

1990 - No. 701

MOTOR ACCIDENTS ACT 1988 - REGULATION

(Relating to rights of action against the Nominal Defendant,
the application of the Transport Accidents Compensation Fund
and contributions in respect of intermediate transport accidents)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Motor Accidents Act 1988, has been pleased to make the Regulation set forth hereunder.

JOHN DOWD
Attorney General.

The Motor Accidents Regulation 1989 is amended:

- (a) by inserting in clause 3 in alphabetical order the following definitions:
 - "intermediate transport accident"** has the same meaning as in section 138 of the Act;
 - "the TAC Fund"** has the same meaning as in section 138 of the Act;
 - "the 1987 Act"** has the same meaning as in section 138 of the Act.
- (b) by omitting clause 4 and by inserting instead the following clause:

Motor vehicles in respect of which there is no right of action against the Nominal Defendant

4. For the purposes of section 27 (4) (b) of the Act, there is no right of action against the Nominal Defendant for the recovery of damages in respect of the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle that is not an insured motor vehicle in the use or operation of the vehicle on a public street in New South Wales if the motor vehicle is:

- (a) a visiting motor vehicle within the meaning of the Motor Traffic Regulations 1935 to which Regulation 33A (a) of those Regulations applies; or
 - (b) a motor vehicle which is registered under the Interstate Road Transport Act 1985 of the Commonwealth and in relation to which there is in force a policy of compulsory third party personal injury insurance.
- (c) by inserting after clause 7 the following clauses:

Payments under interstate sharing agreements

8. (1) For the purposes of section 140 (1) (d) of the Act, there is to be paid into the TAC Fund any amount paid to the GIO under a sharing agreement made with another person in respect of compensation or damages for death or personal injury arising from an accident in New South Wales or elsewhere in Australia involving a motor vehicle which occurred before 1 July 1989.

(2) For the purposes of section 141 (2) of the Act, there may be paid out of the TAC Fund any amount payable by the GIO under a sharing agreement made with another person in respect of compensation or damages for death or personal injury arising from an accident in New South Wales or elsewhere in Australia involving a motor vehicle which occurred before 1 July 1989.

Contribution from other insurers in respect of intermediate transport accident claims

9. For the purposes of assessing and apportioning any liability for contribution between the GIO as manager of the TAC Fund and an insurer of a person at fault in respect of an intermediate transport accident, the GIO is to be taken to be the insurer of the person under a third-party policy.

EXPLANATORY NOTE

The object of this Regulation is to amend the Motor Accidents Regulation 1989:

- (a) to enable a claim for damages to be made in accordance with the Motor Accidents Act 1988 against the Nominal Defendant in respect of the death of or injury to a person caused by or arising out of the use or operation of any unregistered motor vehicle which may be lawfully used or operated on a public street, with the exception of:
 - (i) certain visiting motor vehicles which are registered outside New South Wales; and
 - (ii) vehicles registered under the Interstate Road Transport Act 1985 of the Commonwealth which have third party personal injury insurance coverage; and
- (b) to enable payments made to or by the GIO under sharing agreements entered into with other compensation authorities relating to motor accidents occurring anywhere in Australia before 1 July 1989 to be paid into and out of the Transport Accidents Compensation Fund; and
- (c) to enable the GIO to obtain contribution from another insurer of a person at fault in respect of an intermediate transport accident.