

12 August 2020

The Hon Ben Morton MP
Assistant Minister to the Prime Minister and Cabinet
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Minister,

MODERNISING AND DIGITISING COMPLIANCE REQUIREMENTS

The Insurance Council of Australia (ICA) supports the work by the Federal and State Governments to cut red tape by modernising communications and other business practices. As Governments have recognised, laws have not kept pace with the advances in digital technology, which has led to greater compliance costs and meant time and money lost for consumers.

COVID-19 has driven businesses and governments to adopt more flexible practices. For instance, temporary COVID-19 measures have allowed for the electronic signing and virtual witnessing of documents. These measures should be made permanent.

The necessity of adopting to the COVID-19 situation creates a prime opportunity for Governments to reassess current compliance requirements in order to create a more efficient and less costly regulatory environment for businesses and consumers. Modern communications technology means analogue requirements in law should be revisited.

Anything governments can do to create more permanent flexibility, taking advantage of modern technology to create a more digital environment, would help economic recovery by lowering costs and saving time for business and consumers.

We have listed measures at a State and Federal level which we believe can be adopted permanently in order to create greater flexibility and bring compliance requirements in line with current technologies. This is by no means an exhaustive list, and we encourage governments to be actively considering how legislation can be amended to make doing business easier.

Of particular interest to members is that the Insurance Contracts Act should be amended to allow for greater flexibility in the provision of disclosure documents via electronic means, on the same basis that is possible for other financial services providers.

We look forward to engaging the Commonwealth's Deregulation Taskforce and relevant State Government agencies as governments seek to ease the burden of doing business in order to aid with the economic recovery.

If you would like to discuss any of these matters further, please do not hesitate to contact John Anning, Head of Regulation Policy at 02 9253 5121 or janning@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
Executive Director & CEO

Examples of temporary measures adopted during COVID-19 that should be made permanent

<p>Queensland:</p>	<p>Under Schedule 1 of the <i>Electronic Transactions Act (Queensland) Act 2001 (Qld)</i> certain documents cannot be signed electronically. These included documents that needed to be: Filed with a Court or Tribunal, Served personally or by post. Authenticated, verified, or witnessed.</p> <p>The <i>COVID-19 Emergency Response Act 2020 (Qld)</i> gave the Queensland Government power to make regulations relating to the signing, witnessing, certification, and filing of documents (section 9).</p>
<p>Western Australia:</p>	<p>On 6 April 2020, WorkCover WA allowed for the lodging of complete MOA documents with the Director in PDF format via email for parties to a settlement via Memorandum of Agreement (MOA) pursuant to Section 76 of the <i>Workers' Compensation and Injury Management Act 1981</i>.</p>

Examples of current regulatory requirements that should be modernised

<p>Commonwealth: Electronic communication with customers</p>	<p>The Insurance Contracts Act should be amended to facilitate the electronic disclosure of insurance documents. Currently, certain documents require specific consent to be sent via electronic communications.</p> <p>Due to ASIC not being able to give relief under the Insurance Contracts Act, insurers are unable to communicate electronically with their policyholders on the same basis as other financial service providers that are regulated solely by the Corporations Act. This would help to make the disclosure of information more consumer centric.</p>
<p>Consistent national approach to executing Deeds</p>	<p>Executing Deeds (i.e. Deeds of Settlement) is not consistent between states and requires a wet signature in NSW (but can witnessed electronically).</p>

<p>Consistent national approach to electronic signatures for Workers Compensation and CTP claims.</p>	<p>There should be the use of electronic signatures and submission on documents in Workers Compensation and CTP claims nationally. This would enable exchange of documents in various situations including claims settlement to be faster and more efficient and have less of an impact on injured people.</p>
<p>Hard Copy postage of Tax File Number Declaration</p>	<p>There should be a way for a claimant to easily submit their TFN to the ATO and share the details with insurers for entering in their system.</p> <p>Injured people can submit the declaration electronically via their MyGov account but there is no way for them to share with insurers the details of that declaration so they can record the same in their system.</p> <p>Ideally there would be a way for a claimant to send insurers a TFN Declaration that insurers could then electronically sign and email or upload the doc. Even a portal to submit the info would be good. This is preferable to exchanging paper documents.</p>
<p>NSW and SA:</p> <p>Compulsory Third Party DRIVES searches (conducted when a new claim is lodged).</p>	<p>CTP DRIVES searches according to the regulator's guidelines are to be undertaken at the office. There should be the ability to undertake DRIVES searches while working from home on an insurer device.</p>
<p>Western Australia: Formal document signing and electronic claim form submission</p> <p>Workers' Compensation and Injury Management Act 1981 s178, s179 and Workers' Compensation & Injury Management Regulations 6AA f</p>	<p>Document submission should be completed online with electronic signature.</p>
<p>Western Australia: Submission to Workcover WA Regulator hard copies of Injured Worker Claim Forms</p>	<p>Submission of the injured workers claim forms should be electronic.</p>

Workers' Compensation and Injury Management Act 1981 s103A	
<p>Western Australia: Form 15B accessed via online portal</p> <p>Workers' Compensation and Injury Management Regulations 1981 – r12(5), and the Act s76(9)</p>	Move the Form 15B onto the online portal for insurers, with a separate permission to access than the current standard/Conciliation and Arbitration Service users.
<p>Removal of the requirement to notify the Director when pending a claim</p> <p>Workers' Compensation and Injury Management Act 1981 ss 57A(3)(c) and 57A(4)</p>	WCWA will receive data from our system regarding claims liability status as part of our normal reporting requirements
<p>Western Australia: Removal of the requirement for an employer to notify WCWA of their intention to dismiss a worker (or, alternatively, allowing electronic submission of the document)</p> <p>Workers' Compensation and Injury Management Act 1981 s84AB</p>	The current wording does not take into account fixed period employment (such as contract work) or other exceptional circumstances (such as change in ownership or economic uncertainty/change experienced with CV19). Further, it does not follow current industrial relation laws
<p>Western Australia: Removal of the requirement to notify WCWA of a policy that has lapsed</p> <p>Workers' Compensation and Injury Management Act 1981 s160(3a)</p>	Online verification appropriate.