

Insurance and the law interact in multiple ways. This edition of *Precedent* contains articles on topics relating to some of these interactions. One interaction between insurance and the law concerns their roles in determining where loss for injury falls. This interaction is an aspect of a current inquiry by the Productivity Commission on disability care and support. The Productivity Commission published a draft report earlier this year and is expected to publish a final report shortly. One aspect of the inquiry is the extent to which care for injured or disabled people should be funded by a no-fault statutory scheme or by the common law, which is fault-based. Nick Parmeter from the Law Council of Australia, in an article titled 'The benefits of common law within statutory no-fault compensation schemes', proposes that no-fault statutory insurance and fault-based common law perform two separate and complementary functions, both of which should be embraced by policymakers.

A second interaction between insurance and the law involves legislation and common law principles that permit a person who is not a party to an insurance contract to obtain benefit from the contract. Greg Pynt, in an article titled 'Insurance contracts taken out by someone else: Who can sue and who can access?', provides a comprehensive overview of these matters. Ray Giblett and Greg Moss also consider this issue in their article titled 'Courts lower the bar on insurance claims'.

A third interaction concerns statutes that regulate contracts of insurance and the relationship between the insurer and the insured, and case law on the interpretation of contracts of insurance. Gino Andrieri's article on 'Flood insurance: Reviewing an insurer's decision' covers these issues.

Where a person suffers injury as a result of the act or omission of another, a fourth interaction between insurance and the law concerns the tension between a policy of open disclosure and apology and the risk of litigation. This matter is considered by Donna Piper in her article titled 'The insurance implications of open disclosure in healthcare'.

Other interactions between insurance and the law are considered in an article by Robert Guthrie and Robert Aurbach concerning self-insurance by employers, insolvency and worker protection; an article by Michael Duffy that considers the circumstances in which defendants in litigation can be forced to disclose their insurance details; an article by Philippa Seagrave from the Professional Standards Councils on professional standards legislation in Australia; and an article by Emma Reilly concerning professional indemnity insurance and claims against insurance brokers. ■

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