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Articles

Double insurance in statutory lines: Determining contribution claims between workers' compensation and compulsory third-party motor insurers

— *Dr Robin Bowley*

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Double insurance refers to a situation where two insurers are liable to indemnify a common insured in respect of the same liability. In such circumstances, the indemnifying insurer may be entitled to seek contribution from the other insurer in respect of its payments to the insured. This article examines the reasoning of Australian courts in determining claims for contribution between workers compensation and compulsory third-party motor insurers. It discusses how the courts have approached important practical questions such as the relevant date for determining an insurer's right to seek contribution; when there will be a common insured policyholder that is indemnified by two insurers; when an insurer will have a 'liability' for which it may seek contribution; the effect of an insurer's settlement of an underlying claim on its entitlement to seek contribution; and whether a claimant's pleading of their case should be determinative of the insurer's entitlement to seek contribution.

'Clean slate' schemes in New Zealand and the United Kingdom in the insurance context and the need and opportunity for reform of the former

— *Simon Connell*

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This article argues that the way New Zealand's 'clean slate' scheme operates in the insurance context requires reform. The scheme is effective only in relation to interactions between an insurer and a person with a historical conviction. It does not apply to an insurer's interactions with anyone else, or have any effect if an insurer becomes aware of a historical conviction. The scheme was introduced to diminish the effect of historical convictions, including that they can be an obstacle to obtaining insurance. However, the limited application of the scheme undermines that policy goal. The New Zealand scheme is compared with that of the United Kingdom, which has essentially the same basic policy goal but does not feature these problems. New Zealand's insurance law is currently under review, which provides an opportunity to address these specific problems about historical convictions in the insurance context. Australia has a federal scheme which is closer to that of the United Kingdom, and in addition, each State and Territory has a domestic scheme.

Policy deductibles and the impact of aggregation in first party insurance

— *Patrick Mead*

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A peril in first-party insurance destroys or diminishes the insured's person, property or interest or deprives the insured of its use. That an insured should bear a specified part of each loss by way of a

deductible or excess provision is a familiar feature of insurance policies which provide cover of this nature. The purpose of an aggregation provision is to avoid serious disadvantage to the insured where several incidents of damage all flow from one underlying cause. The choice of language used to express the necessary unifying factor is of critical importance.

Case Note

Up in flames, or just smoke and mirrors? A case for policy rectification and a timely caution for accuracy: *George on High Ltd v Alan Boswell Insurance Brokers Ltd* [2023] EWHC 1963 (Comm)

— *William Hettrick and Fred Hawke*