

Insurance Council of New Zealand

P.O. Box 474 Wellington 6140

Level 2, 139 The Terrace

Tel 64 4 472 5230

email icnz@icnz.org.nz

Fax 64 4 473 3011

www.icnz.org.nz

16 February 2018

Andy Gardner
Committee Secretariat
Justice Select Committee
Parliament Buildings
Wellington

Emailed to: justice@parliament.govt.nz

Dear Committee Members,

RE: ICNZ submission on the Tribunals Powers and Procedures Legislation Bill 2017

Thank you for the opportunity to submit on this Bill. The Insurance Council of New Zealand (ICNZ) represents 28 general insurers, reinsurers and reinsurance brokers, who insure about 95 percent of the New Zealand general insurance market, including over half a trillion dollars' worth of New Zealand property and liabilities.

ICNZ's submission is focused on the proposed amendments to the *Disputes Tribunal Act 1988* ("the Act") found in clauses 36-80 of the Bill.

We wish to appear before the Committee to speak to our submission.

Please contact John Lucas (john@icnz.org.nz or 04 495 8006) if you have any questions on our submission or require further information.

Our members regularly use the services of the Tribunal to resolve claims that are primarily motor claims when fault or repair costs are disputed. ICNZ understands that about 50% of all Tribunal cases heard are filed by insurance customers for motor claims.

Submission

Clause 46 - Section 10 of the Act

ICNZ supports the Bill's proposed amendment to section 10 of the Act which increases the Jurisdiction limit from \$15,000 to \$30,000. Many motor claims have ended up exceeding the current \$15,000 jurisdiction limit and this proposed new limit of \$30,000 makes up for inflation and the higher motor vehicle repair costs.

Clause 51 - Section 19 of the Act

ICNZ supports the revised section 19 of the Act the Bill which sets out the reasons why the Tribunal may strike out a proceeding.

Clause 53 - Section 20A of the Act

ICNZ supports the inclusion of suppression orders under new section 20A. Flexibility such as that afforded by the new section is important where safety and security become concerns.

Clause 54 - Section 21 of the Act

ICNZ supports the simplification of this section and the certainty it provides for the recording of the reasons for Referee decisions.

Clause 60 - Section 38 of the Act

ICNZ believes that the current rules around parties able to be represented at a Tribunal hearing are potentially restrictive and unclear. The Bill does not address this issue.

An insurer can attend Tribunal hearings along with their customer who may be either the respondent or the applicant. Insurers business models are however changing, and it is now common for insurance to be transacted and claims managed by the insurers authorised agents whom are underwriting and claims management organisations contracted by the insurer to accept business and settle claims on behalf of the insurer.

Section 38 does not currently allow the insurers authorised agents to be represented at a Disputes Tribunal hearing as the authorised agent does not hold a majority interest in the claim. The insurer has the majority interest in the claim.

The changing business models, will mean that the insurer will not have any information about the claim. It will be the insurers authorised agent who holds information about the claim. The insurer may not even be in New Zealand and will rely on its New Zealand authorised agents for all claims settlements.

In light of this changing business model, ICNZ considers Section 83 should be amended to expressly allow an insurer to be represented by its authorised agent.

ICNZ recommends that section 38(3)(b) be amended to read as follows or similar “***a corporation or an unincorporated body of persons, if the representative is an officer or employee or an authorised agent or a member of the corporation or body or holds, directly or indirectly, at least a 50% interest in it:***

Clause 61 - Section 42A of the Act

ICNZ supports the inclusion of new section 42A to govern the use of electronic facilities to hear matters. The use of telephone and, or audio-visual links to assist with hearings will make the Tribunal more accessible, reduce travel costs for the parties involved and allow for the expeditious resolution of disputes.

Section 56A of the Act

ICNZ supports the inclusion of new section 56A that will provide useful information to consumers and potential users of the tribunal.

Yours Sincerely

Tim Grafton
Chief Executive

Handwritten signature of Tim Grafton in blue ink, written in a cursive style.

John Lucas
Insurance Manager

Handwritten signature of John Lucas in blue ink, written in a cursive style.