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Insurance Law e-alert

Shake up on the cards for asbestos victim's compensation

The Attorney General is considering adopting recommendations from the NSW Law Reform Commission in relation to dust disease victim's compensation.

The Law Reform Commission inquired into the legislation governing the provision of damages including the Compensation to Relatives Act 1897, Law Reform (Miscellaneous Provisions) Act 1944, Dust Diseases Tribunal Act 1989 and the Civil Liability Act 2002.

In the report, Compensation to relatives, published in October 2011 the commission recommended the abolition of the Strikwerda principle which requires victims of dust diseases to have commenced proceedings in the Dust Diseases Tribunal prior to death, to allow family members to recover damages for non-economic loss. The Commission also recommends modification of the existing law in NSW to allow recovery of damages for non-economic loss in dust diseases cases which are commenced either before or up to 12 months after a victim's death.

This reform will bring NSW law in line with other states including Victoria, South Australia and Western Australia.

The proposed changes have the potential to increase the cost and number of claims. The NSW Law Reform Commission believes that these changes will not have a significant impact on the costs of claims however only time will tell whether they are in fact correct.

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