



New South Wales

# Motor Accidents (Lifetime Care and Support) Amendment Act 2014 No 77

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New South Wales

# **Motor Accidents (Lifetime Care and Support) Amendment Act 2014 No 77**

Act No 77, 2014

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An Act to amend the *Motor Accidents (Lifetime Care and Support) Act 2006* to make further provision for the treatment and care needs of participants in the Scheme under that Act and for the functions of the Lifetime Care and Support Authority. [Assented to 19 November 2014]

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

**1 Name of Act**

This Act is the *Motor Accidents (Lifetime Care and Support) Amendment Act 2014*.

**2 Commencement**

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

## Schedule 1 Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16

### [1] Section 11AA

Insert after section 11A:

#### 11AA Option of contribution to other cost effective expenditure for meeting treatment and care needs

- (1) The Authority has the option of satisfying its liability under this Part to pay for expenses incurred in relation to a participant's assessed treatment and care needs by contributing to alternative expenditure (incurred by or on behalf of the participant) that the Authority is satisfied will provide for those needs in a cost effective manner.
- (2) The Authority's contribution to alternative expenditure is limited to the amount of a reasonable contribution to that expenditure and is not to exceed the amount for which the Authority would otherwise have been liable under this Part to pay for expenses incurred in relation to a participant's assessed treatment and care needs.
- (3) An assessment of the option of contributing to alternative expenditure under this section is part of the assessment of the treatment and care needs of a participant in the Scheme.

**Note.** Because an assessment of this option is part of the assessment of the treatment and care needs of a participant, Part 4 and the LTCS Guidelines extend to an assessment of that option.

### [2] Section 41 Delegation of functions

Insert “, including any function provided for by a care and support arrangement under section 43A” after “delegation” in section 41 (1).

### [3] Section 43A

Insert after section 43:

#### 43A Functions of the Authority under other care and support schemes

- (1) The Authority may, with the approval of the Minister and the Treasurer, enter into an arrangement (a *care and support arrangement*) that provides for the Authority to exercise all or specified functions of a relevant authority under a care and support scheme that is prescribed by the regulations for the purposes of this section.
- (2) A care and support arrangement is to be entered into by agreement between the Authority and the relevant authority concerned and can include provision for or with respect to any matter that is necessary or convenient in connection with the conferring of functions on the Authority including (without limitation) any of the following matters:
  - (a) the manner in which the Authority is to exercise functions under the arrangement,
  - (b) the administrative arrangements for the exercise of functions under the arrangement, including funding arrangements,

- (c) the sharing of information between the Authority and the relevant authority in connection with the operation of the arrangement and the exercise of functions under the arrangement,
  - (d) such other matters as may be prescribed by the regulations.
- (3) The Authority has the functions provided for by a care and support arrangement entered into under this section and is to exercise those functions in accordance with the arrangement. Functions exercised by the Authority under a care and support arrangement are exercised for and on behalf of the relevant authority.
- (4) A care and support arrangement can provide for the exercise of functions by the Authority outside the State.
- (5) In this section:  
*care and support scheme* means a law of the State or of another State or Territory or of the Commonwealth that makes provision for:
- (a) a scheme that is substantially the same as or similar to the Scheme under this Act, or
  - (b) a scheme for the payment of compensation or the provision of other care and support to persons who have suffered injury (whether or not caused by a motor accident).
- relevant authority* means a person or body that has functions under a care and support scheme (including functions under a contract of insurance required or provided for by a care and support scheme).

**[4] Section 48A**

Insert after section 48:

**48A Separate accounting for care and support arrangements**

- (1) Each care and support arrangement is to have a separate account established for it within the Fund.
- (2) Amounts payable to or by the Authority under a care and support arrangement are to be accounted for separately within the Fund by being paid into or from the separate account established for the arrangement.
- (3) A liability of the Authority under a care and support arrangement is not a liability of the Fund except to the extent that the liability can be satisfied out of money standing to the credit of the separate account established for the arrangement within the Fund.
- (4) Accordingly, an amount required to be paid under a care and support arrangement can only be paid from the separate account established for the arrangement but this does not prevent the use of other money in the Fund for the payment of such an amount pursuant to the provision of temporary financial accommodation (including by the making of an advance to the separate account established for the arrangement) that is repaid from the separate account.
- (5) The Authority is to have no regard to a liability of the Authority under a care and support arrangement in making a determination under section 49 (Determination by Authority of amount to be contributed to Fund).

- (6) In this section:  
*care and support arrangement* means a care and support arrangement entered into under section 43A.

[Second reading speech made in—  
Legislative Assembly on 22 October 2014  
Legislative Council on 12 November 2014]