

2. Implementation of the Panel's Recommendations

2.1 The Panel has interpreted its task as being to suggest a package of legislative measures which will further the objectives expressed and implied in the Terms of Reference. That said, the Panel's recommendations are not so tightly integrated that they must stand or fall in their entirety. Within limits, it would be possible for some elements of the package to be accepted and others to be rejected without seriously undermining the value of the exercise. The Panel's recommendations should be incorporated (in suitably drafted form) in a single statute that might be called the *Civil Liability (Personal Injuries and Death) Act*.

Recommendation 1

The Panel's recommendations should be incorporated (in suitably drafted form) in a single statute (that might be styled the *Civil Liability (Personal Injuries and Death) Act* ('the Proposed Act')) to be enacted in each jurisdiction.

Overarching recommendation

2.2 For reasons explained earlier (see paragraphs 1.8-1.9) the Panel's aim in making recommendations has been to provide the basis for the drafting of model statutory provisions that could be adopted in any and every Australian jurisdiction (subject, of course, to any necessary consequential amendments of existing law in the particular jurisdiction). In some cases such provisions would achieve uniformity and in other cases consistency.

2.3 We would reiterate (see paragraph 1.28) that any statute incorporating any or all of our recommendations should be expressed to apply (in the absence of express provision to the contrary) to any claim for damages for personal injuries or death resulting from negligence, regardless of whether the claim is brought in tort, contract, under a statute or any other cause of action. Here, and throughout our reports, we use the term 'negligence' to mean 'failure to exercise reasonable care and skill'. We use the term 'personal injury' to include (a) any disease, (b) any impairment of a person's physical or mental condition, and (c) pre-natal injury.

Recommendation 2

The Proposed Act should be expressed to apply (in the absence of express provision to the contrary) to any claim for damages for personal injury or death resulting from negligence regardless of whether the claim is brought in tort, contract, under a statute or any other cause of action.