

**MOTOR VEHICLES (THIRD PARTY
INSURANCE) AMENDMENT ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 35, 1972.

An Act to make further provision concerning the costs payable or recoverable in connection with the hospital treatment of persons injured or dying as a result of the use of a motor vehicle; for this purpose to amend the Motor Vehicles (Third Party Insurance) Act, 1942; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Motor Vehicles (Third Party Insurance) Amendment Act, 1972".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
15, 1942.

2. (1) The Motor Vehicles (Third Party Insurance) Act, 1942, is amended—

Sec. 24.
(Definitions.)

(a) by inserting in section twenty-four next after the definition of "Nursing" the following new definition :—

"Public hospital" means an incorporated hospital or separate institution, within the meaning of the Public Hospitals Act, 1929.

Sec. 25.
(Payments
in respect
of certain
matters.)

(b) (i) by omitting subsection one of section twenty-five and by inserting in lieu thereof the following subsection :—

(1) Subject to subsection two of this section, where the death of or bodily injury to any person is caused by or arises out of the use of a motor vehicle, not being a motor vehicle in respect of which persons are exempted by or under this Act from the provisions of subsection one of section seven

of

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of this Act, and where any payment is made No. 35, 1972
(whether or not with an admission of liability)
by the authorised insurer under or in consequence of the third-party policy, or (in the case of an uninsured or unidentified motor vehicle) by the nominal defendant, in respect of such death or bodily injury, then—

- (a) if the person received, in respect of the bodily injury or the injury which caused his death, treatment at a public hospital as an in-patient, there shall also be paid by the authorised insurer or the nominal defendant, as the case may be, to the proper officer for each day or part of a day of the treatment of the person, an amount estimated by the Minister for Health and last notified, as the daily average cost to that hospital of the hospital treatment of in-patients;
- (b) if the person received, in respect of the bodily injury or the injury which caused his death, treatment at a public hospital as an out-patient, there shall also be paid by the authorised insurer or the nominal defendant, as the case may be, to the proper officer in respect of each attendance for treatment by the person, an amount estimated by the Minister for Health and last notified, as the average cost to that hospital, for each attendance for treatment, of the hospital treatment of out-patients;
- (c) if the person received, in respect of the bodily injury or the injury which caused his death, treatment (whether as an in-patient or as an out-patient)

at

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at a hospital other than a public hospital, there shall also be paid by the authorised insurer or the nominal defendant, as the case may be, to the proper officer an amount calculated in accordance with a scale to be prescribed by the regulations, but not exceeding a maximum amount (if any) so prescribed;

- (d) if the person, as a consequence of any such injury, was conveyed in any ambulance vehicle, there shall also be paid by the authorised insurer or the nominal defendant, as the case may be, to the proper officer an amount calculated in accordance with a scale to be prescribed by the regulations, but not exceeding the maximum amount (if any) so prescribed; and
- (e) if the person received, in respect of any such injury, reasonably necessary medical treatment by a legally qualified medical practitioner, or reasonably necessary massage treatment by a masseur, or reasonably necessary dental treatment (otherwise than as hospital treatment) by a registered dentist, or reasonably necessary nursing (otherwise than as hospital treatment) by a registered nurse, there shall also be paid by the authorised insurer or the nominal defendant, as the case may be, to such medical practitioner, masseur, dentist, or nurse, as the case may be, such amount as is reasonably appropriate to the treatment or nursing afforded, having

regard

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regard to the reasonable necessity No. 35, 1972
therefor and the customary charge
made in the community for such
treatment or nursing.

(ii) by inserting next after subsection three of the same section the following new subsections :—

(4) The estimated costs referred to in paragraphs (a) and (b) of subsection one of this section shall, in respect of any public hospital, be based, wherever practicable, on the costs incurred by that hospital for the year which ended on the thirtieth day of June next preceding any date on which it is proposed to notify the costs, pursuant to either of those paragraphs, in respect of that hospital.

(5) Any regulation made in relation to any matter referred to in paragraph (c) or (d) of subsection one of this section may prescribe different scales and different maximum amounts or different scales or different maximum amounts in respect of different classes of hospital treatment or conveyance or according to different circumstances.

(6) In this section—

“notified” means notified in the Gazette by the Minister for Health;

“proper officer” means the officer or person generally or specially authorised by law or by the person or body governing or controlling the hospital or the ambulance vehicle, as the case may be, to receive any amount payable under paragraph (a), (b), (c) or (d) of subsection one of this section.

(c)

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Sec. 26.
(Right of
action
against
insured
person by
hospital,
etc.)

(c) (i) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsections :—

(1) Subject to subsection two of this section, where liability at law is incurred in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle, not being a motor vehicle in respect of which persons are exempted by or under this Act from the provisions of subsection one of section seven of this Act, then—

- (a) if the person received, in respect of the bodily injury or the injury which caused his death, treatment at a public hospital as an in-patient, the proper officer may, in the name and on behalf of the person, and notwithstanding that the person may be dead, recover for each day or part of a day of the treatment of the person, an amount estimated by the Minister for Health and last notified, as the daily average cost to that hospital of the hospital treatment of in-patients;
- (b) if the person received, in respect of the bodily injury or the injury which caused his death, treatment at a public hospital as an out-patient, the proper officer may, in the name and on behalf of the person, and notwithstanding that the person may be dead, recover in respect of each attendance for treatment by the person, an amount estimated by the Minister for Health and last notified.

as

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as the average cost to that hospital, No. 35, 1972
for each attendance for treatment, of
the hospital treatment of out-patients;

- (c) if the person received, in respect of the bodily injury or the injury which caused his death, treatment (whether as an in-patient or as an out-patient) at a hospital other than a public hospital, the proper officer may, in the name and on behalf of the person, and notwithstanding that the person may be dead, recover an amount calculated in accordance with a scale to be prescribed by the regulations, but not exceeding a maximum amount (if any) so prescribed;
- (d) if the person, as a consequence of any such injury, was conveyed in any ambulance vehicle the proper officer may, in the name and on behalf of the person, and notwithstanding that the person may be dead, recover an amount calculated in accordance with a scale to be prescribed by the regulations, but not exceeding the maximum amount (if any) so prescribed; and
- (e) if the person received, in respect of any such injury, reasonably necessary medical treatment by a legally qualified medical practitioner, or reasonably necessary massage treatment by a masseur, or reasonably necessary dental treatment (otherwise than as hospital treatment) by a registered dentist, or reasonably necessary nursing (otherwise than as hospital treatment) by a registered nurse, the
medical

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medical practitioner, masseur, dentist, or nurse, as the case may be, may, in the name and on behalf of the person, and notwithstanding that the person may be dead, recover such amount as is reasonably appropriate to the treatment or nursing afforded, having regard to the reasonable necessity therefor and the customary charge made in the community for such treatment or nursing.

(1A) Any amount recoverable under subsection one of this section may be recovered by way of damages from the owner and the driver of the motor vehicle jointly, or from either of them severally or (in the case of an uninsured or unidentified vehicle) from the nominal defendant.

(ii) by inserting next after subsection four of the same section the following new subsections :—

(5) The estimated costs referred to in paragraphs (a) and (b) of subsection one of this section shall, in respect of any public hospital, be based, wherever practicable, on the costs incurred by that hospital for the year which ended on the thirtieth day of June next preceding any date on which it is proposed to notify the costs, pursuant to either of those paragraphs, in respect of that hospital.

(6) Any regulation made in relation to any matter referred to in paragraph (c) or (d) of subsection one of this section may prescribe different scales and different maximum amounts or different scales or different maximum amounts in respect of

different

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different classes of hospital treatment or conveyance or according to different circumstances. No. 35, 1972

(7) In this section—

“notified” means notified in the Gazette by the Minister for Health;

“proper officer” means the officer or person generally or specially authorised by law or by the person or body governing or controlling the hospital or the ambulance vehicle, as the case may be, to conduct proceedings for the recovery of any amount recoverable under paragraph (a), (b), (c) or (d) of subsection one of this section.

(2) The amendments made by subsection one of this section shall apply to and in respect of any hospital treatment, conveyance by an ambulance vehicle, reasonably necessary medical treatment by a legally qualified medical practitioner, reasonably necessary massage treatment by a masseur, reasonably necessary dental treatment (otherwise than as hospital treatment) by a registered dentist, or reasonably necessary nursing (otherwise than as hospital treatment) by a registered nurse afforded on or after the day appointed for the commencement of this Act for any bodily injury whether received before, on or after that day.