

Monday March 21, 2016

Insurance Council welcomes New South Wales review of insurance law

The Insurance Council of Australia (ICA) has welcomed the New South Wales Government's decision to review Section 6 of the Law Reform (Miscellaneous Provisions) Act 1946.

In several submissions to the State Government, the ICA argued the law created uncertainty for insurers, businesses and consumers, and should be repealed.

The law was originally intended to protect third-party beneficiaries in situations where, even if they obtained a verdict against an insured wrongdoer, they may not be able to recover any money from the insured.

ICA CEO Rob Whelan said the comprehensive regulatory regime now in place to safeguard insurance policyholders meant the 70-year-old law was no longer necessary.

"The modern insurance industry is closely regulated by the Australian Securities and Investments Commission and the Australian Prudential Regulatory Authority, and consumers enjoy the protection of a number of federal, state and territory laws," Mr Whelan said.

"Reforms to the Insurance Contracts Amendment Act 2013 mean there are also strong protections for third-party beneficiaries, including the possibility that ASIC will act on their behalf.

"The law in its present form creates uncertainty over its impact on the ability of company directors and officers to access insurance policy funds for their legal defence."

Mr Whelan noted that repealing Section 6 had been supported by the NSW Court of Appeal, which observed in the matter of *Chubb v Moore*^[1] that "*Section 6 should be repealed altogether or completely redrafted in an intelligible form so as to achieve the objects for which it was enacted*".

-ENDS-

^[1] *Chubb Insurance Company of Australia Ltd v Moore* (2013) NSW CA 212
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