
MOTOR ACCIDENTS (LIABILITIES AND COMPENSATION) ACT (No. 3) 1977

ANALYSIS

- | | |
|---|---|
| <ol style="list-style-type: none">1. Short title and citation.2. Interpretation.3. Secretary and staff of the Board, &c.4. The Premiums Board.5. The Motor Accidents Compensation Tribunal.6. General liability of Board in respect of motor accidents.7. Special provisions as to unidentified vehicles, &c.8. Duties of registered owners, &c.9. Action for damages in respect of third party liabilities.10. Liability to pay scheduled benefits.11. Payment of scheduled benefits to infants. | <ol style="list-style-type: none">12. Determinations as to right to scheduled benefits.13. Prohibition on use of motor vehicle without premium cover, &c.14. Premiums for use of motor vehicles.15. Amendment of first Schedule. Self-employed person's allowance. Housekeeping allowance.16. Application of certain amendments.17. Termination of agreements entered into under section 10. |
|---|---|





**MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) (No. 3)**

No. 122 of 1977

AN ACT to amend the Motor Accidents (Liabilities and Compensation) Act 1973.

[14 December 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Motor Accidents (Liabilities and Compensation) Act (No. 3) 1977*. Short title and citation.

(2) The *Motor Accidents (Liabilities and Compensation) Act 1973**, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 71 of 1973. Subsequently amended by Nos. 36 and 40 of 1974, No. 32 of 1975, No. 96 of 1976, and Nos. 57 and 95 of 1977.

Interpretation.

2 Section 2 of the Principal Act is amended by inserting in subsection (1) after the definition of “Premiums Board” the following definition:—

“ ‘public street’ has the same meaning as it has for the purposes of the *Traffic Act 1925*;”.

Secretary and staff of the Board, &c.

3 Section 7 of the Principal Act is amended by inserting after subsection (3) the following subsections:—

“(3A) The Board may by instrument in writing under its seal delegate to the secretary of the Board such of its powers, functions, and duties under this Act (except the power of delegation) as may be specified in the instrument and any power, function, or duty so delegated may be exercised by the secretary of the Board as fully and effectually as by the Board.

“(3B) A delegation under this section shall be revocable at the will of the Board and no such delegation shall prevent the exercise of any power, function, or duty by the Board.”.

The Premiums Board.

4 Section 11 of the Principal Act is amended by omitting from subsection (2) the word “within” and substituting the words “not later than 30th August in”.

The Motor Accidents Compensation Tribunal.

5 Section 12 of the Principal Act is amended—

(a) by omitting from subsection (2) all the words following the word “Governor”; and

(b) by inserting after that subsection the following subsection:—

“(2A) A person is not qualified for appointment as a member of the Tribunal unless he holds the office of a judge, a magistrate, or a commissioner of a court of requests, and a member who ceases to be so qualified ceases to hold office as a member of the Tribunal.”.

General liability of Board in respect of motor accidents.

6 Section 14 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:—

“(3) Subsection (1) does not apply to any liability—

(a) in respect of which a policy of insurance is required to be taken out under section 34 (1) of the *Workers’ Compensation Act 1927*; or

(b) arising under a scheme referred to in section 12 of that Act.”.

7 Section 16 of the Principal Act is amended—

(a) by inserting in paragraph (b) of subsection (1) after the word “person” the words “has died or”;

(b) by omitting from subsection (2) the words “either before or after the expiration of that period” and substituting the words “not later than 9 months after the occurrence of the accident”; and

(c) by inserting after that subsection the following subsection:—

“(2A) Notwithstanding subsection (2), an application referred to in that subsection may be made after the expiration of the period of 9 months referred to in that subsection if the court is satisfied that the granting of the application is just and reasonable in the circumstances.”.

Special provisions as to unidentified vehicles, &c.

8 Section 21 of the Principal Act is amended by inserting after subsection (7) the following subsection:—

“(7A) A complaint for a contravention of this section shall be made not later than 6 months after the discovery by the Board of the contravention.”.

Duties of registered owner, &c.

9 Section 22 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

“(1A) A court shall not make an order for damages in respect of an action referred to in subsection (1) unless it is satisfied that the Board has had reasonable opportunity of being heard in the proceedings.”.

Action for damages in respect of third party liabilities.

10 Section 23 of the Principal Act is repealed and the following section is substituted:—

“23—(1) Where—

(a) a resident of the State dies, or suffers bodily injury, as a result of an accident occurring in the State;

(b) a person dies, or suffers bodily injury, as a result of an accident arising out of the use in the State of a motor vehicle registered in the State; or

Liability to pay scheduled benefits.

- (c) a resident of the State dies, or suffers bodily injury, as a result of an accident occurring outside the State but within the Commonwealth, arising out of the use of a motor vehicle registered in the State,

there becomes payable by the Board such benefits as are provided for in the first Schedule.

“(2) For the purposes of subsection (1), a person shall be deemed to be a resident of the State if, but only if, his ordinary place of residence is in the State.

“(3) Where, by virtue of subsection (1), scheduled benefits become payable by the Board, those benefits are payable in accordance with the provisions of the first Schedule.”.

Payment of scheduled benefits to infants.

11 Section 25 of the Principal Act is amended—

- (a) by omitting the word “Where” at the beginning of subsection (1) and substituting the words “Subject to subsection (1B), where”; and
- (b) by inserting after subsection (1A) the following subsection:—

“(1B) Where a scheduled benefit, being a periodical allowance for the maintenance of an infant, becomes payable under this Act that allowance may be paid to the person who has the lawful custody or control of the infant.”.

Determinations as to right to scheduled benefits.

12 Section 28 of the Principal Act is amended by omitting subsection (8) and substituting the following subsection:—

“(8) Regulations made for the purpose of this section may make provision with respect to—

- (a) the exercise of the rights of infants in relation to references to the Tribunal and determinations thereon;
- (b) fixing the amount of costs to be paid by a party to a reference;
- (c) the enforcement of orders of the Tribunal for the payment of costs; and
- (d) the discontinuance or dismissal of a reference to the Tribunal for want of prosecution.”.

13 Section 29 of the Principal Act is amended—

Prohibition on
use of motor
vehicle without
premium cover,
&c.

- (a) by omitting from subsection (1A) all the words following the word “ applies ”; and
- (b) by inserting after that subsection the following subsection:—

“(1B) In any proceedings for an offence under subsection (1) the production of a document purporting to be signed by an employee of the Board authorized by it to sign that document certifying whether or not a premium has been paid for the use of a specified vehicle and, if a premium has been paid, particulars of the use in respect of which it was so paid, shall be *prima facie* evidence of the facts so certified.”.

14 Section 30 of the Principal Act is amended—

Premiums for
use of motor
vehicles.

- (a) by inserting in subsection (2), after the words “ any such order shall ”, the words “, subject to subsection (2A),”; and
- (b) by inserting after that subsection the following subsection:—

“(2A) An order referred to in subsection (2) may be amended during the period of 12 months referred to in that subsection for any purpose other than the alteration of premiums specified in the order.”.

15 The first Schedule to the Principal Act is amended—

Amendment of
first Schedule.

- (a) by omitting sub-paragraph (2) of paragraph 1 of Part V and substituting the following sub-paragraphs:—

“(2) A disability allowance may be—

- (a) an employed person’s allowance;
- (b) a self-employed person’s allowance; or
- (c) a housekeeping allowance.

“(3) Notwithstanding anything in this Part a person is not entitled to both an employed person’s allowance and a self-employed person’s allowance.”;

- (b) by omitting sub-paragraph (4) of paragraph 2 of that Part and substituting the following sub-paragraph:—

“(4) If the average weekly earnings of the injured person exceed \$50 a week the employed person’s allowance payable to him shall be an allowance at the rate of 80 per cent of his average weekly earnings.”;

(c) by inserting after that paragraph the following paragraph:

Self-employed
person's
allowance.

“2A—(1) An injured person is entitled to a self-employed person's allowance if—

(a) at the time of the accident he was carrying on a business for profit; and

(b) he is disabled from conducting that business as a result of the injury and to ensure that his business is carried on during the period in which he is so disabled arrangements are made for another person for remuneration, gratuity, or reward to conduct that business.

“(2) A self-employed person's allowance is payable—

(a) for such periods, falling within the period of 104 weeks beginning on the day of the accident, during which the injured person is wholly disabled from conducting his business as a result of the injury and arrangements are made for another person for remuneration, gratuity, or reward to conduct that business; and

(b) for such other periods during which the injured person is, by reason of the injury, wholly disabled from engaging in any employment or occupation for which he would otherwise be reasonably suited by education, training, experience, or ability.

“(3) A self-employed person's allowance is an allowance at the rate of 80 per cent of any remuneration, gratuity, or reward paid to a person to carry on a self-employed person's business.

“(4) For the purposes of this paragraph ‘business’ includes any profession, trade, employment, vocation, or calling, but does not include occupation as an employee.”;

(d) by omitting paragraph 3 of that Part and substituting the following paragraph:—

Housekeeping
allowance.

“3—(1) A person is entitled to a housekeeping allowance if at the time of the accident that person—

(a) has the care of any dependent child of that person;

(b) is the spouse of a head of household and is ordinarily resident with the head of household;
or

(c) is the spouse of a head of household and has the care of any dependent child of the head of household.

“(2) A housekeeping allowance is payable for such periods, falling within the period of 104 weeks beginning on the day of the accident, during which the person is wholly disabled from carrying out ordinary household duties by reason of the injury.

“(3) Subject to this paragraph, a housekeeping allowance payable to an injured person is an allowance at the rate of 80 per cent of the amount paid by way of remuneration, gratuity, or reward to a person who undertakes ordinary household duties which would normally be carried out by the injured person.

“(4) Where a person who is entitled to a housekeeping allowance under this paragraph employed a person to carry out household duties before the day of the accident, that person is entitled to only 80 per cent of the amount expended in carrying out household duties that are additional to those that were carried out before the day of the accident.”;

(e) by omitting from clause (a) of sub-paragraph (2) of paragraph 4 of that Part the word “allowance” and substituting the words “allowance or a self-employed person’s allowance”; and

(f) by omitting from clause (b) of that sub-paragraph the word “housewife’s” and substituting the word “housekeeping”.

16 The amendments made by sections 6, 7, 9, 10, 13 (b), and 15 do not apply to an accident occurring before the commencement of this Act. Application of certain amendments.

17 Notwithstanding any provision in any agreement entered into by the Board with any person under section 10 of the Principal Act, that agreement, unless it is sooner terminated by agreement between the Board and that person, continues in force until, and terminates Termination of agreements entered into under section 10.

on, the date specified in a notice served by the Board on that person after the commencement of this Act terminating the agreement, not being a date earlier than 12 months after the service of the notice.