



New South Wales

Motor Accident Injuries Amendment (Indexation) Regulation 2018

under the

Motor Accident Injuries Act 2017

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Accident Injuries Act 2017*.

VICTOR DOMINELLO, MP
Minister for Finance, Services and Property

Explanatory note

The object of this Regulation is to provide, with some exceptions, for the adjustment in accordance with inflation of the maximum costs for legal services, and the maximum fees for medico-legal services, recoverable under the *Motor Accident Injuries Act 2017*.

This Regulation is made under the *Motor Accident Injuries Act 2017*, including sections 8.3, 8.4 (1), 8.10 (2) and 11.12 (the general regulation-making power).

Motor Accident Injuries Amendment (Indexation) Regulation 2018

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Motor Accident Injuries Act 2017

1 Name of Regulation

This Regulation is the *Motor Accident Injuries Amendment (Indexation) Regulation 2018*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Motor Accident Injuries Regulation 2017

[1] Schedule 1 Maximum costs for legal services

Omit the text specified in Column 1 of the following table wherever occurring in the Schedule.

Insert instead the text specified opposite in Column 2.

Column 1	Column 2
\$1,600	16 monetary units
\$6,000	60 monetary units
\$800	8 monetary units

[2] Schedule 1, Part 1, clause 1 (3) (b)

Renumber subparagraphs (a) and (b) as subparagraphs (i) and (ii), respectively.

[3] Schedule 1, Part 1, clause 4, Table

Omit Column 2. Insert instead:

Column 2
Monetary units

10

30

3

3

[4] Schedule 1, Part 1, clause 5, Table

Omit Column 2. Insert instead:

Column 2
Monetary units

8

25

35.5

3

[5] Schedule 1, Part 2, clause 2, Tables A and B

Omit the Tables. Insert instead:

Table A Maximum costs for stages of claim—general

Column 1	Column 2	Column 3
Stage		Maximum costs
1	From the acceptance of the retainer to the preparation and service of a notice of claim (including the provision of all relevant particulars about the claim to the insurer, even if those particulars are requested after the claim is served):	
	(a) in the case of an Australian legal practitioner acting for a claimant, or	2.92 monetary units
	(b) in the case of an Australian legal practitioner acting for an insurer	nil
2	From service of the notice of claim under Division 6.3 of the Act to the preparation and service of a response to the insurer's offer of settlement under section 6.22 of the Act:	
	(a) in the case of an Australian legal practitioner acting for a claimant, or	4.32 monetary units
	(b) in the case of an Australian legal practitioner acting for an insurer	nil
3	If resolution of the claim occurs without the issue of a certificate under section 7.36 of the Act—from service of the response to the insurer's offer of settlement under section 6.22 of the Act to resolution of the claim (in addition to the 7.24 monetary units specified for stages 1 and 2 if chargeable):	
	(a) if the amount to be paid in resolution of the claim (the resolution amount) is not more than \$20,000 and the insurer wholly admitted liability for the claim, or	7.24 monetary units
	(b) if the resolution amount is not more than \$20,000 and the insurer did not wholly admit liability for the claim—for each dollar of the settlement amount, or	10 cents
	(c) if the resolution amount is more than \$20,000 but not more than \$50,000 and the insurer wholly admitted liability for the claim:	
	(i) base amount, and	7.24 monetary units
	(ii) for each dollar of the resolution amount over \$20,000, or	12 cents
	(d) if the resolution amount is more than \$20,000 but not more than \$50,000 and the insurer did not wholly admit liability for the claim:	
	(i) base amount, and	25.92 monetary units
	(ii) for each dollar of the resolution amount over \$20,000, or	12 cents

Column 1	Column 2	Column 3
Stage		Maximum costs
	(e) if the resolution amount is more than \$50,000 but not more than \$100,000 and the insurer wholly admitted liability for the claim:	
	(i) base amount, and	51.84 monetary units
	(ii) for each dollar of the resolution amount over \$50,000, or	10 cents
	(f) if the resolution amount is more than \$50,000 but not more than \$100,000 and the insurer did not wholly admit liability for the claim:	
	(i) base amount, and	71.28 monetary units
	(ii) for each dollar of the resolution amount over \$50,000, or	10 cents
	(g) if the resolution amount is more than \$100,000 and the insurer wholly admitted liability for the claim:	
	(i) base amount, and	114.48 monetary units
	(ii) for each dollar of the resolution amount over \$100,000, or	2 cents
	(h) if the resolution amount is more than \$100,000 and the insurer did not wholly admit liability for the claim:	
	(i) base amount, and	133.92 monetary units
	(ii) for each dollar of the resolution amount over \$100,000	2 cents
4	If resolution of the claim occurs after the issue of a certificate under section 7.36 of the Act but without the commencement of court proceedings—from the issue of the certificate to finalisation of the matter:	
	(a) an amount determined, in accordance with stage 3, by reference to the amount of the assessment as if that assessment were the resolution amount referred to in stage 3, and	as per stage 3
	(b) for each dollar of the assessment amount	2 cents
5	If the matter is finalised after the commencement of court proceedings (whether by way of settlement or an award of damages)—from the issue of the certificate under section 7.36 of the Act to finalisation of the matter:	
	(a) an amount determined in accordance with stage 4, and	as per stage 4
	(b) for each dollar of the settlement or award amount	2 cents

Table B Maximum costs for stages of claim—where legal practitioner first retained after claims assessment

Column 1	Column 2	Column 3
Stage		Maximum costs
1	Advice on the issue of the certificate under section 7.36 of the Act	3.56 monetary units
2	From the giving of the advice on the certificate issued under section 7.36 of the Act to finalisation of matter by settlement or award of damages (in addition to the 3.56 monetary units specified for stage 1):	
	(a) if the settlement amount or award is not more than \$20,000, or	nil
	(b) if the settlement amount or award is more than \$20,000 but not more than \$50,000—for each dollar of the settlement amount or award over \$20,000, or	10 cents
	(c) if the settlement amount or award is more than \$50,000 but not more than \$100,000:	
	(i) base amount, and	37.8 monetary units
	(ii) for each dollar of the settlement amount or award over \$50,000, or	8 cents
	(d) if the settlement amount or award is more than \$100,000:	
	(i) base amount, and	88.56 monetary units
	(ii) for each dollar of the settlement amount or award over \$100,000	2 cents

[6] Schedule 2 Maximum fees for medico-legal services

Omit “\$900” and “\$3,600”.

Insert instead “9 monetary units” and “36 monetary units”, respectively.

[7] Schedule 2

Omit the column headed “\$” from the table. Insert instead:

Maximum fee

4.5 monetary units

12 monetary units

4.5 monetary units

66 cents

reasonable costs

Maximum fee

3.75 monetary units

4.95 monetary units

12 monetary units

16 monetary units

12 monetary units

16 monetary units

18 monetary units

22 monetary units

\$1

Not more than 50% of the relevant amount specified in this table

[8] Schedule 3

Insert after Schedule 2:

Schedule 3 Adjustment of maximum costs and fees for inflation

1 Definitions

In this Schedule:

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

adjustment year means a period of 12 months commencing on 1 October.

2 Calculation of monetary unit for purposes of Regulation

(1) For the purposes of this Regulation, a ***monetary unit*** is:

(a) in the adjustment year 2017–18—\$100, and

(b) in each subsequent adjustment year—the amount calculated as follows:

$$\$100 \times \frac{A}{B}$$

where:

A is the CPI number for the June quarter in the adjustment year immediately preceding the adjustment year for which the amount is calculated.

B is the CPI number for the June quarter of 2017.

(2) The amount of a monetary unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).

- (3) However, if the amount of a monetary unit calculated for any adjustment year is less than the amount that applied for the previous adjustment year, then the amount for that previous adjustment year applies instead.

Editorial note. Monetary unit amount calculated under this clause:

Adjustment year	Monetary unit amount
2018–19	\$102.06

3 Rounding of maximum cost and fee amounts

The amount of a maximum cost or fee calculated by reference to a monetary unit is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded down).

4 Notice of indexed maximum costs and fees

- (1) As soon as practicable after the CPI number for the June quarter is first published by the Australian Statistician, the Authority is required to:
- (a) notify the Parliamentary Counsel of the amount of the monetary unit for the next adjustment year so that notice of that amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the maximum costs and fees applying in each adjustment year resulting from the application of the amount of a monetary unit calculated under this Schedule.
- (2) This Schedule operates to change an amount of a maximum cost or fee that is calculated by reference to a monetary unit and that change is not dependent on the notification or other notice required by this clause.