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Hi Hesketh Henry Insurance Team,

Welcome to our Winter Insurance Update.

In this e-Zine:

**Events:** Our [seminar series](#) continues and we look forward to seeing you at the [Insurance Network Quiz](#).

**Developments:** The [review of New Zealand's insurance laws](#), [changes to the EOC Act](#) and the new [Tribunal](#) for earthquake claims.

**Recent Cases:** Hesketh Henry recently appeared in the [Court of Appeal](#).

## EVENTS

**7 August 2019** – Lunchtime CLE: Insurance Contracts Reform. This lunchtime seminar will be hosted by Stephanie Corban, James Morrison and Anna Cho at our offices. If you are interested in attending please contact Tamar Hart ([tamar.hart@heskethhenry.co.nz](mailto:tamar.hart@heskethhenry.co.nz)). Lunch is provided.

**8 August 2019** – The Insurance Network Quiz, Hesketh Henry will be continuing our sponsorship of this event. We look forward to challenging you with our trivia knowledge.

## LEGAL DEVELOPMENTS

### Progress of Insurance Law Reform

The Government's review of New Zealand's insurance contract law by MBIE continues. Submissions on the Insurance Contract Law: Options Paper close this Friday, 28 June 2019.

The Options Paper follows the issues paper published by MBIE in May 2018 and is part of the Government's plan to modernise and consolidate insurance law into one act. The key issues addressed in the Options Paper include: disclosure obligations for insureds;

- regulation of insurers' conduct;
- insurance exemptions from the Fair Trading Act 1986;
- consumers' ability to find and compare prices and policies; and
- reliance on exclusion clauses that do not cause the loss.

It is anticipated that draft legislation will be introduced to Parliament in mid-2020. More information can be found on the MBIE website [here](#).

We note submissions on MBIE's Options Paper on the Conduct of Financial Institutions closed earlier this month.

### EQC Act – Changes come into effect July 2019

Part two of the Earthquake Commission Amendment Act 2019 comes into effect on 1 July 2019. From this date:

- The cap on EQC residential building cover is increasing to \$150,000 (+GST); and
- EQC will no longer offer household contents cover.

From 1 July 2019, the changes will apply to policy holders from the anniversary date of their existing policy or when they take out a new policy.

The changes follow those made in February 2019 which increased the timeframe for lodging an EQC claim and broadened EQC's ability to share property-related information.

### Canterbury Earthquakes Insurance Tribunal

The Canterbury Earthquakes Insurance Tribunal Act was passed on 31 May 2019 and the Canterbury Earthquakes Insurance Tribunal commenced on 10 June 2019. The establishment of the Tribunal fulfils a commitment in the Labour Party's 2017 election manifesto to provide an alternative pathway for homeowners to resolve outstanding earthquake-related insurance claims. The set up and processes of the Tribunal have been influenced by the

## Recent Cases

Hesketh Henry Senior Associate Anna Barnett recently appeared in the Court of Appeal, as part of a team led by Mike Ring QC, in respect of an appeal against a 2018 High Court decision that held that at-fault drivers were liable to not-at-fault owners for the price of the replacement vehicle charged by Right2Drive. Right2Drive's business model is that it provides not-at-fault owners with replacement vehicles for the period that their damaged vehicle is being repaired; however instead of charging the not-at-fault owners the cost of hire, Right2Drive pursues the at-fault drivers (or, in reality, their insurers) to recover its charges. We argued that the not-at-fault owners had not suffered any real financial loss or liability in respect of the replacement vehicle, and therefore had not suffered a compensatable loss and, even if they had, the not-at-fault owners had failed to reasonably mitigate their loss. A decision from the Court of Appeal is expected in the latter half of the year.



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