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Department: Finance
Asked by: Brendan Smith T.D.

QUESTION

To ask the Minister for Finance when further measures as proposed by the Cost of Insurance Working Group will be implemented due to the widespread concerns across sectors in relation to the prohibitive cost of insurance; and if he will make a statement on the matter.

REPLY

At the outset, as the Deputy is aware neither I, nor the Central Bank of Ireland, can interfere in the provision or pricing of insurance products, as these matters are of a commercial nature, and are determined by insurance companies based on an assessment of the risks they are willing to accept. This position is reinforced by the EU framework for insurance, which expressly prohibits Member States from adopting rules, which require insurance companies to obtain prior approval of the pricing or terms and conditions of insurance products. Consequently, I am not in a position to direct insurance companies as to the price or the level of cover to be provided either to consumers or to businesses. A further constraint is the fact that for constitutional reasons, I cannot direct the courts as to the award levels that should be applied. In summary, therefore there is unfortunately no quick fix solution to this matter.

Notwithstanding the above, I wish to emphasise however that the cost of insurance remains a priority issue for the Government. The Cost of Insurance Working Group (CIWG), which was established in July 2016, and which produced two reports, is continuing to work to implement the recommendations of the *Cost of Motor Insurance Report* and the *Cost of Employer and Public Liability Insurance Report*. Its most recent Progress Update, the Ninth, was published in July 2019 and shows that the vast majority of recommendations and actions due by Q2 2019 have been completed. To that end, the key achievements to date from the two reports include the following:

- The establishment of the Personal Injuries Commission and the publication of its two reports, which included a benchmarking of award levels between Ireland and other jurisdictions for the first time. This showed that award levels for soft tissue injuries in Ireland were 4.4 times higher than in England and Wales;
- The enactment of the *Judicial Council Act 2019*;
- The commencement and prioritisation by the Law Reform Commission (LRC) of its work to undertake a detailed analysis of the possibility of developing constitutionally sound legislation to delimit or cap the amounts of damages which a court may award in respect of some or all categories of personal injuries, as part of its Fifth Programme

of Law Reform. It is expected that the LRC will launch a public consultation into the matter shortly;

- The establishment of the National Claims Information Database in the Central Bank of Ireland (CBI) to increase transparency around the future cost of private motor insurance. The CBI is due to make its first report by the end of 2019;
- Reforms to the Personal Injuries Assessment Board through the *Personal Injuries Assessment Board (Amendment) Act 2019* to strengthen the powers of PIAB around compliance with its procedures;
- Commencement of the amendments to Sections 8 and 14 of the *Civil Liability and Courts Act 2004* to align the timeframes by which claims should be notified to businesses with GDPR time limits on the keeping of CCTV footage to make it easier for businesses and insurers to challenge cases where fraud or exaggeration is suspected;
- The reform of the Insurance Compensation Fund to provide certainty to policyholders and insurers, resulting from the failure of Setanta Insurance; and,
- Various reforms of how fraud is reported to and dealt with by An Garda Síochána, including increased co-ordination with the insurance industry, as well as the recent decision by the Garda Commissioner to develop a divisional focus on insurance fraud which will be guided by the Garda National Economic Crime Bureau (GNECB) which will also train Gardaí all over the country on investigating insurance fraud, and the recent success under *Operation Coatee*, which targets insurance-related criminality.

I believe that these reforms are having a significant impact with regard to private motor insurance (CSO figures from August 2019 show that the price of motor insurance is now 24% lower than the July 2016 peak). The Government is determined to continue working to ensure that these positive pricing trends can be extended to other forms of insurance, particularly those relevant to businesses.

Going forward, some actions which are due in the coming months include the following:

- The establishment of the Judicial Council and the creation of a Personal Injuries Guidelines Committee whose purpose will be to create new guidelines to replace the Book of Quantum;
- The CSO is shortly to make a recommendation related to the feasibility of establishing a price register for insurance costs to businesses;
- The CBI will make a recommendation to me before the end of the year regarding potentially expanding the scope of the National Claims Information Database to include employer and public liability insurance;
- The private member's *Consumer Insurance Contracts Bill* is scheduled to progress through the Oireachtas. The Government proposed committee stage amendments, which, inter alia, included requirements for insurers to inform policy holders, including small businesses, in circumstances where a claim has been made against them;
- Work is continuing on the establishment of a fraud database. However, significant data protection concerns need to be addressed before other issues (such as the governance or location of such a database) can be decided upon; and,

- The CIWG is waiting draft Heads from the Department of Justice in relation to Pre-Action Protocols, which have been shown to reduce legal costs in relation to personal injury claims in the UK.

I believe it is important to emphasise that the single most essential challenge which must be overcome if there is to be a sustainable reduction in insurance costs particularly for small businesses is to bring the levels of personal injury damages awarded in this country more in line with those awarded in other jurisdictions. In this regard, the work of the soon to be created Personal Injuries Guidelines Committee will be essential in achieving that objective. As the Deputy will be aware, this is not an area that the Government can intervene in, however it is hoped that the Judiciary recognise the importance of this work and prioritise it accordingly.

In addition and in light of all of the reforms that have taken place or are soon to take place, my colleague, Minister of State D'Arcy, has been engaging with insurers in order to seek a commitment that they will reduce premiums and widen their risk appetite to reflect savings made or potential savings in the coming years, in particular if there is a recalibration of award levels downwards. In this regard, I am encouraged by the comments made by a number of insurers at the Finance, Public Expenditure and Reform and Taoiseach Oireachtas Committee in July about the passing on of savings arising from a recalibration of award levels downwards.

In conclusion, I am hopeful that the cumulative effects of the completion of the two Reports' recommendations including a reduction in award levels will lead to reductions in pricing in particular for small businesses and a more competitive insurance market.