

Motor Vehicle Insurance

Terms of Reference

In 1968 the Committee was asked to consider the law and practice relating to motor vehicle insurance and whether any alteration to the law was desirable.

Background of Reference

The reference arose out of a series of complaints by insured motorists over a period of years. Research conducted by the Committee revealed that the majority of complaints were in regard to:

- (a) the unfairness to the insured of the use of compulsory arbitration as a means of settling disputes, particularly where complainants are obliged to bear their own costs regardless of the outcome of the dispute;
- (b) the unfairness of certain conditions, warranties and exclusions forming part of most policies and the harshness of insurance companies in enforcing their strict legal rights; and
- (c) the unnecessarily small size of print in some policies.

In May 1972 the Committee published a working paper that discussed these issues and advanced some preliminary proposals for reform.

Nature and Extent of Consultation

The working paper was forwarded for comment to vehicle insurers, courts, the Crown Law Department and the law reform community. A notice was also placed in *The West Australian* inviting public submissions. Comments were received from a number of independent legal practitioners, the Law Society and several insurance agencies. The Committee took all comments into consideration and issued its final report in December 1972.¹

Recommendations

The Committee recommended that legislation be enacted:

- To ensure that applicants for a policy are sufficiently made aware of the type of policy offered (that is: agreed value, market value or indemnity cover) and are given adequate information as to its terms.
- To restrict the circumstances under which an insurer can avoid a contract of insurance.
- To require insurers to enhance accessibility of policies and provide the insured with a copy of the proposal which makes up the full legal contract.

The Committee's recommendations follow the reforms proposed in the earlier working paper, which met with general approval from all parties including the State Government Insurance Office and other independent vehicle insurers. A comprehensive outline of the Committee's recommendations may be found at pages 14–16 of the final report.

Legislative or Other Action Undertaken

No legislative action has been taken to implement the Committee's recommendations; however, the State Government Insurance Office moved quickly to implement the major recommendations administratively.

¹ Law Reform Committee of Western Australia, *Motor Vehicle Insurance*, Project No 10 (1972).

Currency of Recommendations

The recommendations remain current but should be considered in light of relevant developments within the motor vehicle insurance industry, described below.

Action Required

As a result of internal administrative action by certain vehicle insurers and recent advancements forced upon the industry by consumer groups, legislative implementation of the Committee's recommendations would predominantly consolidate current practices in the motor vehicle insurance industry but also provide legislative certainty and formal avenues of appeal.

Priority — Low

Although the motor vehicle insurance industry is still without legislative intervention, it is now common practice for insurers to take extensive measures to ensure that applicants for a policy sufficiently comprehend and have access to its terms. Further, the circumstances in which an insurer can avoid a contract of insurance have also, in practice, been restricted and clarified since the release of the Committee's report.