



New South Wales

# Motor Accidents Compensation Amendment Act 2010 No 98

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New South Wales

# **Motor Accidents Compensation Amendment Act 2010 No 98**

Act No 98, 2010

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An Act to amend the *Motor Accidents Compensation Act 1999* and the *Motor Accidents (Lifetime Care and Support) Act 2006* in relation to motor accidents for which compensation is payable and the appointment of claims assessors; and for other purposes. [Assented to 16 November 2010]

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**The Legislature of New South Wales enacts:**

**1    Name of Act**

This Act is the *Motor Accidents Compensation Amendment Act 2010*.

**2    Commencement**

This Act commences on the date of assent to this Act.

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## **Schedule 1      Amendment of Motor Accidents Compensation Act 1999 No 41**

### **[1]    Section 3 Definitions**

Omit the definition of *claims assessor*. Insert instead:

*claims assessor* means a person appointed as a claims assessor under section 99.

### **[2]    Section 3, definition of “motor accident”**

Insert at the end of paragraph (c) of the definition:

, or

- (d) a dangerous situation caused by the driving of the vehicle, a collision or action taken to avoid a collision with the vehicle, or the vehicle’s running out of control.

### **[3]    Section 3A General restrictions on application of Act**

Insert at the end of section 3A (1) (c):

, or

- (d) a dangerous situation caused by the driving of the vehicle, a collision or action taken to avoid a collision with the vehicle, or the vehicle’s running out of control.

### **[4]    Section 88 Definitions**

Omit the definition of *claims assessor* from section 88 (1).

### **[5]    Section 91 Time limits for referring claims**

Omit “section 133” from section 91 (2) (d). Insert instead “section 132 (3)”.

### **[6]    Section 99**

Omit the section. Insert instead:

#### **99    Appointment of claims assessors**

- (1) The Authority may appoint as a claims assessor any person who, in the opinion of the Authority, is suitably qualified to be a claims assessor. Such a person may be a member of staff.
- (2) A claims assessor has the functions that are conferred on the claims assessor by or under this Act.
- (3) The Authority may remove a claims assessor from office at any time.

- (4) A claims assessor is entitled to be paid the remuneration (including travelling and subsistence allowances) that the Authority may from time to time determine in respect of the claims assessor.

**[7] Section 99A Principal Claims Assessor**

Insert after section 99A (2):

- (2A) The Principal Claims Assessor is, in the exercise of his or her functions, subject to the general direction and control of the Chief Executive Officer. However, the provisions of section 105 (2)–(5) apply to the Principal Claims Assessor in the same way as they apply to a claims assessor.

**[8] Section 99A (3)**

Omit “member of staff”. Insert instead “claims assessor”.

**[9] Section 103 Protection of claims assessors**

Insert after section 103 (1):

- (1A) However, any such liability attaches to the Crown.

**[10] Section 105**

Omit the section. Insert instead:

**105 Control and direction of claims assessors**

- (1) A claims assessor is, in the exercise of his or her functions, subject to the general control and direction of the Principal Claims Assessor.
- (2) However, a claims assessor is not, in his or her capacity as a claims assessor, subject to control and direction by the Principal Claims Assessor, the Authority, any member of staff of any Division of the Government Service or any other person with regard to any of the decisions of the assessor that affect the interests of the parties to an assessment.
- (3) The Principal Claims Assessor, the Authority, any member of staff of any Division of the Government Service or any other person cannot overrule or interfere with any decision of a claims assessor who is a member of staff that affects the interests of the parties to an assessment in respect of any such assessment.
- (4) This section does not prevent the making of arrangements for the training of claims assessors, and does not prevent claims assessors from obtaining advice, to ensure consistently correct

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application of the provisions of this Act and the regulations and of other relevant matters.

- (5) This section does not affect the exercise of the functions of the Chief Executive Officer of the Authority under the *Public Sector Employment and Management Act 2002* with respect to claims assessors who are members of staff.

**[11] Section 199 Board of Directors**

Insert after section 199 (2) (a):

- (a1) a member of staff who for the time being holds an office nominated by the Chief Executive Officer,

**[12] Section 208 Membership and procedure of Council**

Omit “12” from section 208 (1).

**[13] Section 208 (1) (j) and (k)**

Insert after section 208 (1) (i):

- (j) a member of staff who for the time being holds an office nominated by the Chief Executive Officer,  
(k) such additional members (if any) as the Minister decides to appoint, being persons of the Minister’s own choosing and not exceeding 4 additional members.

**[14] Schedule 1 Provisions relating to Board of Directors of Authority**

Omit the definition of *part-time director* from clause 1. Insert instead:

*part-time director* means a director appointed under section 199 (2) (b).

**[15] Schedule 2 Provisions relating to Motor Accidents Council**

Omit the definition of *appointed member* from clause 1. Insert instead:

*appointed member* means a member of the Motor Accidents Council who is appointed by the Minister.

**[16] Schedule 2, clause 10**

Omit “7 members”. Insert instead “a majority of members for the time being”.

**[17] Schedule 5 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Motor Accidents Compensation Amendment Act 2010*

[18] **Schedule 5, Part 9**

Insert after clause 36:

**Part 9 Provisions arising from Motor Accidents Compensation Amendment Act 2010**

**37 Definition**

In this Part:

*amending Act* means the *Motor Accidents Compensation Amendment Act 2010*.

**38 Operation of amendment to definition of “motor accident”**

The amendments made by the amending Act to the definition of *motor accident* in section 3 and to section 3A extend to an incident or accident that occurred on or after 1 October 2006, but not so as to affect any compromise or settlement of a claim, or any decision made by a court, before the date of assent to the amending Act.

**39 Claims assessors**

- (1) A person (other than a member of staff or an officer of the Authority) who was designated by the Authority as a claims assessor before the substitution of section 99 by the amending Act is taken to have been validly appointed by that designation as a claims assessor.
- (2) A person cannot challenge or otherwise call into question anything done or not done by a person referred to in subclause (1) on the basis that the person was not a claims assessor because the person was not validly appointed as a claims assessor.

## **Schedule 2      Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16**

**[1] Section 34 Board of Directors**

Insert after section 34 (2) (a):

- (a1) a member of staff who for the time being holds an office nominated by the Chief Executive Officer,

**[2] Section 45 Membership and procedure of Advisory Council**

Omit “8 members” from section 45 (1). Insert instead “9 members”.

**[3] Section 45 (1) (f)**

Insert after section 45 (1) (e):

- (f) a member of staff who for the time being holds an office nominated by the Chief Executive Officer.

**[4] Schedule 1 Provisions relating to Board of Directors of Authority**

Omit the definition of *part-time director* from clause 1. Insert instead:

*part-time director* means a director appointed under section 34 (2) (b).

**[5] Schedule 2 Provisions relating to Advisory Council**

Omit the definition of *appointed member* from clause 1. Insert instead:

*appointed member* means any member of the Advisory Council appointed under section 45 (1) (a)–(d).

**[6] Schedule 3 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Motor Accidents Compensation Amendment Act 2010*

[Agreement in principle speech made in Legislative Assembly on 24 September 2010  
Second reading speech made in Legislative Council on 9 November 2010]

BY AUTHORITY