

Passed by both Houses



New South Wales

Motor Accidents Compensation Amendment Bill 2009

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2009*



New South Wales

Motor Accidents Compensation Amendment Bill 2009

Act No , 2009

An Act to amend the *Motor Accidents Compensation Act 1999* to extend the early payment scheme and bulk billing arrangements to all injured persons; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Motor Accidents Compensation Amendment Act 2009*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Motor Accidents Compensation Act 1999 No 41

[1] Section 3A General restrictions on application of Act

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

The early payment scheme provided for under Part 3.2 extends to all injured persons injured in a motor accident (including at fault drivers, pedestrians and other road users).

[2] Section 3A (1), note

Insert at the end of the note:

The bulk billing arrangements provided for under section 54 extend to any person injured in a motor accident (even if the motor accident was caused, partly or wholly, by the fault of that person).

[3] Section 46A

Insert after section 46:

46A Application of Part

This Part applies despite section 3A (1).

[4] Section 47A

Insert after section 47:

47A Payment not required in relation to conduct that constitutes a serious offence

- (1) Payment for treatment expenses or lost earnings is not required under this Part if:
 - (a) the injury to the injured person occurred at the time of, or following, conduct of that person that, on the balance of probabilities, constitutes a serious offence, and
 - (b) that conduct contributed materially to the injury or to the risk of injury.
- (2) A *serious offence* is an offence punishable by imprisonment for 6 months or more.
- (3) This section operates whether or not a person whose conduct is alleged to constitute an offence has been, will be or is capable of being proceeded against or convicted of any offence concerned.

[5] Section 48 Notification of motor accident to police and submission of accident notification form to insurer

Omit “the motor accident was not caused wholly or mainly by the fault of the injured person” from section 48 (d).

Insert instead “the person’s injuries are a direct result of the motor accident”.

[6] Section 50 Acceptance of provisional liability by insurer

Omit section 50 (1)–(3). Insert instead:

- (1) An insurer of a motor vehicle must give written notice to an injured person who has duly submitted a completed accident notification form to the insurer stating whether or not the insurer accepts provisional liability in respect of the treatment expenses and lost earnings concerned.
- (2) It is the duty of the insurer of a motor vehicle involved in the motor accident that resulted in an injured person’s injuries to accept provisional liability in respect of the treatment expenses and lost earnings of the injured person (whether or not the person’s injuries were caused by the fault of the owner or driver of the vehicle in the use or operation of the vehicle and even if the motor accident was caused by the fault of the injured person).
- (3) The notice is required to be given within 10 days after the insurer receives the accident notification form. The regulations may shorten or extend that period.

[7] Section 50 (11)

Insert after section 50 (10):

- (11) In this section:
insurer of a motor vehicle means the insurer who insures the owner of the motor vehicle against liability in respect of the death of or injury to a person caused by the fault of the owner or driver of the vehicle in the use or operation of the vehicle.

[8] Section 54 Bulk billing arrangements for hospital, ambulance and other expenses

Omit section 54 (3). Insert instead:

- (3) For the purposes of this section, the treatment or conveyance of injured persons includes the treatment or conveyance of persons classified as injured persons in accordance with a bulk billing arrangement.

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- (4) Despite section 3A (1), a bulk billing arrangement may extend to expenses of an injured person even if the motor accident concerned was caused wholly or partly by the fault of the injured person.

[9] Section 211 Definitions

Insert in alphabetical order:

relevant period—see section 213 (2).

[10] Section 213

Omit the section. Insert instead:

213 Assessment by Authority of amount to be contributed to Fund

- (1) The Authority is required, as soon as practicable in respect of each relevant period:
- (a) to make an estimate of the total of the amounts to be paid from the Fund during that relevant period, and
 - (b) to determine what amounts, if any, are to be set aside as provisions to meet expenditure from the Fund in future periods, and specify for what purpose each such amount is being set aside, and
 - (c) to make an estimate of the total amounts (including the amounts already received) to be received into the Fund during that relevant period otherwise than by way of contributions in respect of that relevant period under this Part from persons to whom third-party policies are issued, and
 - (d) to determine the total amount to be contributed to the Fund under this Part in respect of that relevant period by persons to whom third-party policies are issued after having regard to the amounts likely to be standing to the credit of the Fund at the beginning of the period, including any amounts set aside in earlier periods as provisions to meet expenditure in later periods, and the amounts estimated under paragraph (c) to be received into the Fund during the relevant period, and
 - (e) to specify in writing the estimates, provisions and amounts to be contributed to the Fund by persons to whom third-party policies are issued.
- (2) A *relevant period* is a financial year or such other period as the Authority determines from time to time to be a relevant period for the purposes of this section. Relevant periods can be determined

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Schedule 1 Amendment of Motor Accidents Compensation Act 1999 No 41

so as to overlap but there must be no gap between successive relevant periods and each relevant period must not be longer than 12 months.

[11] Sections 214 (1) and (4) and 214A (1)

Omit “financial year” wherever occurring. Insert instead “relevant period”.

[12] Section 214AA

Insert after section 214A:

214AA Refund of Fund levy

- (1) The Fund levy is to be refunded, on a pro rata basis, to any person to whom a third-party policy was issued if the policy is cancelled on the cancellation of the registration of the motor vehicle to which it relates (except where the registration is cancelled under Division 3 of Part 4 of the *Fines Act 1996*).
- (2) The Authority may give directions or issue guidelines to licensed insurers with respect to the administrative arrangements of licensed insurers for payment of refunds under this section.

[13] Section 215 Financial year

Omit the section.

[14] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

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[15] Schedule 5

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions arising from Motor Accidents Compensation Amendment Act 2009

Extension of early payment scheme

Section 50, as amended by the *Motor Accidents Compensation Amendment Act 2009*, does not apply in respect of a motor accident that occurs before the commencement of that amendment.

Extension of bulk billing arrangements

Section 54, as amended by the *Motor Accidents Compensation Amendment Act 2009*, does not apply in respect of expenses incurred before the commencement of that amendment.

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

Section 51A

Insert after section 51:

51A Refund of Fund levy

- (1) The Fund levy is to be refunded, on a pro rata basis, to any person to whom a third-party policy was issued if the policy is cancelled on the cancellation of the registration of the motor vehicle to which it relates (except where the registration is cancelled under Division 3 of Part 4 of the *Fines Act 1996*).
- (2) The Authority may give directions or issue guidelines to licensed insurers with respect to the administrative arrangements of licensed insurers for payment of refunds under this section.