

MOTOR ACCIDENTS ACT 1988—REGULATION

(Relating to claims against interstate registered vehicles)

NEW SOUTH WALES



[Published in Gazette No. 84 of 30 July 1993]

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.

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Attorney General.

The Motor Accidents Regulation 1989 is amended by omitting clause 4 and by inserting instead the following clause:

No right of action against Nominal Defendant in certain cases

4. (1) 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 motor vehicle which, at the time the motor accident resulting in the death or injury occurred:

- (a) was registered under the law of a place other than New South Wales or under a law of the Commonwealth; and
- (b) was covered under a policy of compulsory third party personal injury insurance or was subject to coverage under a compulsory motor vehicle accident compensation scheme of that place or of the Commonwealth.

(2) For the purposes of section 28A (5) (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 which is not registered in the use or operation of the vehicle in any part of the Commonwealth

(whether or not on a public street) if the motor vehicle is a motor vehicle which, at the time the motor accident resulting in the death or injury occurred:

- (a) was registered under the law of a place other than New South Wales or under a law of the Commonwealth; and
- (b) was covered under a policy of compulsory third party personal injury insurance or was subject to coverage under a compulsory motor vehicle accident compensation scheme of that place or of the Commonwealth.

EXPLANATORY NOTE

This Regulation deals with limitations on the right of recovery against the Nominal Defendant under the Motor Accidents Act 1988. There are 2 aspects to the Regulation, as follows:

1. Under section 27 of the Act, claims for damages arising from a motor accident on a public street in New South Wales may be made against the Nominal Defendant when the vehicle is uninsured (within the meaning of the Act). Clause 4 of the Motor Accidents Regulation 1989 currently prevents claims from being made against the Nominal Defendant if the vehicle is registered outside New South Wales. Such a vehicle is excluded on the basis that it will be covered by insurance required under the law of the place where it is registered or will be covered by a statutory scheme operating under the law of that place which provides similar coverage. Among the vehicles currently excluded by clause 4 are visiting motor vehicles (vehicles brought into New South Wales for temporary use).

This Regulation changes clause 4 by extending the class of excluded vehicles to all non-New South Wales registered vehicles which are covered by compulsory third party insurance (whether brought into the State for temporary use or not). See new clause 4 (a).

2. Under section 28A of the Act, claims for damages arising from a motor accident in any part of Australia (whether or not on a public street) may be made against the Nominal Defendant when the vehicle is not registered in New South Wales but is towing a trailer that is registered in New South Wales. New clause 4 (b) will exclude claims where the towing vehicle is registered outside New South Wales and covered by insurance required under the law of the place where it is registered or by a statutory scheme operating under the law of that place which provides similar coverage.

This new exclusion will only apply to claims against the owner or driver of the towing vehicle and section 28A will continue to provide a claim against the Nominal Defendant where the claim would otherwise be against the owner of the trailer.
