



New South Wales

Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Regulation 2008

under the

Motor Accidents Compensation Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Accidents Compensation Act 1999*.

JOSEPH TRIPODI, M.P.,
Minister for Finance

Explanatory note

The object of this Regulation is to make amendments to the *Motor Accidents Compensation Regulation 2005* relating to claims procedures and assessment, dispute resolution and medical assessment as a consequence of the *Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007*.

This Regulation is made under the *Motor Accidents Compensation Act 1999*, including section 228 (the general regulation-making power) and the sections of the Act referred to in the Regulation.

2008 No 435

Clause 1 Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Regulation 2008

Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Regulation 2008

under the

Motor Accidents Compensation Act 1999

1 Name of Regulation

This Regulation is the *Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Regulation 2008*.

2 Commencement

This Regulation commences on 1 October 2008.

3 Amendment of Motor Accidents Compensation Regulation 2005

The *Motor Accidents Compensation Regulation 2005* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 7 Costs not regulated by this Part

Omit “medical examinations,” from clause 7 (g).

[2] Part 3, Divisions 1A and 1B

Insert after Division 1:

Division 1A Recovery of certain medical assessment costs

7A Non-attendance or cancellation of appointment

If the Authority schedules an appointment for a medical assessment under Part 3.4 of the Act and the claimant, without reasonable excuse:

- (a) fails to attend the appointment, or
- (b) cancels the appointment within 72 hours of the scheduled time,

the Authority may recover from the claimant all or part of the costs reasonably incurred by the Authority as a consequence of the non-attendance or cancellation.

Division 1B Travel costs

7B Private motor vehicle travel expenses incurred by injured persons

- (1) For the purposes of sections 64 (5), 84 (6) and 86 (5) of the Act, the cost of travel by a private motor vehicle for the purposes of:
 - (a) attending a medical assessment under Part 3.4 of the Act, or
 - (b) obtaining rehabilitation services under Part 4.3 of the Act, or
 - (c) attending a medical examination or rehabilitation assessment under Part 4.3 of the Act,is to be calculated at the rate of \$0.55 per kilometre.
- (2) This clause extends to claims pending on the commencement of this clause.

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Schedule 1 Amendments

[3] Part 3B

Insert after Part 3A:

Part 3B Provisions consequent on enactment of Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007

16D Definition

In this Part:

the 2007 amending Act means the *Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007*.

16E Application of certain amendments to existing claims

The amendments to sections 96 (1) (d) and 123 of the Act by the 2007 amending Act extend to claims pending on the commencement of those amendments.

Note. The amendments to sections 96 (1) (d) and 123 of the Act also extend to claims made after the commencement of those amendments even if the motor accident concerned occurred before the commencement—see Part 6 of Schedule 5 to the Act.

16F Damages in respect of motor accidents

The amendment to section 122 of the Act by the 2007 amending Act extends to:

- (a) claims made after the commencement of the amendment even if the motor accident concerned occurred before that commencement, and
- (b) claims pending on the commencement of the amendment.

16G Medical assessment

The amendment to section 132 of the Act by the 2007 amending Act extends to a matter referred for assessment under Part 3.4 of the Act after the commencement of the amendment even if the motor accident concerned occurred before that commencement.

16H Principal Claims Assessor

- (1) The person designated as Principal Claims Assessor under section 99 (3) of the Act and holding office as such immediately before the repeal of that subsection by the 2007 amending Act is

taken to hold office as Principal Claims Assessor under section 99A of the Act (as inserted by the 2007 amending Act) and may continue to exercise all of the functions of Principal Claims Assessor until such time as the Minister appoints a person under section 99A of the Act.

- (2) The person appointed, or taken to have been appointed, as Principal Claims Assessor may exercise the functions of Principal Claims Assessor in respect of any claim whether it was referred for assessment under Part 4.4 of the Act before or after the commencement of this clause.

[4] Clause 17A

Insert after clause 17:

17A Time for payment by insurer of assessed amount of damages

- (1) For the purposes of section 95 (2A) of the Act, an insurer must pay an assessed amount of damages to the claimant concerned within 20 business days of the claimant's communication of acceptance of the assessment.
- (2) Despite subclause (1), if an insurer is required by law to make a deduction from the assessed amount of damages payable to the claimant, the insurer must:
- (a) notify the person to whom the deduction is payable, and
 - (b) request advice as to the amount of the deduction that is required from the person to whom the deduction is payable within 10 business days of the claimant's communication of acceptance of the assessment, and
 - (c) on receipt of that advice, pay the balance of the assessed amount of damages to the claimant within 20 business days of the date of the advice or, if more than one such person exists, within 20 business days of the receipt of all such advice relating to the assessed amount of damages.
- (3) Interest is payable by the insurer on so much of the assessed amount of damages as remains unpaid after the end of the relevant period for payment of the assessed amount of damages. The rate of any such interest is three-quarters of the rate prescribed for the purposes of section 101 of the *Civil Procedure Act 2005*.