments were made to the *Motor Accident Insurance Act 1994*. An important change to the scheme, as a result of those amendments, was that, since October 2000, insurers operate in a competitive market and decide their premiums within the range set by the MAIC, as described earlier. Before that time, premiums were set by Regulation, as recommended by the MAIC and vehicle owners paid the same premium no matter who their insurer was. Other amendments included changes to the claims



process to enable earlier reporting of claims; a requirement to report accidents to the police; earlier access to treatment and rehabilitation; thresholds for recovery of legal costs; and earlier settlement of claims.<sup>16</sup>

In recent times other changes have been made by the *Civil Liability Act 2003* (Qld) that introduced a prescribed injury scale resulting in consistency between assessments for general damages awards in common law court cases.<sup>17</sup>

## PROPOSED AMENDMENTS TO THE MOTOR ACCIDENT INSURANCE ACT 1994

This e-Research Brief focuses on the amendments to the [Motor Accident Insurance Act 1994 \(Qld\)](#) (the [Act](#)) sought to be made by **Part 2** of the [Motor Accident Insurance and Other Legislation Amendment Bill 2010 \(Qld\)](#) (the [Bill](#)), most of which are planned to take effect on 1 October 2010 (see **cl 2**).<sup>18</sup> As noted above, the proposed changes to the [Act](#) follow an in-house MAIC review of the CTP insurance scheme to determine if motorists were getting value for money and to see if there were possible improvements to be made to the efficiencies of the scheme by ensuring administration and delivery costs are as low as possible.<sup>19</sup>

### NEW OBJECTS CLAUSE

At present, the objects of the [Act](#) (in s 3) are, in brief (including some minor amendments sought to be effected by **cl 4** of the [Bill](#) regarding definitions):

- to continue and improve the system of CTP insurance and CTP insurance for uninsured and unidentified vehicles in Queensland;
- to establish a basis for assessing the affordability of CTP insurance and to keep the costs at a level the average motorist can afford;
- to provide for the licensing and supervision of insurers providing insurance under CTP policies;
- to encourage the speedy resolution of personal injury claims;
- to promote and encourage, as far as practicable, the rehabilitation of claimants who sustain personal injury;
- to establish and keep a register of motor vehicle accident claims; and
- to promote measures directed at eliminating or reducing causes of accidents and mitigating their results.

The [Bill](#) (in **cl 4**), seeks to insert a new object into s 3 of the [Act](#) (as a **new s 3(ab)**) which is *to promote competition in the setting of premiums for CTP insurance*.

### EFFECT OF LICENCE WITHDRAWALS AND SUSPENSIONS AND STATE UNDERWRITING

As noted earlier, provision is made (in s 66 of the [Act](#)) for an insurer's licence to be withdrawn or suspended in certain situations: at the insurer's request; or if the insurer contravenes the Act, licence condition or the industry deed; or for another reason justifying such action.<sup>20</sup> The withdrawal or suspension does not affect the insurer's liabilities or its liabilities under existing CTP insurance policies and the insurer is subject to the Act until all those liabilities are fully satisfied.

An amendment to **s 67** (by **cl 9**) is proposed regarding the effect of a licensed insurer's withdrawal or suspension from the CTP scheme. Currently, if that insurer is chosen to be a motorist's insurer under a CTP policy, another insurer decided under s 67 will, instead, be the insurer under the policy. The [Explanatory Notes](#) (p 13) comment that the current provisions set out a process for the random allocation of CTP policies when an insurer leaves the CTP scheme.

The proposed amendment to s 67 seeks to introduce a process whereby the MAIC must consult with the remaining licensed insurers and the Australian Prudential Regulation Authority (APRA) to consider the financial capacity of the remaining insurers to take on the additional business before the CTP policies of the insurer leaving the scheme are randomly allocated to remaining insurers in proportion to their market shares.

A **new s 67A** is sought to be inserted by **cl 10** to provide for the situations when the State may underwrite CTP policies. This is intended to occur where an insurer's licence is withdrawn or suspended and the MAIC considers that the insurer's CTP policies cannot be appropriately allocated to another insurer under s 67 (including, for example, where no other insurer is considered to have appropriate capacity to underwrite the policies or the circumstances are urgent). A number of the provisions in Part 5 of the Act dealing with licensing and supervision of licences will then apply to the Government as the new insurer. This provision is intended to protect motor vehicle owners by allowing the Government to underwrite any shortfall or under-capacity in the market: see [Explanatory Notes](#) (p 14).



## BANNING COMMISSIONS AND INDUCEMENTS PAID TO THIRD PARTIES

At present, licensed insurers commonly pay commissions to motor vehicle dealers when a consumer buys a vehicle in order to attract new business. It can be a one-off payment – at the point of sale of the new vehicle – or the payment can be a longer ‘trailing commission’ paid continuously to the dealer long after the purchase of the vehicle if the motor vehicle owner stays with the insurer (as discussed earlier).

As the Treasurer has noted, such practices hinder competition by shutting out new insurers and other insurers wanting to expand, making it hard for them to gain a foothold in the market.<sup>21</sup> It also limits car buyers’ choice of insurer when buying a motor vehicle.<sup>22</sup> The [Explanatory Notes](#) (p 2) comment that commissions and inducements paid to intermediaries had increased significantly in recent years, had hindered competition, and had resulted in higher CTP premiums. The practice had also led to a tendency for insurers over several years to file their premiums at the upper limit of the range (ceiling) set by the MAIC.

The Bill seeks to ensure that CTP insurance will become a more ‘stand alone’ product and not incur the costs of inducements or commissions by banning the payment of inducements or commissions to third parties, such as car dealers. It is proposed that **new s 96** be inserted into the [Act](#), by **cl 12** of the [Bill](#), to ban licensed insurers from giving, or offering to give, to an entity, including an entity acting for the insurer, an inducement for directing CTP insurance business to the insurer (**proposed s 96(1)**). A fine of up to \$30,000 can be incurred for offending against this new provision,<sup>23</sup> and a court convicting an insurer of an offence can order withdrawal of its licence (**proposed s 96(6)**).

‘Directing CTP insurance business’ is defined in **proposed s 96(7)** to include obtaining CTP business for a licensed insurer and giving advice, encouragement or suggestion intended to direct CTP business to an insurer. An ‘inducement’ is defined to mean any reward, consideration or benefit such as a commission. An example of a ‘commission’ is given in the note to proposed s 96(7) as a commission based on a CTP insurance policy premium resulting from directed CTP insurance business. An ‘inducement’ can also be an ‘administration payment’, the example given being a fee payable to a motor dealer based on the cost to the dealer for his or her work in directing the direct CTP insurance business to the CTP insurer. It can also include ‘general financial support’, one of the examples given in the note being contributions made to the dealer’s general operating expenses (e.g. entertainment).

However, the Bill will still permit policy holders to direct the payment of an inducement by an insurer to charities and certain other bodies so that those bodies that currently benefit from existing arrangements do not lose out.<sup>24</sup> Accordingly, the **proposed s 96(2)** will allow an insurer or other person to give or offer an inducement to an entity only on the basis that the entity will enter into or renew a CTP policy with the insurer and will ask the insurer on each occasion a premium is paid to the insurer to make a particular donation representing the value of the inducement. The insurer must not establish or treat the cost of the inducement/donation as a cost, expense or charge under or against the insurer’s CTP policies or CTP business generally. Those bodies to whom the donation can be directed to be made are (**proposed ss 96(2), 96(7)**):

- a particular charity registered under the *Collections Act 1966* (Qld) or other prescribed or similarly regulated registered charity of another State;
- a particular road safety research entity conducting a university affiliated research program relating to the causes and prevention of accidents or the rehabilitation of injured persons; or
- a prescribed entity.

### Direct Inducements to Policy Holders

The Bill will still allow insurers to provide incentives to policy holders (consumers) directly but the cost such inducements cannot be charged against the CTP business. As the Treasurer explains, an insurer can offer, for example, a discount to a policy holder who holds several policies with that insurer, but the costs of the discount cannot be a charge against the CTP business – a cost that would be borne by all Queensland motor vehicle owners through their CTP charge.<sup>25</sup>

Under the **proposed s 96(3)**, an inducement can be offered or given to the proposed policy holder to take out the insurer’s CTP insurance policy or to a policy holder to renew the policy provided that the insurer does not allow the cost of providing direct policy holder incentives to be charged against its CTP insurance policies or CTP business generally. This exception will not apply, however, if the policy holder or proposed policy holder is a motor vehicle dealer and the policy is for a vehicle to be sold in the ordinary course of business and would mean that the policy holder or potential policy holder will effectively direct CTP business to that insurer when the vehicle is sold (**proposed s 96(4)**).

Currently, s 97(1)-(3) provides that:

- a licensed insurer or broker, or other person acting for the insurer must not:
- discount, reduce, waive or defer payment of a CTP insurance policy premium or offer to do so, nor must such person give or offer to give a rebate on the premium;
- pay or subsidise (or offer to do so) any registration fee payable by someone who has selected, or proposes to select, the licensed insurer as his or her insurer under a CTP insurer policy;
- encourage another person to make a payment calculated to result in a reduced insurer's premium (an offence which applies whether the broker or other person is acting for the licensed insurer or not).

It is a defence if the reduced insurance premium is authorised under the Act (s 97(4)).

The maximum penalty for the above offences is a fine of \$30,000 and the court may order that the insurer's licence is withdrawn.

The [Bill](#) (in **cl 13**) proposes to amend **s 97** by inserting an additional provision (as a **new s 97(5)**), contravention of which attracts a fine of up to \$30,000 that a licensed insurer or other person acting for the insurer must not give, or offer to give, someone an inducement to enter into or renew an insurance policy, including a CTP insurance policy, with the insurer if the insurer intends to charge the cost of the inducement under the insurer's CTP policies or the insurer's CTP business generally. An example of the behaviour covered is given in the note to the proposed provision. This is where an insurer offers a discount to policy holders holding several policies with that insurer where one of the policies is a CTP policy. The discount is applied to a non-CTP policy. What is not permitted is for the cost of the discount to be held partly against the account for the CTP insurance policy. Another example is of an insurer offering to give a person a gift if he or she selects the insurer as the CTP insurer for the person's motor vehicle. The licensed insurer must not treat the cost of the gift as a cost of the insurer's CTP business.

The [Explanatory Notes](#) (p 14) comment that the new provision is intended to promote CTP insurance as a stand alone insurance product and encourage price competition.

### Declaration of Compliance

A new supervisory requirement for licensed insurers is sought to be included in the [Act](#) as a proposed **new s 72A** so that the MAIC can, by written notice, require the chief executive officer and/or another appropriate officer of a licensed insurer to give a declaration, as specified, to the MAIC. This new provision is intended to confirm a licensed insurer's compliance with the intended provisions banning commissions and inducements and charges of any allowable inducements against CTP business.

### TRANSITIONAL PROVISIONS

Transitional provisions are sought to be inserted by **cl 14** of the [Bill](#) (as a **new Part 7, Div 6**). The **proposed s 113** is intended to ensure that any arrangements, including contracts, entered into before 1 October 2010 (from when the premium savings are planned to be delivered and CTP price competition promoted) between an insurer and a third party are void and unenforceable<sup>26</sup> where a prohibited inducement (i.e. to direct CTP insurance business to the insurer banned by s 96(1)) is to be given on or after 1 October 2010; or a prohibited inducement has been given before that date for directing CTP insurance business on or after that date. Certain actions are specified by s 113(4) as being taken not to be in breach of the terminated arrangement.

In addition, a proposed **new s 114** will apply if, before 1 October 2010, a licensed insurer or other person acting for the insurer offers an inducement to enter into or renew an insurance policy that would be prohibited on or after 1 October 2010 if made on or after that date and the inducement was intended to be given on or after 1 October 2010 to the person. The effect of the intended provision is to terminate the arrangement relating to the offer of the inducement and make it void and unenforceable.

### RESPONSES TO PROPOSED CHANGES

At the time when the outcome of the abovementioned MAIC in-house review was announced by the Treasurer during the State Budget in June 2010, it was reported that there was general consensus in the insurance industry that the price ceiling for CTP premiums would be lowered (so that insurers could not set premiums above that ceiling) and this would be funded by lower insurer profits and lower third party commissions.<sup>27</sup> It was reported that Merrill Lynch analysts had understood that some insurers thought that the Government would move to nationalise the CTP scheme but no industry sources had known of any direct nationalisation proposal. A reference to such a move had been reportedly denied by the Treasurer's office.<sup>28</sup>

It was also reported that the Government's decision to cut \$24 from CTP premiums was within industry expectations but softer than the earlier fears that the Government would slice \$40 off each policy. However, given that a significant part of the \$24 reduction would come from banning commissions given to motor vehicle dealers and others, it was argued by the Motor Traders Association of Queensland that the loss of

commissions would eat into the margins of Queensland franchise dealers and that the commissions, which alienate some consumers, were just a 'small payment' for the work a dealer undertook in processing CTP when a vehicle was purchased. It was further reported that industry sources estimated that the ban could wipe around \$35m from dealer revenues each year. In addition, some insurer industry sources had claimed that while insurers would save by not paying commissions, there would be an estimated gap between this saving and the overall \$24 a policy cut, meaning a possible loss of \$20m to insurers.<sup>29</sup>

While it was reported that Suncorp, with the biggest Queensland market share, believed it was well positioned for any reforms to CTP, RACQ Insurance was said to have commented that any cut would endanger the CTP scheme which did not have the margins the Government believed.<sup>30</sup> It has been argued by insurance industry sources that the recent increase in premiums to the price ceiling reflected CTP's tight margins.<sup>31</sup>

## **LINKS TO FURTHER READING**

### **BILL AND ACCOMPANYING MATERIAL**

- [Motor Accident Insurance and Other Legislation Amendment Bill 2010 \(Qld\)](#); [Explanatory Notes](#); [Second Reading Speech](#) (pp 2517-2519)

### **ACT AMENDED (RELEVANT TO E-RESEARCH BRIEF)**

- [Motor Accident Insurance Act 1994 \(Qld\)](#)

### **MINISTERIAL MEDIA STATEMENTS**

- Hon Andrew Fraser MP, Treasurer and Minister for Employment and Economic Development: 25 March 2010, [8 June 2010](#); [6 August 2010](#)

### **HANSARD – ESTIMATES COMMITTEE**

- Hon Andrew Fraser MP, [Estimate Committee A – Treasury & Employment & Economic Development](#), *Queensland Parliamentary Debates*, 13 Jul 2010, p 56

### **DEPARTMENTAL WEBSITE**

- [Motor Accident Insurance Commission: \*Statistical Information – 1 July to 31 December 2009\*; \*Strategic Plan 2010-2015\*, \*Annual Report 2008-2009\*](#)

### **NEWSPAPER ARTICLES:**

- *Australian Financial Review*: 10 June 2010
- *Courier Mail*: 9 June 2010; 4 June 2010; 27 March 2010

## ENDNOTES

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- <sup>1</sup> Hon AP Fraser MP, [Second Reading Speech, Motor Accident Insurance and Other Legislation Amendment Bill 2010 \(Qld\)](#); *Queensland Parliamentary Debates*, 5 August 2010, pp 2517-2519, p 2517.
- <sup>2</sup> Hon AP Fraser MP, [Second Reading Speech](#), p 2517.
- <sup>3</sup> Hon Andrew Fraser MP, [Estimate Committee A – Treasury & Employment & Economic Development](#), *Queensland Parliamentary Debates*, 13 Jul 2010, p 56.
- <sup>4</sup> However, the obligation does not apply to a vehicle of a class exempted by Regulation or to a vehicle to which a gratuitous CTP insurance policy relates (see s 20A). It is also an offence to make a misstatement or misrepresentation that results in the vehicle being insured under the wrong class so a lesser premium is payable (s 25).
- <sup>5</sup> Part 5, Div 3 allows the MAIC to appoint an investigator if it considers it desirable in the public interest, to investigate the business affairs of a licensed insurer.
- <sup>6</sup> There are currently 24 vehicle classes (e.g. cars and station wagons (class 1); trucks etc. (class 6)).
- <sup>7</sup> Which levied amount goes into the Motor Accident Insurance Fund (s 28 of the Act).
- <sup>8</sup> See also, MAIC website, [Current Premium Rates](#). Under s 14 of the Act, the MAIC must make recommendations to the Minister, at least 4 months before the end of the financial year, on the amount of these levies and fee for the next financial year. Any unexpected rise in the Nominal Defendant's liabilities may require a special increase in the Nominal Defendant levy before the end of the financial year. Levies and the administration fee are fixed by a Regulation for each financial year (s 14A).
- <sup>9</sup> MAIC, [Statistical Information – 1 July to 31 December 2009](#), p 4.
- <sup>10</sup> Liam Walsh, 'State Budget: CTP cut ensures brakes on dealers', *Courier Mail*, 9 June 2010, p 24.
- <sup>11</sup> Interest earned on the investment of the Motor Accident Insurance Fund and revenue from fines imposed for offences under the Act, together with a small surplus from the statutory levy collected to fund the operation of the MAIC, fund the MAIC's [research initiatives](#): see MAIC website, [About MAIC](#).
- <sup>12</sup> There is a lag in data due to the 'long tail' nature of CTP claims: MAIC, [Statistical Information](#), p 5.
- <sup>13</sup> The MAIC's [Statistical Information](#) uses the Abbreviated Injury Scale, 2005 edition, which is an anatomically-based global severity scoring system that classifies each injury by body region according to its relative importance on a 6 point ordinal scale (representing 'threat to life' associated with each injury).
- <sup>14</sup> There is a lag in recent years' data due to the 'long tail' nature of CTP claims.
- <sup>15</sup> [Report of the Review Committee of the Queensland Compulsory Third Party Insurance Scheme](#), Terms of Reference, November 1999, p 4.
- <sup>16</sup> MAIC website, [CTP Scheme Description](#).
- <sup>17</sup> MAIC, [Statistical Information – 1 July to 31 December 2009](#), p 2.
- <sup>18</sup> The Bill also proposes amendments to the [Queensland Competition Authority Act 1997 \(Qld\)](#) and the [Transport Infrastructure Act 1994 \(Qld\)](#). Some minor technical amendments to the Act are proposed to ensure certain definitions etc. are aligned with the [Transport Operations \(Road Use Management – Vehicle Registration\) Regulation 1999 \(Qld\)](#) and the [Transport Operations \(Road Use Management –](#)

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[Vehicle Standards and Safety\) Regulation 1999 \(Qld\)](#). An example is cl 7 amending s 23 to change the name of the 'certificate of roadworthiness' to 'inspection certificate'.

19 Hon Andrew Fraser MP, 'Government announces review into CTP scheme', [Media Statement](#), 25 March 2010.

20 A small amendment to **s 66(1)(a)** is proposed by the [Bill](#) (in **cl 8**). If the withdrawal or suspension is at an insurer's request, such request must be given in writing to the MAIC at least 3 months before the date the licence is to be withdrawn or suspended.

21 Hon Andrew Fraser MP, 'Government to cut CTP for motorists', [Media Statement](#), 6 August 2010.

22 See also, Hon AP Fraser MP, [Second Reading Speech](#), p 2517.

23 Under s 5 of the [Penalties and Sentences Act 1992 \(Qld\)](#), 1 penalty unit is \$100.

24 Hon Andrew Fraser MP, 'Government to cut CTP for motorists',

25 Hon AP Fraser MP, [Second Reading Speech](#), p 2518.

26 The arrangement is terminated and is void and unenforceable to the extent it provides for the prohibited inducement and for directing the CTP insurance business to the insurer in return for that inducement.

27 Liam Walsh, 'Insurers fear CTP squeeze', *Courier Mail*, 4 June 2010, p 43.

28 Liam Walsh, 'Insurers fear CTP squeeze'.

29 Liam Walsh, 'State Budget: CTP cut ensures brakes on dealers'.

30 Liam Walsh, 'State Budget: CTP cut ensures brakes on dealers'.

31 Liam Walsh, 'State Budget: CTP cut ensures brakes on dealers'.