

# A Brief Snapshot of the Personal Injury Commission of New South Wales

By Judge Gerard Phillips



The Personal Injury Commission of New South Wales commenced operation on 1 March 2021. It is a combination of the Workers Compensation Commission and the Dispute Resolution Service which previously sat within the State Insurance and Regulatory Authority. The Dispute Resolution Service was responsible for resolving disputes arising out of motor vehicle accidents in New South Wales.

The new combined tribunal is in many respects a first attempt to harmonise dispute resolution across different insurance schemes. The approach the new

Commission has taken to its rules and procedural directions has been, where possible, to harmonise the approach across both schemes while recognising their differences. For example, in the Motor Accidents Division there is a 'not ready list' for cases where, for example, a plaintiff has undergone surgery and the condition has not stabilised such that it is capable of ascertainment. This list though is not a repository for cases which have not been prepared.

As is to be expected, the new Commission is not bound by the Rules of Evidence, and is to act according to equity, good



conscience, and the substantial merits of the case without regard to technicalities or legal forms.<sup>1</sup>

Parties to proceedings are entitled to be represented by a lawyer except in very limited circumstances.<sup>2</sup>

Finally, the passage of the Act through the Parliament has not changed any of the underlying benefits or methodologies of assessing claims. One positive change is to the composition of medical appeal panels in the motor accidents jurisdiction. While previously, these panels were comprised of three medical specialists, the Act has changed this to substitute one of the

medical specialists for one of the legally qualified members of the new tribunal. This is a welcome and overdue reform and will assist the new Commission in meeting the objects of the Act which require decisions to be fair, consistent, and of high quality. **BN**

#### ENDNOTES

- 1 Section 43 of the *Personal Injury Commission Act 2020*.
- 2 See section 48(3) and (4) of the *Personal Injury Commission Act 2020*.