

1995—No. 186

MOTOR ACCIDENTS ACT 1988—REGULATION

(Motor Accidents Regulation 1995)

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.

J. W. Shaw
Attorney General.

Citation

1. This Regulation may be cited as the Motor Accidents Regulation 1995.

Commencement

2. This Regulation commences on 29 May 1995.

Definitions

3. In this Regulation:

“**TAC Fund**” has the same meaning as in section 138 of the Act;

“**the Act**” means the Motor Accidents Act 1988.

No right of action against Nominal Defendant in certain cases: secs 27, 28A

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 for 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, at the time the motor accident resulting in the death or injury occurred, the motor vehicle:

- (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 for the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle that is not a registered motor vehicle in the use or operation of the vehicle in any part of the Commonwealth (whether or not on a public street) if, at the time the motor accident resulting in the death or injury occurred, the motor vehicle:

- (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.

Service of documents on Nominal Defendant: sec. 34

5. For the purposes of section 34 of the Act, the prescribed address is Level 12, 139 Macquarie Street, Sydney.

Determination of economic loss: sec. 78

6. (1) For the purposes of section 78 (c) of the Act, amounts, payments or benefits comprising payments made to or on behalf of a claimant by an insurer in relation to a claim made by the claimant, including:

- (a) amounts, costs and expenses paid under section 37 of the Act; and
- (b) payments made under section 45 of the Act,

are prescribed.

(2) In this clause, “claim”, “claimant” and “insurer” have the same meanings as in section 40 of the Act.

Payments under interstate sharing agreements: secs. 140, 141

7. (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.

Payment of management fee to GIO out of TAC Fund: sec. 141

8. For the purposes of section 141 (2) of the Act, the GIO is entitled to be paid, out of the TAC Fund, such management fees:

- (a) as are approved from time to time by the Authority (after consultation with the GIO and the Treasurer); and
- (b) as relate to the functions of the GIO under Part 10 of, and Part 2 of Schedule 4 to, the Act.

Payment of amounts to the Consolidated Fund out of TAC Fund: sec. 141

9. (1) This clause applies to any short-fall levy paid under section 148 of the Act in relation to an application made for the registration or renewal of registration of a motor vehicle.

(2) For the purposes of section 141 (2) of the Act, an amount equal to \$3 for every \$43 that is received by the Roads and Traffic Authority from the payment of short-fall levies is to be paid into the Consolidated Fund.

False or misleading information concerning applications for licences

10. A person who, in or in connection with an application for a licence under Division 1 of Part 8 of the Act, makes any written or verbal statement knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 5 penalty units.

Repeal

11. (1) The Motor Accidents Regulation 1989 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Motor Accidents Regulation 1989, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the Motor Accidents Regulation 1989 under the Motor Accidents Act 1988. The new Regulation deals with the following matters:

- (a) the circumstances in which there is to be no right of action against the Nominal Defendant for the purposes of sections 27 and 28A of the Act (clause 4);
- (b) the service of documents on the Nominal Defendant (clause 5);
- (c) the determination of economic loss for the purposes of section 78 of the Act (clause 6);
- (d) payments under interstate sharing agreements (clause 7);
- (e) the payment of management fees to the GIO out of the Transport Accidents Compensation Fund (clause 8);
- (f) the payment to the Consolidated Fund of amounts relating to short-fall levies received by the RTA (clause 9);
- (g) the prohibition of false or misleading information in connection with applications under the Act (clause 10);
- (h) other matters of a formal nature (clauses 1, 2, 3 and 11).

This Regulation is made under the Motor Accidents Act 1988, including section 136 (the general regulation making power) and sections 27, 28A, 34, 78, 140 and 141.

This Regulation comprises or relates to machinery matters and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
