



New South Wales

Motor Accident Injuries Amendment Bill 2013

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This public bill which originated in the Legislative Assembly, has passed and is now ready for presentation to the Legislative Council for its concurrence.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Motor Accident Injuries Amendment Bill 2013

Act No , 2013

An Act to amend the *Motor Accidents Compensation Act 1999* to make provision for no-fault statutory benefits and to make further provision for third-party insurance and premiums, claims handling and assessment, and awards of damages; and for other purposes.

EXAMINED

Assistant Speaker

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Motor Accident Injuries Amendment Act 2013</i> .	3
2 Commencement	4
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.	5 6
(2) The amendments made by this Act to Schedule 5 to the <i>Motor Accidents Compensation Act 1999</i> commence on the date of assent to this Act.	7 8

Schedule 1 Amendment of Motor Accidents Compensation Act 1999 No 41

[1] Section 1 Name of Act

Omit “*Motor Accidents Compensation*”.

Insert instead “*Motor Accident Injuries*”.

[2] Section 3 Definitions

Omit the definition of *claim*. Insert instead:

claim means a claim for statutory benefits or a claim for damages.

claim for damages means a claim for damages in respect of the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle.

claim for statutory benefits means a claim for statutory benefits payable under Chapter 3A.

[3] Section 3, definition of “claims assessor”

Omit “section 99”. Insert instead “section 87B”.

[4] Section 3, definition of “Principal Claims Assessor”

Omit “section 99A”. Insert instead “section 87C”.

[5] Section 3

Insert in alphabetical order:

claims assessment means an assessment of a claim for damages under Part 4.4.

employment includes self-employment.

Independent Review Officer means the CTP Independent Review Officer appointed under Part 8.2.

injured person means a person who has suffered an injury in respect of which this Act applies as provided by section 3A.

insurer of a motor vehicle means the insurer who insures the owner or driver of the motor vehicle against liability in respect of the death of or injury to a person, whether or not under a third-party policy, and includes:

(a) the Nominal Defendant, and

(b) where a claim is handled on behalf of an insurer by another insurer, the other insurer, and

- (c) an interstate insurer, and 1
 - (d) a self-insurer under Part 7.2A. 2
- interstate insurer** means an entity (including an authority or instrumentality of the Commonwealth or of another State or a Territory) that under a law of the Commonwealth, another State or a Territory indemnifies the owner or driver of a motor vehicle against liability in respect of the death of or injury to a person. 3
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- MAA Premiums Determination Guidelines** means guidelines issued by the Authority under section 24 and in force. 8
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- motor accident insurance cover** means cover provided to the owner or driver of a motor vehicle under a third-party policy or under a policy of compulsory third-party personal injury insurance or a compulsory motor vehicle accident compensation scheme under the law of a place other than New South Wales or under a law of the Commonwealth 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. 10
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- statutory benefits** means statutory benefits payable under Chapter 3A. 18
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- treatment and care** means the following: 20
- (a) medical treatment (including pharmaceuticals), 21
 - (b) dental treatment, 22
 - (c) rehabilitation, 23
 - (d) ambulance transportation, 24
 - (e) respite care, 25
 - (f) attendant care services, 26
 - (g) aids and appliances, 27
 - (h) prostheses, 28
 - (i) education and vocational training, 29
 - (j) home and transport modification, 30
 - (k) workplace and educational facility modifications, 31
 - (l) such other kinds of treatment, care, support or services as may be prescribed by the regulations for the purposes of this definition, 32
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- but does not include any treatment, care, support or services of a kind declared by the regulations to be excluded from this definition. 35
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[6] Section 3A General restrictions on application of Act	1
Omit the following from section 3A (1):	2
This Act (including any third-party policy under this Act) applies only in respect of the death of or injury to a person that is caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle and only if the death or injury is a result of and is caused (whether or not as a result of a defect in the vehicle) during:	3 4 5 6 7 8
Insert instead:	9
This Act (including any third-party policy under this Act) applies in respect of the death of or injury to a person that results from the use or operation of a motor vehicle only if the death or injury is a result of and is caused (whether or not as a result of a defect in the vehicle) during:	10 11 12 13 14
[7] Section 3A (1), note	15
Omit the note.	16
[8] Section 3B Restrictions on application of claims provisions—accident must be insured or work accident	17 18
Omit the note to section 3B (1).	19
[9] Section 5 Objects of Act	20
Omit “treatment and rehabilitation” from section 5 (1) (a).	21
Insert instead “treatment and care”.	22
[10] Section 5 (1) (b)	23
Insert “and the quick, cost effective and just resolution of disputes” after “compensation claims”.	24 25
[11] Part 1.2, heading	26
Omit the heading. Insert instead:	27
Part 1.2 Recovery for blameless motor accidents	28
[12] Part 1.2, Division 1, heading	29
Omit the heading.	30
[13] Sections 7A, 7D, 7F, 7G, 7H and 7I	31
Omit “Division” wherever occurring. Insert instead “Part”.	32

[14] Section 7E	1
Omit the section. Insert instead:	2
7E No coverage for person who caused accident	3
(1) There is no entitlement to recover damages under this Part in respect of the death of or injury to a person if the motor accident concerned was caused by an act or omission of that person.	4 5 6
(2) The death of or injury to a person is taken to have been caused by an act or omission of the person for the purposes of subsection (1) even if:	7 8 9
(a) the act or omission does not constitute fault by the person, or	10 11
(b) the act or omission was involuntary, or	12
(c) the act or omission was not the sole or primary cause of the death or injury, or	13 14
(d) the act or omission would have caused the death or injury but for the occurrence of a supervening act or omission of another person or some other supervening event.	15 16 17
[15] Section 7F Contributory negligence	18
Omit the note.	19
[16] Part 1.2, Division 2	20
Omit the Division.	21
[17] Section 10 Third-party policies	22
Omit “ <i>Motor Accidents Compensation Act</i> ”.	23
Insert instead “ <i>Motor Accident Injuries Act</i> ”.	24
[18] Section 17A	25
Insert after section 17:	26
17A Right to recover higher premiums resulting from changes	27
If, as a consequence of the change in ownership of a motor vehicle, a change in the place at which a motor vehicle is usually garaged or any other change, a higher premium would be payable in relation to the vehicle than the premium paid or payable under the third-party policy in force in relation to the vehicle before the change occurred, the licensed insurer may recover the appropriate difference from the owner as a debt in a court of competent jurisdiction.	28 29 30 31 32 33 34 35

[19] Section 19	1
Omit the section. Insert instead:	2
19 Provision of vehicle registration information to insurers and Authority	3
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(1) The regulations may make provision for or with respect to authorising or requiring RMS to provide vehicle registration information to the Authority or a licensed insurer.	5
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(2) Without limiting subsection (1), the regulations can provide for the entering into of agreements or other arrangements under which vehicle registration information is to be or may be provided by RMS to the Authority or a licensed insurer.	8
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(3) A regulation cannot be made under this section without the concurrence of the Minister administering the <i>Road Transport Act 2013</i> .	12
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(4) In this section, <i>vehicle registration information</i> means information about a registrable vehicle or the registered operator of a registrable vehicle that is recorded in the NSW registrable vehicles register maintained under the <i>Road Transport Act 2013</i> . Expressions used in this section have the meaning they have in the <i>Road Transport Act 2013</i> .	15
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Note. Vehicle registration information includes the date of birth of the registered operator and the garage address for a vehicle.	21
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[20] Section 24 Authority guidelines for the determination of premiums	23
Insert at the end of section 24 (2) (c):	24
, and	25
(d) provide for such other matters as may be authorised or required by or under this Act to be provided for by those guidelines.	26
	27
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[21] Section 24 (4)	29
Omit the subsection.	30

[22] Section 25 Third-party premiums	1
Insert after section 25 (2):	2
(2A) Two or more licensed insurers can jointly file a premium or set of premiums that they propose to charge.	3 4
[23] Section 25 (3)	5
Omit the subsection. Insert instead:	6
(3) The licensed insurer may, on and from the proposed commencement date for the premium, charge a premium that has not been rejected by the Authority within the period allowed under this section for rejecting a premium. Except as provided by section 27, the licensed insurer must not charge any other premium on and from that proposed commencement date.	7 8 9 10 11 12
[24] Section 25 (4)–(6)	13
Insert after section 25 (3):	14
(4) The proposed commencement date for a premium is the date specified in a filed premium as the date on and from which the proposed premium will be charged. The proposed commencement date cannot be earlier than the end of the period allowed for rejecting a premium but can be changed (with notice to the Authority) to accommodate a change in the period allowed for rejecting a premium.	15 16 17 18 19 20 21
(5) The period allowed for rejecting a premium is:	22
(a) the period nominated by the insurer when filing the premium (being a period of not less than 4 weeks or such shorter period as the Authority may allow in a particular case) unless the Authority notifies a longer period under paragraph (b), or	23 24 25 26 27
(b) such longer period as the Authority may notify to the insurer before the end of the period nominated by the insurer.	28 29 30
(6) A premium may only be rejected as provided by this section or section 27.	31 32
[25] Section 26	33
Omit the section. Insert instead:	34
26 Filing of premiums	35
(1) A licensed insurer must file its premiums with the Authority on such occasions or with such frequency as is required by the MAA	36 37

	Premiums Determination Guidelines and may (subject to any limitations specified in those Guidelines as to the frequency with which premiums may be filed) file its premiums with the Authority at such other times as the insurer considers appropriate.	1 2 3 4
(2)	A licensed insurer must also file its premiums with the Authority whenever required to do so by the Authority by notice in writing to the insurer. The notice must allow a period of at least 4 weeks after the notice is served for premiums to be filed.	5 6 7 8
(3)	An insurer files its premiums by filing with the Authority a full set of the insurance premiums it proposes to charge for third-party policies that are taken to have been issued by it together with such additional information, including actuarial reports, as the Authority may reasonably require.	9 10 11 12 13
(4)	An insurer must pay to the Authority such fees as may be required by the MAA Premiums Determination Guidelines to be paid by insurers in connection with the filing of premiums by insurers.	14 15 16
(5)	It is a condition of a licence granted under Part 7.1 that the insurer must comply with this section.	17 18
[26]	Section 27 Rejection of premiums by Authority	19
	Omit “may only reject” from section 27 (1). Insert instead “may reject”.	20
[27]	Section 27 (1) (d)	21
	Omit the paragraph.	22
[28]	Section 27 (8) (a)	23
	Insert “reasonable” before “acquisition”.	24
[29]	Section 27 (8) (b)	25
	Omit “estimate of the cost of claims plus claim settlement expenses”.	26
	Insert instead “estimate of the reasonable cost of claims plus reasonable claim settlement expenses”.	27 28
[30]	Section 27 (9)	29
	Insert after section 27 (8):	30
	(9) The MAA Premiums Determination Guidelines may:	31
	(a) specify the factors to be taken into account in determining for the purposes of this section the reasonable cost of claims and reasonable claim settlement expenses, and	32 33 34

Motor Accident Injuries Amendment Bill 2013

Schedule 1 Amendment of Motor Accidents Compensation Act 1999 No 41

	(b) specify the factors to be taken into account in determining for the purposes of this section whether a premium is excessive, and	1 2 3
	(c) exclude specified costs and expenses from being taken into account as costs and expenses of the insurer for the purposes of this section, and	4 5 6
	(d) limit the extent to which specified costs and expenses can be taken into account as costs and expenses of the insurer for the purposes of this section.	7 8 9
[31]	Section 29 Premium risk adjustment	10
	Omit section 29 (2). Insert instead:	11
	(2) The regulations may make provision for giving effect to any such arrangement, including provision imposing obligations and liabilities on insurers.	12 13 14
[32]	Section 29 (4)	15
	Omit the subsection. Insert instead:	16
	(4) The Authority may make such an arrangement a condition of the licence of each insurer if the Authority is satisfied that licensed insurers, or any of them, have refused to enter into the arrangement with the Authority and the arrangement is appropriate having regard to the objects of this Act.	17 18 19 20 21
[33]	Section 30 Maximum commission payable to insurers' agents	22
	Omit the section.	23
[34]	Section 31A	24
	Insert after section 31:	25
	31A Application of Part to no-fault statutory benefits	26
	For the purposes of the application of this Part to a claim against the Nominal Defendant for statutory benefits payable under Chapter 3A, the liability of the Nominal Defendant is deemed to be a liability in respect of death or injury caused by the fault of the owner or driver of a vehicle that is not an insured motor vehicle.	27 28 29 30 31 32
[35]	Section 42 Definitions	33
	Omit the section.	34

[36]	Section 44 Medical Guidelines of Authority	1
	Insert “and care” after “treatment” in section 44 (1) (a).	2
[37]	Section 44 (1) (b1)	3
	Insert after section 44 (1) (b):	4
	(b1) the matters to be taken into account in determining whether treatment and care to be provided to an injured person is reasonable and necessary in the circumstances,	5 6 7
[38]	Section 44 (1) (e)	8
	Insert after section 44 (1) (d):	9
	(e) such other matters as this Act provides can be the subject of those guidelines.	10 11
[39]	Section 44 (6)	12
	Omit “must”. Insert instead “may”.	13
[40]	Part 3.2 Early payment for treatment and lost earnings of injured persons	14
	Omit the Part.	15
[41]	Section 54 Bulk billing arrangements for hospital, ambulance and other expenses	16 17
	Insert “and care” after “treatment” wherever occurring.	18
[42]	Section 54 (4)	19
	Omit the section.	20
[43]	Section 55 Payment of hospital, ambulance, medical and other expenses not covered by bulk billing arrangement	21 22
	Insert “and care” after “treatment” in section 55 (1) (a), (2) (a), (2) (c) and (3) wherever occurring.	23 24
[44]	Section 55 (2)	25
	Omit “the duty imposed on the insurer under section 83”.	26
	Insert instead “Chapter 3A”.	27
[45]	Section 56 Maximum fees payable by insurers for treatment and care not provided at hospitals or provided at private hospitals	28 29
	Omit section 56 (1). Insert instead:	30
	(1) This section applies to the fee payable for any treatment and care of an injured person but does not apply to any such treatment and	31 32

	care that is provided at a hospital (whether to an in-patient or out-patient) and for which any payment is required to be made to the hospital and not to the provider of the treatment and care.	1 2 3
[46]	Section 56 (2)	4
	Insert “and care” after “treatment”.	5
[47]	Section 56 (5)	6
	Omit the subsection. Insert instead:	7
	(5) A payment by an insurer under Part 3A.4 is to be made consistently with any regulations under this section.	8 9
[48]	Section 57B	10
	Insert after section 57A:	11
	57B Objects of MAS	12
	The objects of the Motor Accidents Medical Assessment Service in dealing with medical disputes referred for assessment under this Part are as follows:	13 14 15
	(a) to provide a timely, fair and cost-effective system for the assessment of medical disputes that is accessible, transparent, independent and professional,	16 17 18
	(b) to assess medical disputes fairly and according to the substantial merits of the matter with as little formality and technicality as is practicable and to minimise the cost to the parties,	19 20 21 22
	(c) to ensure the quality and consistency of decision-making by medical assessors,	23 24
	(d) to make appropriate use of the knowledge and experience of medical assessors,	25 26
	(e) to establish and maintain effective communication and liaison with stakeholders concerning the role of the Service.	27 28 29
[49]	Section 58 Application	30
	Omit section 58 (1) (a). Insert instead:	31
	(a) what treatment and care is reasonable and necessary in the circumstances to be provided to the injured person (including whether treatment and care provided or to be provided to the injured person was or is reasonable and necessary in the circumstances),	32 33 34 35 36

[50] Section 58 (1) (b)	1
Insert “and care” after “treatment”.	2
[51] Section 58 (1) (c)	3
Insert after section 58 (1) (b):	4
(c) whether an injury suffered by the injured person was caused by the motor accident,	5 6
[52] Section 58 (1) (d)	7
Omit the paragraph. Insert instead:	8
(d) what is the degree of permanent impairment of the injured person that has resulted from the injury caused by the motor accident (including whether the degree of permanent impairment is greater than a particular percentage).	9 10 11 12 13
[53] Section 58 (2)	14
Insert “or a dispute” after “claim”.	15
[54] Section 59 Appointment of medical assessors	16
Insert after section 59 (1):	17
(1A) A person cannot be appointed as a medical assessor unless the person is a registered health practitioner under the <i>Health Practitioner Regulation National Law (NSW)</i> .	18 19 20
[55] Section 60 Medical assessment procedures	21
Omit section 60 (1). Insert instead:	22
(1) A medical dispute about a claim for statutory benefits may be referred to the Authority for assessment under this Part:	23 24
(a) in the case of a dispute about the degree of permanent impairment of the injured person—by either party to the dispute or by a claims assessor, or	25 26 27
(b) in the case of any other dispute—by a claims assessor only.	28
(1A) A medical dispute about a claim for damages may be referred to the Authority for assessment under this Part by either party to the dispute or by a court or claims assessor.	29 30 31

[56] Section 60 (3)	1
Insert after section 60 (2):	2
(3) The Authority can refuse to accept the referral by a party to a claim of a dispute about degree of permanent impairment if the party has provided insufficient evidence in support of the degree of permanent impairment asserted by the party.	3 4 5 6
[57] Sections 60A and 60B	7
Insert after section 60:	8
60A Assessment of degree of permanent impairment	9
(1) The assessment of the degree of permanent impairment of an injured person for the purposes of this Act is to be made in accordance with the MAA Medical Guidelines. The assessed degree of permanent impairment is to be expressed as a percentage.	10 11 12 13 14
(2) Impairments that result from more than one injury arising out of the same motor accident are to be assessed together to assess the degree of permanent impairment of the injured person.	15 16 17
Note. Section 65ZM (Special provisions for psychological and psychiatric injury) provides for impairment arising from psychological/psychiatric injuries to be assessed separately from impairment arising from physical injury.	18 19 20 21
(3) In assessing the degree of permanent impairment, regard must not be had to any psychiatric or psychological injury, impairment or symptoms, unless the assessment of the degree of permanent impairment is made solely with respect to the result of a psychiatric or psychological injury.	22 23 24 25 26
(4) A medical assessor may decline to make an assessment of the degree of permanent impairment of an injured person until the assessor is satisfied that the impairment caused by the injury has become permanent.	27 28 29 30
Note. Section 60B provides for an interim assessment of permanent impairment in some cases.	31 32
60B Interim assessment of permanent impairment	33
(1) A medical assessor who declines to make an assessment of the degree of permanent impairment of an injured person until satisfied that impairment has become permanent must make an interim assessment of permanent impairment if the assessment is for the purpose of determining entitlement to statutory benefits under Part 3A.3 (Weekly payments of statutory benefits to	34 35 36 37 38 39

	injured persons) or 3A.4 (Statutory benefits for treatment and care).	1 2
(2)	An interim assessment of permanent impairment is an assessment that it is highly probable that the injured person will have a degree of permanent impairment of greater than a particular percentage (the <i>minimum degree of permanent impairment</i>).	3 4 5 6
(3)	The degree of permanent impairment of the injured person is deemed to be greater than the minimum degree of permanent impairment that is assessed on an interim assessment, but only for the purposes of the statutory benefits payable to the injured person under Part 3A.3 or 3A.4.	7 8 9 10 11
(4)	An interim assessment operates only until a final assessment is made.	12 13
(5)	An interim assessment does not constitute an assessment of the degree of permanent impairment for the purposes of a claim for damages.	14 15 16
(6)	A payment of statutory benefits under Chapter 3A made to an injured person before a final assessment of permanent impairment is made and that the injured person would not have been entitled to had the final assessment been made before the payment was made cannot be recovered by the insurer.	17 18 19 20 21
[58]	Section 61 Status of medical assessments	22
	Insert “or other determination” after “assessment” in section 61 (2).	23
[59]	Section 61 (6)	24
	Omit section 61 (6) and (7). Insert instead:	25
	(6) A court may not substitute its own determination as to any medical assessment matter.	26 27
[60]	Section 61 (10)	28
	Omit “greater than 10%” where firstly occurring.	29
	Insert instead “greater than a particular percentage”.	30
[61]	Section 61 (10) (c)	31
	Omit the paragraph. Insert instead:	32
	(c) the combined certificate is conclusive evidence as to the degree of permanent impairment of the injured person and this section applies to the combined certificate accordingly.	33 34 35 36

[62] Sections 62 and 62A	1
Omit section 62. Insert instead:	2
62 No further medical assessment after initial medical assessment	3
(1) A matter referred for assessment under this Part may be referred again on one or more further occasions in accordance with this Part by a court or claims assessor but only on the grounds of additional relevant information that was not considered in the previous medical assessment and that is capable of having a material effect on the outcome of the previous medical assessment.	4 5 6 7 8 9 10
(2) Referral of a matter under this section is to be by referral to the member of staff of the Authority who is designated by the Authority for the purpose (in this Part referred to as the <i>proper officer of the Authority</i>).	11 12 13 14
(3) This section does not affect the final assessment of the degree of permanent impairment of an injured person after an interim assessment of permanent impairment.	15 16 17
62A Agreement between parties as to matters in dispute—further assessments and reviews	18 19
The assessment of a medical dispute by way of a further medical assessment or review of a medical assessment under this Part can be made on the basis of any agreement by the parties as to the following matters (without those matters having to be the subject of assessment):	20 21 22 23 24
(a) the degree of permanent impairment of an injured person that has resulted from a particular injury,	25 26
(b) whether a particular injury was caused by a motor accident.	27 28
[63] Section 63 Review of medical assessment by review panel	29
Omit “3 medical assessors” from section 63 (3).	30
Insert instead “2 medical assessors”.	31
[64] Section 63A	32
Insert after section 63:	33
63A Non-binding opinion of medical assessor	34
(1) A claims assessor may refer a medical assessment matter to the Authority for assessment for the purposes of the provision of a	35 36

	non-binding opinion by a medical assessor for the assistance of the claims assessor.	1 2
(2)	The Authority is to refer the matter to a medical assessor for assessment for that purpose.	3 4
(3)	The opinion provided by the medical assessor on such an assessment is not binding on the claims assessor or the parties to a claim.	5 6 7
[65]	Section 64 Costs of medical assessment	8
	Insert after section 64 (3) (a):	9
	(a1) the reasonable and necessary costs and expenses incurred by the injured person in obtaining any medical report for use in connection with a medical assessment,	10 11 12
[66]	Section 64 (4)	13
	Insert “and an assessment for the purposes of the provision of a non-binding opinion under section 63A” after “medical assessments”.	14 15
[67]	Section 65 MAA monitoring and oversight	16
	Insert after section 65 (3):	17
	(4) The Authority may cause details of the decisions of medical assessors under this Act to be published.	18 19
[68]	Chapter 3A	20
	Insert after Chapter 3:	21
	Chapter 3A No-fault statutory benefits	22
	Part 3A.1 Entitlement to no-fault statutory benefits	23
65A	No-fault statutory benefits payable in respect of death or injury resulting from motor accident	24 25
	If the death of or injury to a person is caused by a motor accident, statutory benefits are payable in respect of the death or injury as provided by this Chapter. Statutory benefits are payable whether or not the motor accident was caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle.	26 27 28 29 30
	Note. Part 3A.9 provides for limitations on the entitlement to statutory benefits under this Chapter.	31 32

65B	Statutory benefits payable by relevant insurer	1
(1)	The statutory benefits payable under this Chapter are payable by the relevant insurer.	2 3
(2)	The <i>relevant insurer</i> is:	4
(a)	if the person injured or killed was the driver of or a passenger in a motor vehicle at the time of the motor accident and the insurer of that motor vehicle was a licensed insurer—the insurer of that motor vehicle, or	5 6 7 8
(b)	in any other case—the insurer determined by the Authority to be the relevant insurer (the <i>nominated relevant insurer</i>) for the purposes of a claim for the statutory benefits.	9 10 11
(3)	The regulations may make provision for or with respect to the principles to be applied by the Authority in determining which insurer is to be the relevant insurer for a claim.	12 13 14
(4)	Until the Authority notifies a claimant as to which licensed insurer is the nominated relevant insurer for a claim, any notice that the claimant is required to give to the relevant insurer may instead be given to the Authority and is deemed to have been given to the relevant insurer when it is given to the Authority.	15 16 17 18 19
(5)	For the purposes of this Act (including any motor accident insurance cover in respect of a motor vehicle), a liability that the relevant insurer has to pay statutory benefits under this Chapter in respect of death or injury is deemed to be a liability in respect of death or injury caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle (being a motor vehicle for which the relevant insurer is the insurer), and a claim for statutory benefits is to be dealt with as if it were a claim against the owner or driver of the motor vehicle.	20 21 22 23 24 25 26 27 28
65C	Accident must occur in New South Wales and after commencement	29 30
	This Chapter applies only in respect of a motor accident that occurs in the State after the commencement of this Chapter.	31 32
	Part 3A.2 Statutory benefits for death	33
65D	Statutory benefits for funeral expenses	34
(1)	If the death of a person is caused by a motor accident, statutory benefits are payable for reasonable funeral expenses to:	35 36
(a)	the deceased’s legal personal representative, or	37

-
- (b) if there is no legal personal representative—the person who has paid or is liable to pay those expenses. 1
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- (2) The maximum amount of statutory benefits payable under this section is \$9,000 or such greater amount as may be prescribed by the regulations. 3
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- 65E Expenses of transporting body** 6
- If statutory benefits are payable under this Part and the usual place of residence of the deceased person was, at the time of the person’s death, in Australia, the statutory benefits payable for funeral expenses are to include an additional amount of statutory benefits equal to the reasonable cost of transporting the body of the deceased to: 7
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- (a) what would, in the circumstances, be an appropriate place for its preparation for burial or cremation, or 13
14
- (b) that usual place of residence, 15
whichever is the lesser cost. 16

Part 3A.3 Weekly payments of statutory benefits to injured persons 17 18

- 65F Definitions** 19
- In this Part: 20
- earner*—see section 65K. 21
- first entitlement period*, in respect of an injury resulting from a motor accident, means the period of 13 weeks that starts on the day after the day of the motor accident. 22
23
24
- loss of earnings*—see section 65L. 25
- maximum weekly statutory benefits amount*—see section 65Q. 26
- post-accident earning capacity*—see section 65P. 27
- pre-accident earning capacity* of an injured person means the weekly amount a person had the capacity to earn before the motor accident concerned in employment reasonably available to the person in view of the person’s training, skills and experience. 28
29
30
31
- pre-accident weekly earnings*—see sections 65M–65O. 32
- second entitlement period*, in respect of an injury resulting from a motor accident, means the period of 65 weeks that starts on the day after the end of the first entitlement period. 33
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65G	Weekly payments during first entitlement period (first 13 weeks after motor accident)	1 2
(1)	An earner who is injured as a result of a motor accident and suffers a total or partial loss of earnings as a result of the injury is entitled to weekly payments of statutory benefits under this section during the first entitlement period.	3 4 5 6
	Note. Only a person who was an earner when injured is entitled to statutory benefits under this section.	7 8
(2)	A weekly payment of statutory benefits under this section in respect of a total loss of earnings is to be at the rate of 95% of the person's pre-accident weekly earnings.	9 10 11
(3)	A weekly payment of statutory benefits under this section in respect of a partial loss of earnings is to be at the rate of 95% of the difference between the person's pre-accident weekly earnings and the person's post-accident earning capacity for the first entitlement period.	12 13 14 15 16
(4)	A weekly payment of statutory benefits to a person under this section is not to exceed the maximum weekly statutory benefits amount less the person's post-accident earning capacity (if any) for the first entitlement period.	17 18 19 20
65H	Weekly payments during second entitlement period (weeks 14–78 after motor accident)	21 22
(1)	An earner who is injured as a result of a motor accident and suffers a total or partial loss of earnings as a result of the injury is entitled to weekly payments of statutory benefits under this section during the second entitlement period.	23 24 25 26
	Note. Only a person who was an earner when injured is entitled to statutory benefits under this section.	27 28
(2)	A weekly payment of statutory benefits under this section in respect of a total loss of earnings is to be at the rate of 80% of the person's pre-accident weekly earnings.	29 30 31
(3)	A weekly payment of statutory benefits under this section in respect of a partial loss of earnings is to be at the rate of 85% of the difference between the person's pre-accident weekly earnings and the person's post-accident earning capacity (if any) for the second entitlement period.	32 33 34 35 36
(4)	A weekly payment of statutory benefits to a person under this section is not to exceed the maximum weekly statutory benefits amount less the person's post-accident earning capacity (if any) for the second entitlement period.	37 38 39 40

65I	Weekly payments after second entitlement period (after week 78)	1
(1)	A person who is injured as a result of a motor accident and suffers a total or partial loss of earning capacity as a result of the injury is entitled to weekly payments of statutory benefits under this section after the end of the second entitlement period, but only if the person:	2 3 4 5 6
(a)	is at least 18 years of age (whether or not the person is an earner), or	7 8
(b)	is under 18 years of age and is an earner.	9
	Note. The person's age after the second entitlement period is relevant to determining entitlement to statutory benefits after the second entitlement period. A person's age at the date of the motor accident is not relevant. Section 65K defines when a person is an earner.	10 11 12 13
(2)	A weekly payment of statutory benefits under this section in respect of total loss of earning capacity is to be at the rate of 80% of the person's pre-accident earning capacity.	14 15 16
(3)	A weekly payment of statutory benefits under this section in respect of partial loss of earning capacity is to be at the rate of 85% of the difference between the person's pre-accident earning capacity and the person's post-accident earning capacity after the second entitlement period.	17 18 19 20 21
(4)	A weekly payment of statutory benefits to a person under this section is not to exceed the maximum weekly statutory benefits amount less the person's post-accident earning capacity (if any) after the second entitlement period.	22 23 24 25
(5)	If the amount of an injured person's pre-accident earning capacity cannot be determined, the amount is deemed to be the amount that is equal to 80% of average weekly earnings of all employees for New South Wales last published by the Australian Statistician.	26 27 28 29 30
65J	Cessation of weekly payments after 5 years	31
(1)	Despite any other provision of this Part, an injured person has no entitlement to weekly payments of statutory benefits under this Part for any period of loss of earning capacity that occurs more than 260 weeks after the motor accident concerned.	32 33 34 35
(2)	This section does not apply to an injured person whose injury results in permanent impairment with a degree of permanent impairment of greater than 20%.	36 37 38
	Note. A dispute about degree of permanent impairment can be referred to the Authority for assessment under Part 3.4.	39 40

(3)	An injured person’s entitlement to weekly payments of statutory benefits is not to be terminated under this section unless the insurer has given the injured person not less than 16 weeks’ notice of the insurer’s intention to terminate weekly payments under this section. The notice must not be given earlier than 240 weeks after the motor accident concerned.	1 2 3 4 5 6
(4)	The MAA Claims Handling Guidelines may make provision for or with respect to the information to be included in a notice of intention to terminate weekly payments under this section.	7 8 9
65K	Meaning of “earner”	10
	A person who is injured as a result of a motor accident is an <i>earner</i> for the purposes of this Part if the person is at least 15 years of age and:	11 12 13
(a)	was in full-time or part-time employment as an employed or self-employed person:	14 15
(i)	at any time during the 8 weeks immediately preceding the motor accident, or	16 17
(ii)	during a period or periods equal to at least 13 weeks during the year immediately preceding the motor accident, or	18 19 20
(iii)	during a period or periods equal to at least 26 weeks during the 2 years preceding the motor accident,	21 22
	and, at the date of the motor accident, had not retired permanently from all employment, or	23 24
(b)	before the motor accident, had entered into an arrangement (whether or not an enforceable contract):	25 26
(i)	with an employer or other person to undertake employment, or	27 28
(ii)	to commence business as a self-employed person, at a particular time and place, or	29 30
(c)	was receiving a weekly payment or other payment in respect of loss of earnings under this Act or the <i>Workers Compensation Act 1987</i> .	31 32 33
65L	Meaning of “loss of earnings”	34
(1)	In this Part, <i>loss of earnings</i> means a loss incurred or likely to be incurred in a person’s income from personal exertion.	35 36
(2)	A person’s <i>income from personal exertion</i> is:	37
(a)	the amount that is the income of the person consisting of earnings, salaries, wages, commissions, fees, bonuses,	38 39

	pensions, retiring allowances and retiring gratuities, allowances and gratuities received in the capacity of employee or in relation to any services rendered, and	1 2 3
(b)	the proceeds of any business carried on by the person either alone or in partnership with any other person, and	4 5
(c)	any amount received as bounty or subsidy in carrying on a business, and	6 7
(d)	the income from any property where that income forms part of the emoluments of any office or employment of profit held by the person, and	8 9 10
(e)	any profit arising from the sale by the person of any property acquired by the person for the purpose of profit-making by sale or from the carrying on or carrying out of any profit-making undertaking or scheme.	11 12 13 14
(3)	A person's <i>income from personal exertion</i> does not include:	15
(a)	interest, unless the person's principal business consists of the lending of money, or unless the interest is received in respect of a debt due to the person for goods supplied or services rendered by the person in the course of the person's business, or	16 17 18 19 20
(b)	rents or dividends, or	21
(c)	any employer superannuation.	22
65M	Meaning of "pre-accident weekly earnings"—general	23
(1)	In this Part, <i>pre-accident weekly earnings</i> , in relation to an earner who is injured as a result of a motor accident, means the weekly average of the gross earnings received by the earner as an earner during the 12 months immediately before the day on which the motor accident occurred, unless subsection (2) applies.	24 25 26 27 28
(2)	In the following cases, <i>pre-accident weekly earnings</i> , in relation to an earner (other than a self-employed person) who is injured as a result of a motor accident, means:	29 30 31
(a)	if, on the day of the motor accident, the earner was earning continuously, but had not been earning continuously for at least 12 months, the weekly average of the gross earnings received by the earner as an earner during the period from when the earner started to earn continuously to immediately before the day of the motor accident, or	32 33 34 35 36 37
(b)	if subsection (3) applies, the weekly average of the gross earnings received by the earner as an earner during the period from when the change of circumstance referred to	38 39 40

in that subsection occurred to immediately before the day of the motor accident, or	1 2
(c) if the earner is an earner by reason of having entered into an arrangement with an employer or other person to undertake employment or to commence business as a self-employed person—the average weekly gross earnings that the earner could reasonably have been expected to earn, but for the injury, in employment under that arrangement.	3 4 5 6 7 8 9
(3) This subsection applies if, during the 12 months immediately before the day of the motor accident, there was, as a result of any action taken by the earner, a significant change in his or her earnings circumstances that resulted in the earner regularly earning, or becoming entitled to earn, more on a weekly basis than he or she was earning before the change occurred.	10 11 12 13 14 15
Note. Examples of a change of circumstances to which this subsection would apply include a change of job, a promotion, a move from part-time to full-time employment, or a pay increase arising from the achievement of performance standards.	16 17 18 19
(4) For the purposes of this section, an earner earns continuously if he or she obtains earnings from permanent employment or from a source that, on the day of the motor accident, was likely to continue for a period of at least 6 months to provide earnings to the earner on the same, or a similar, basis to the basis on which the earnings were being provided as at that day.	20 21 22 23 24 25
65N Pre-accident weekly earnings of students	26
(1) If an earner at the time of the accident was a full-time student, the earner’s pre-accident weekly earnings for the purposes of this Part:	27 28 29
(a) until the time that the earner would have completed the course of studies in which the earner was a full-time student, are to be calculated in accordance with section 65M, and	30 31 32 33
(b) as from the time that the earner would have completed the course of studies in which the earner was a full-time student, are to be calculated on the basis of the weekly earnings that the earner would have received upon being employed on the completion of the course of studies in which the earner was a full-time student.	34 35 36 37 38 39
(2) For the purposes of this section, if at the time of the motor accident the earner is a full-time student at a secondary school, the weekly earnings that the earner would have received upon	40 41 42

	being employed on the completion of the course of studies are to be calculated on the basis that the earner will successfully complete the final year of secondary school.	1 2 3
(3)	The MAA Claims Handling Guidelines can make provision for the matters to be taken into account for the purposes of determining the weekly earnings that the earner would have received upon being employed on the completion of the course of studies in which the earner was a full-time student.	4 5 6 7 8
65O	Pre-accident weekly earnings of apprentices, trainees and young people	9 10
(1)	This section applies if, at the time an earner was injured in a motor accident, he or she was:	11 12
	(a) under the age of 21 years, or	13
	(b) an apprentice, or	14
	(c) employed under a contract of service under which he or she was expressly required to undergo any training, instruction or examination for the purpose of becoming qualified for the occupation to which the contract of service related,	15 16 17 18 19
	and, under the terms of his or her employment, he or she was entitled to increments in earnings as the employment continued.	20 21
(2)	In respect of any week after the motor accident in which the earner is entitled to a weekly payment under this Part the calculation of which depends on the amount of the earner's pre-accident weekly earnings, the payment is to be calculated on the basis that the earner's pre-accident weekly earnings are the weekly earnings that it is likely that he or she would have been entitled to in that week had the accident not occurred and had he or she continued in the employment.	22 23 24 25 26 27 28 29
(3)	The MAA Claims Handling Guidelines can make provision for the matters to be taken into account for the purposes of determining the weekly earnings that it is likely that an earner would have been entitled to in a week had the accident not occurred and had he or she continued in the employment concerned.	30 31 32 33 34 35
65P	Meaning of "post-accident earning capacity"	36
(1)	In this Part, <i>post-accident earning capacity</i> of an injured person means:	37 38
	(a) for the first and second entitlement periods—the weekly amount that the person has the capacity to earn in the	39 40

- employment in which the person was engaged immediately before the motor accident, determined on the basis of the person's fitness for work in that employment, or
- (b) for any period after the second entitlement period—the weekly amount the person has the capacity to earn in any employment reasonably available to the person, determined on the basis of the person's fitness for work in any such employment.
- (2) A person's fitness for work during the first and second entitlement periods is to be determined having regard to the following:
- (a) the nature of the injury and the likely process of recovery,
- (b) treatment and rehabilitation needs, including the likelihood that treatment or rehabilitation will enhance earning capacity and any temporary incapacity that may result from treatment,
- (c) any earnings of the person in any employment engaged in by the person after the motor accident,
- (d) any medical certificate provided by the injured person as to the person's fitness for work.
- (3) A person's fitness for work after the second entitlement period is to be determined having regard to the following:
- (a) the nature of the injury and the likely process of recovery,
- (b) treatment provided and rehabilitation undertaken and the potential for further treatment and rehabilitation,
- (c) the person's training, skills and experience,
- (d) the age of the person,
- (e) any medical certificate provided by the injured person as to the person's fitness for work.
- 65Q Meaning of "maximum weekly statutory benefits amount"**
- (1) For the purposes of this Part, the *maximum weekly statutory benefits amount* is the amount that is the maximum weekly compensation amount for the time being under section 34 of the *Workers Compensation Act 1987*.
- (2) If the maximum weekly statutory benefits amount is adjusted, the adjusted amount applies to statutory benefits payable in respect

	of any period after the adjustment takes effect (even if the motor accident concerned occurred before the adjustment takes effect).	1
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	Note. The maximum weekly statutory benefits amount could be adjusted by an amendment of section 34 of the <i>Workers Compensation Act 1987</i> and is automatically adjusted by indexation of that amount under that Act.	3
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(3)	An adjustment of the maximum weekly statutory benefits amount does not apply to statutory benefits payable in respect of any period to the extent that the liability to pay statutory benefits in respect of the period is redeemed before the adjustment takes effect.	7
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65R	Termination of weekly payments on retiring age	12
(1)	If the motor accident that causes a person's injury happens after the person reaches retiring age or within 12 months before reaching retiring age, a weekly payment of statutory benefits is not to be made under this Part in respect of any resulting period of loss of earnings occurring more than 12 months after the motor accident occurs.	13
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(2)	If the motor accident that causes a person's injury happens 12 months or more before the person reaches retiring age, a weekly payment of statutory benefits is not to be made under this Part in respect of any resulting period of loss of earnings occurring after the person reaches retiring age.	19
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(3)	In this section:	24
	<i>retiring age</i> means the age at which a person would, subject to satisfying any other qualifying requirements, be eligible to receive an age pension under the <i>Social Security Act 1991</i> of the Commonwealth.	25
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65S	Obligations to provide authorisations and medical evidence	29
(1)	An insurer who commences weekly payments of statutory benefits under this Part may require the injured person to provide the insurer with:	30
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(a)	a medical certificate certifying as to the person's fitness for work, and	33
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(b)	a form of authority signed by the person authorising a provider of treatment or other services to the person in connection with the injury to give the insurer information regarding the treatment or service provided or the person's condition or treatment relevant to the injury.	35
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(2)	If a person fails to comply with a requirement under this section within 7 days after the requirement is communicated to the person by the insurer, the insurer may suspend payment of weekly payments of statutory benefits to the person under this Part during any period that the failure to comply continues. The person forfeits his or her entitlement to weekly payments during the period of any such suspension.	1 2 3 4 5 6 7
(3)	A claims assessor may determine that weekly payments of statutory benefits are to be payable in respect of any period for which entitlement to those payments was forfeited under this section, but only for the purposes of the redemption of liability to make weekly payments of statutory benefits.	8 9 10 11 12
65T	Requirements for evidence as to fitness for work	13
(1)	An injured person must provide to the insurer:	14
(a)	certificates of fitness for work in accordance with this section in respect of the period in respect of which the person is entitled to weekly payments of statutory benefits under this Part, and	15 16 17 18
(b)	a declaration in the form approved by the Authority as to whether or not the person is engaged in any form of employment or voluntary work for which he or she receives or is entitled to receive payment in money or otherwise or has been so engaged at any time since last providing a certificate under this section.	19 20 21 22 23 24
(2)	If a decision to reject a claim for weekly payments of statutory benefits or to terminate weekly payments of statutory benefits is set aside, a person is not required to comply with this section in respect of any period from the date that the decision took effect until the day on which the decision is set aside.	25 26 27 28 29
(3)	A certificate of fitness for work must:	30
(a)	be a certificate given by a medical practitioner in a form approved by the Authority, and	31 32
(b)	certify as to the person's fitness for work and whether the person has current fitness for work or has no current fitness for work during the period, not exceeding 28 days, stated in the certificate, and	33 34 35 36
(c)	specify the expected duration of the person's unfitness for work.	37 38

(4)	A certificate of fitness for work may cover a period exceeding 28 days if:	1
	(a) the person giving the certificate states in the certificate the special reasons why the certificate covers the longer period, and	2
	(b) the insurer is satisfied that, for the special reasons stated, the certificate should be accepted.	3
(5)	A certificate of fitness for work is of no effect to the extent that it relates to a period that is more than 90 days before the certificate is provided.	4
(6)	If a person fails to comply with a requirement under this section within 7 days after the requirement is communicated to the person by the insurer, the insurer may suspend payment of weekly payments of statutory benefits to the person under this Part during any period that the failure to comply continues. The person forfeits their entitlement to weekly payments of statutory benefits during the period of any such suspension.	5
(7)	A claims assessor may determine that weekly payments of statutory benefits are to be payable in respect of any period for which entitlement to those payments was forfeited under this section, but only for the purposes of the redemption of liability to make weekly payments of statutory benefits.	6
65U	Decisions about earning capacity	7
(1)	An insurer can make a decision (an <i>earnings decision</i>) about the pre-accident earning capacity or post-accident earning capacity of an injured person at any time.	8
(2)	The MAA Claims Handling Guidelines can provide for the procedures to be followed by insurers in connection with the making of earnings decisions.	9
(3)	An insurer may in accordance with the MAA Claims Handling Guidelines require an injured person to attend for and participate in any examination that is reasonably necessary for the purposes of or in connection with the making of an earnings decision by the insurer. Such an examination can include an examination by a medical practitioner or other health care professional.	10
(4)	If an injured person fails without reasonable excuse to attend an examination that the person is required to attend under this section or the examination does not take place because of the person's unreasonable failure to properly participate in it, the person's entitlement to weekly payments of statutory benefits	11

	under this Part is suspended until the examination has taken place.	1 2
(5)	This section does not limit the operation of section 86 (Medical and other examination of claimant).	3 4
65V	Rehabilitation and vocational programs	5
(1)	An insurer must require an injured person who is in receipt of weekly payments of statutory benefits under this Part to undertake such reasonable and necessary rehabilitation or vocational training as the MAA Claims Handling Guidelines may require.	6 7 8 9 10
(2)	If an injured person fails without reasonable excuse to comply with a requirement of an insurer under this section, the person's entitlement to weekly payments of statutory benefits under this Part is suspended while the failure continues.	11 12 13 14
65W	Claimant to notify change of circumstances	15
(1)	A person in receipt of weekly payments of statutory benefits under this Part must immediately give notice to the insurer of either of the following changes in the person's circumstances:	16 17 18
	(a) the person's return to any employment or commencement of employment,	19 20
	(b) any change in the person's earnings from any employment.	21
	Maximum penalty: 20 penalty units.	22
(2)	The notice is to be given in writing or in such other manner as may be permitted by the MAA Claims Handling Guidelines.	23 24
(3)	A person is not guilty of an offence under this section if the person satisfies the court that the insurer failed to inform the person of the obligation to notify that matter.	25 26 27
65X	Notice required before discontinuing or reducing weekly payments	28 29
(1)	If an injured person has received weekly payments of statutory benefits under this Part for a continuous period of at least 4 weeks, the insurer must not discontinue payment, or reduce the amount, of the statutory benefits without first giving the person not less than the required period of notice of intention to discontinue payment of the statutory benefits or to reduce the amount of the statutory benefits.	30 31 32 33 34 35 36
	Maximum penalty: 50 penalty units.	37

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| (2) | The <i>required period of notice</i> for the purposes of this section is: | 1 |
| (a) | when the discontinuation or reduction is during the first entitlement period—2 weeks, or | 2
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| (b) | when the discontinuation or reduction is during the second entitlement period—4 weeks, or | 4
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| (c) | when the discontinuation or reduction is after the second entitlement period—8 weeks. | 6
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| (3) | If the payment of statutory benefits to an injured person is discontinued, or the amount of statutory benefits is reduced, by an insurer in circumstances involving the commission by the insurer of an offence under subsection (1), the injured person may, whether or not the insurer has been prosecuted for the offence, recover from the insurer an amount of statutory benefits that: | 8
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| (a) | if no period of notice has been given—is equal to the amount of statutory benefits, or additional statutory benefits, that would have been payable during the required period of notice if payment of the statutory benefits had not been discontinued or if the amount of statutory benefits had not been reduced, or | 15
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| (b) | if less than the required period of notice has been given—is equal to the amount of statutory benefits that would have been payable during the balance of the required period of notice if payment of the statutory benefits had not been discontinued or if the amount of the statutory benefits had not been reduced. | 21
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| (4) | This section does not affect the operation of section 65Y (Refund of weekly payments paid after return to employment). | 27
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| (5) | This section does not apply to a reduction in weekly payments of statutory benefits as a result only of the application of different rates of statutory benefits after the expiration of earlier periods for which higher rates were payable. | 29
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| (6) | This section does not apply to the suspension of weekly payments of statutory benefits by or under a provision of this Act. | 33
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65Y Refund of weekly payments paid after return to employment	1
(1) If, because of a claimant's return to or commencement of employment or a change in employment that affects the claimant's earnings:	2
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(a) the claimant is not entitled under this Part to any weekly payments of statutory benefits that have been paid to the claimant, or	5
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(b) the amount of any weekly payments of statutory benefits that have been paid to the claimant exceeds the amount to which the claimant is entitled under this Part,	8
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a claims assessor may direct the claimant to refund to the person who made the payments any amount to which the claimant is not entitled in respect of payments during the period of 2 years (or such shorter or longer period as the claims assessor considers to be appropriate) from the date of payment.	11
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(2) Any such refund may, in accordance with the terms of the claims assessor's direction, be deducted from future weekly payments of statutory benefits to the claimant or be recovered as a debt in a court of competent jurisdiction.	16
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(3) Without limiting this section, a claims assessor may give such directions as the claims assessor thinks fit for the adjustment of weekly payments of statutory benefits to a claimant to take account of any overpayments made to the claimant (whether or not in the circumstances referred to in subsection (1)) in respect of any previous period.	20
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(4) A court before which proceedings for an offence under section 65X (Notice required before discontinuing or reducing weekly payments) are taken against a person may, on the application of the Authority (whether or not the person is convicted of the offence), give any direction that it is satisfied a claims assessor could give under this section as a result of the return to or commencement of employment or change in employment to which the alleged offence relates. The standard of proof that applies in connection with an application under this subsection is proof on the balance of probabilities.	26
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(5) The power conferred on a court by subsection (4) does not authorise the giving of a direction for the adjustment of weekly payments of statutory benefits.	36
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(6) A direction of a court under this section is enforceable as a civil debt and may be recovered as such in any court of competent	39
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	jurisdiction by the person to whom the direction requires payment to be made.	1 2
(7)	The Local Court cannot direct the payment of an amount under this section that when added to the amount of any penalty imposed for the offence concerned would exceed an amount equivalent to 500 penalty units.	3 4 5 6
(8)	This section does not limit any other right of recovery that a person may have against another person in respect of any overpayment of statutory benefits to that other person.	7 8 9
65Z	Residence outside Australia	10
(1)	An injured person who resides outside Australia:	11
	(a) is not entitled to payment of statutory benefits under Part 3A.5 (Lump sum statutory benefits for permanent impairment) while residing outside Australia, and	12 13 14
	(b) is not entitled to statutory benefits under Part 3A.4 (Statutory benefits for treatment and care) in respect of treatment and care provided while the person is residing outside Australia, except pursuant to the redemption of liability for statutory benefits as provided by this section, and	15 16 17 18 19 20
	(c) is not entitled to receive any weekly payment of statutory benefits in respect of any period during which the person resides outside Australia, except as provided by this section when the loss of earnings in respect of which statutory benefits are payable is likely to be of a permanent nature.	21 22 23 24 25 26
(2)	An injured person residing outside Australia is entitled to receive on a quarterly basis the amount of the weekly payments accruing due during the preceding quarter if:	27 28 29
	(a) a claims assessor has determined that the injured person's loss of earnings is likely to be of a permanent nature, and	30 31
	(b) the person establishes, in such manner and at such intervals as the Authority may require, the person's identity and the continuance of the loss of earnings in respect of which the weekly payment is payable.	32 33 34 35
(3)	For the purposes of any redemption of the liability to pay an injured person statutory benefits under Part 3A.4, that liability extends to statutory benefits payable in respect of treatment and care provided while the person is residing outside Australia but the reasonable cost of treatment and care is to be reckoned on the	36 37 38 39 40

basis of whichever is the lesser of the reasonable cost in Australia
or the reasonable cost where the person is residing. 1
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65ZA Indexation of weekly statutory benefits 3

- (1) The amount of a weekly payment of statutory benefits to an
injured person is to be varied on each review date after the end of
the first entitlement period by varying the amount of the injured
person's pre-accident weekly earnings and pre-accident earning
capacity (referred to in this section as *adjustable amounts*) for
the purposes of the calculation of the amount of a weekly
payment, in accordance with the formula: 4
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$$A \times \frac{B}{C}$$

where: 11

A is the adjustable amount at the start of the first entitlement
period or, if that amount has been varied in accordance with this
section, that amount as last so varied. 12
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B is: 15

- (a) the CPI for the December quarter immediately prior to the
review date when the review date is 1 April, or 16
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(b) the CPI for the June quarter immediately prior to the
review date when the review date is 1 October. 18
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C is: 20

- (a) the CPI for the June quarter immediately prior to the
review date when the review date is 1 April, or 21
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(b) the CPI for the December quarter immediately prior to the
review date when the review date is 1 October. 23
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- (2) In this section: 25

CPI means the consumer price index (All Groups Index) for
Sydney issued by the Australian Statistician. 26
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review date means 1 April and 1 October in each year. 28

- (3) The Minister is, on or before each review date, to notify, by order
published on the NSW legislation website, the number that
equates to the factor B/C for the purposes of the variation
required for that review date under this section. 29
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- (4) A notification published on the NSW legislation website after a
review date for the purposes of the variation required for that
review date under this section has effect as if published before
that review date. 33
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(5)	If the variation of an adjustable amount by operation of this section has the effect of reducing the amount:	1
	(a) the variation is deemed not to have taken effect, except for the purposes of the application of this section, and	2
	(b) when the amount is varied and increased by operation of this section in respect of the next or a subsequent financial year, that variation has effect as an increase only to the extent (if any) to which the amount of the increase exceeds the amount of the reduction in respect of a preceding period, or that part of such a reduction that has not been set off against a previous increase.	3
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(6)	Where it is necessary for the purposes of this Part to calculate an amount that consists of or includes a fraction of a whole number, the amount is deemed to have been calculated in accordance with this section if the calculation is made to the nearest whole dollar.	12
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65ZB	Minimum weekly statutory benefits amount	16
	If the amount of a weekly payment of statutory benefits to which an injured person is entitled under this Part in respect of a week is less than the minimum weekly payment amount prescribed by the regulations, the person is not entitled to any weekly payment of statutory benefits in respect of that week.	17
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65ZC	Statutory benefits payable fortnightly	22
	Weekly payments of statutory benefits under this Part are payable on a fortnightly basis unless the MAA Claims Handling Guidelines otherwise provide or the parties to a claim otherwise agree.	23
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Part 3A.4	Statutory benefits for treatment and care	27
65ZD	Entitlement to statutory benefits for treatment and care	28
	(1) An injured person is entitled to statutory benefits for the following expenses (<i>treatment and care expenses</i>) incurred in connection with providing treatment and care for the injured person:	29
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	(a) the reasonable cost of treatment and care,	33
	(b) reasonable and necessary travel and accommodation expenses incurred by the injured person in order to obtain treatment and care for which statutory benefits are payable,	34
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	(c) if the injured person is under the age of 18 years, reasonable and necessary travel and accommodation expenses incurred by a parent or other carer of the injured person in order to accompany the injured person while treatment and care for which statutory benefits are payable is being provided.	1 2 3 4 5 6
	(2) No statutory benefits are payable for the cost of treatment and care to the extent that the treatment and care concerned was not reasonable and necessary in the circumstances or did not relate to the injury caused by the motor accident concerned.	7 8 9 10
65ZE	No statutory benefits for gratuitous attendant care services	11
	(1) No statutory benefits are payable under this Part for expenses incurred in connection with the provision of gratuitous attendant care services.	12 13 14
	(2) In this section: <i>gratuitous attendant care services</i> means attendant care services provided to an injured person for which the injured person has not paid and is not liable to pay.	15 16 17 18
65ZF	Statutory benefits for loss of capacity to provide gratuitous domestic services	19 20
	(1) An injured person is entitled to statutory benefits under this Part for the reasonable expenses incurred after the motor accident in employing a person to provide domestic services to the claimant's dependants, but only if:	21 22 23 24
	(a) in the case of any dependants of the claimant of the kind referred to in paragraph (a) of the definition of <i>dependants</i> in this section—the claimant provided the services to those dependants before the motor accident, and	25 26 27 28
	(b) the claimant's dependants were not (or will not be) capable of performing the services themselves by reason of their age or physical or mental incapacity, and	29 30 31
	(c) there is a reasonable expectation that, but for the claimant's injury, the claimant would have provided the services to the claimant's dependants for at least 6 hours per week and for a period of at least 6 consecutive months, and	32 33 34 35 36
	(d) there will be a need for the services to be provided for those hours per week and that consecutive period of time and that need is reasonable in all the circumstances.	37 38 39

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- (2) If a dependant of the claimant received (or will receive) assisted care during a 6-month period for periods that were (or will be) short-term and occasional and for no more than 4 weeks in total during that 6-month period:

 - (a) in determining whether the claimant would have provided gratuitous domestic services to the dependant during a particular week for at least 6 hours, disregard the week if the assisted care was (or will be) provided during that week, and
 - (b) in determining whether the claimant would have provided gratuitous domestic services to the dependant during a 6-month period, disregard any periods during which the assisted care was (or will be) provided in that 6-month period.
 - (3) The claimant (or the legal personal representative of a deceased claimant) is not entitled to statutory benefits under this section in respect of any loss of the claimant’s capacity to provide gratuitous domestic services to any dependant of the claimant if the dependant has previously recovered damages in respect of that loss of capacity.
 - (4) In this section:

assisted care, in relation to a dependant of a claimant, means any of the following kinds of care (whether or not the care is provided gratuitously):

 - (a) any respite care (being care that includes accommodation that is provided by a person other than the claimant to a dependant who is aged or frail, or who suffers from a physical or mental disability, with the primary purpose of giving the dependant or claimant, or both, a break from their usual care arrangements),
 - (b) if the dependant is a minor (but without limiting paragraph (a))—any care that is provided to the dependant by a person other than the claimant where:

 - (i) the person is a parent of the dependant (whether derived through paragraph (a) (i) or (ii) of the definition of ***dependants*** in this section, adoption or otherwise), and
 - (ii) the care includes the provision of accommodation to the dependant.

dependants means:

- (a) such of the following persons as are wholly or partly dependent on the claimant at the time of the motor accident:
 - (i) the husband or wife of the claimant,
 - (ii) a de facto partner of the claimant,
 - (iii) a child, grandchild, sibling, uncle, aunt, niece, nephew, parent or grandparent of the claimant (whether derived through subparagraph (i) or (ii), adoption or otherwise),
 - (iv) any other person who is a member of the claimant's household, and
- (b) any unborn child of the claimant (whether derived through paragraph (a) (i) or (ii), adoption or otherwise) at the time of the motor accident and who is born after that time.

gratuitous domestic services means services of a domestic nature for which the person providing the service has not been paid and is not entitled to be paid.

- (5) The provision of domestic services to an injured person's dependants as provided by this section constitutes the provision of treatment and care for the injured person for the purposes of this Part.

65ZG Verification of expenses

- (1) No statutory benefits are payable under this Part for expenses unless the expenses are properly verified in accordance with the MAA Claims Handling Guidelines.
- (2) The MAA Claims Handling Guidelines may make provision for how expenses for treatment and care are to be verified including verification that:
 - (a) the expenses have been incurred, and
 - (b) the treatment and care has been provided, and
 - (c) the treatment and care relates to the injury in respect of which statutory benefits are payable.

65ZH Limits on statutory benefits under Guidelines

- (1) The MAA Medical Guidelines may include provision for the following in connection with statutory benefits payable under this Part for treatment and care expenses:
 - (a) limiting the amount of statutory benefits payable for any particular treatment and care,

(b)	approving particular treatment and care as appropriate treatment and care in respect of any matter.	1 2
(2)	An insurer is not required to pay statutory benefits for treatment and care expenses under this Part:	3 4
(a)	to the extent that the cost of treatment and care exceeds any limit imposed by the MAA Medical Guidelines in respect of the treatment and care, or	5 6 7
(b)	if the treatment and care does not accord with the treatment approved under the MAA Medical Guidelines for the matter concerned.	8 9 10
(3)	Nothing in this Part prevents an insurer from:	11
(a)	paying treatment and care expenses that the insurer is not required to pay as statutory benefits under this Part, or	12 13
(b)	approving further treatment and care for the purposes of any claim.	14 15
(4)	An injured person is not liable to pay, and a person is not entitled to recover from an injured person, the cost of treatment and care provided in respect of an injury suffered in the motor accident concerned if, and to the extent that, the cost of treatment and care exceeds any limit imposed by the MAA Medical Guidelines in respect of the treatment and care.	16 17 18 19 20 21
65ZI	5-year limit on statutory benefits under this Part	22
(1)	No statutory benefits are payable under this Part for treatment and care expenses incurred more than 260 weeks after the motor accident concerned.	23 24 25
(2)	This section does not apply to an injured person whose injury results in permanent impairment with a degree of permanent impairment of greater than 10%.	26 27 28
	Note. A dispute about degree of permanent impairment can be referred to the Authority for assessment under Part 3.4.	29 30
(3)	The insurer must give an injured person notice about the operation of this section and that notice must be given in accordance with the MAA Claims Handling Guidelines. Statutory benefits are payable for expenses incurred during the period of 16 weeks after the notice is given even if that is more than 260 weeks after the motor accident concerned.	31 32 33 34 35 36
(4)	The MAA Claims Handling Guidelines may make provision for the information to be included in a notice about the operation of this section.	37 38 39

65ZJ	No statutory benefits for expenses already compensated	1
	Statutory benefits are not payable under this Part to the extent that the treatment and care expenses concerned:	2
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	(a) are paid for by an insurer under a claim for damages made in respect of the matter, or	4
		5
	(b) are paid or recovered under Part 3.3 (Payments to hospitals, doctors and others).	6
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65ZK	Application of Part to treatment and care needs covered by Lifetime Care and Support Scheme	8
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	(1) This Part does not apply in respect of any treatment and care needs of a person who is a participant in the Scheme under the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i> , or any excluded treatment and care needs, that relate to the motor accident injury in respect of which the person is a participant in the Scheme and that arise during the period in which the person is a participant in the Scheme.	10
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	(2) This section applies:	17
	(a) whether or not the treatment and care needs are assessed treatment and care needs under the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i> , and	18
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	(b) whether or not the Lifetime Care and Support Authority is required to make a payment in respect of the treatment and care needs concerned, and	21
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	(c) whether or not the treatment, care, support or service (provided in connection with treatment and care needs) is provided on a gratuitous basis.	24
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	(3) In this section, <i>treatment and care needs</i> and <i>excluded treatment and care needs</i> have the same meanings as they have in the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i> .	27
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Part 3A.5 Lump sum statutory benefits for permanent impairment

65ZL	Entitlement to lump sum statutory benefits	32
	(1) A person who suffers permanent impairment as a result of an injury caused by a motor accident is entitled to receive statutory benefits (<i>permanent impairment statutory benefits</i>) for that permanent impairment as provided by this section if the degree of permanent impairment is greater than 10%. Permanent	33
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impairment statutory benefits are in addition to any other
statutory benefits under this Chapter.

Note. No permanent impairment statutory benefits are payable for a
degree of permanent impairment of 10% or less. A dispute about degree
of permanent impairment must be referred to the Authority for
assessment under Part 3.4.

- (2) Once a person has been paid an amount of permanent impairment
statutory benefits in respect of an injury, no further payment of
permanent impairment statutory benefits are payable to the
person even if the degree of permanent impairment resulting
from the injury is found to have increased.
- (3) The amount of permanent impairment statutory benefits is to be
calculated as follows:
- (a) if the degree of permanent impairment is greater than 10%
but not greater than 15%, the amount of permanent
impairment statutory benefits is to be \$18,700,
 - (b) if the degree of permanent impairment is greater than 15%
but not greater than 20%, the amount of permanent
impairment statutory benefits is to be \$26,950,
 - (c) if the degree of permanent impairment is greater than 20%
but not greater than 25%, the amount of permanent
impairment statutory benefits is to be \$38,500,
 - (d) if the degree of permanent impairment is greater than 25%
but not greater than 30%, the amount of permanent
impairment statutory benefits is to be \$52,250,
 - (e) if the degree of permanent impairment is greater than 30%
but not greater than 35%, the amount of permanent
impairment statutory benefits is to be \$66,000,
 - (f) if the degree of permanent impairment is greater than 35%
but not greater than 40%, the amount of permanent
impairment statutory benefits is to be \$79,750,
 - (g) if the degree of permanent impairment is greater than 40%
but not greater than 45%, the amount of permanent
impairment statutory benefits is to be \$96,800,
 - (h) if the degree of permanent impairment is greater than 45%
but not greater than 50%, the amount of permanent
impairment statutory benefits is to be \$116,050,
 - (i) if the degree of permanent impairment is greater than 50%
but not greater than 55%, the amount of permanent
impairment statutory benefits is to be \$135,300,

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(j)	if the degree of permanent impairment is greater than 55% but not greater than 60%, the amount of permanent impairment statutory benefits is to be \$154,550,	1 2 3
(k)	if the degree of permanent impairment is greater than 60% but not greater than 65%, the amount of permanent impairment statutory benefits is to be \$173,800,	4 5 6
(l)	if the degree of permanent impairment is greater than 65% but not greater than 70%, the amount of permanent impairment statutory benefits is to be \$193,050,	7 8 9
(m)	if the degree of permanent impairment is greater than 70% but not greater than 75%, the amount of permanent impairment statutory benefits is to be \$212,300,	10 11 12
(n)	if the degree of permanent impairment is greater than 75%, the amount of permanent impairment statutory benefits is to be \$220,000.	13 14 15
(4)	If there is a dispute about the degree of permanent impairment of an injured person, statutory benefits are not payable under this Part unless the degree of permanent impairment has been assessed by a medical assessor under Part 3.4 (Medical assessment).	16 17 18 19 20
(5)	The amount of permanent impairment statutory benefits is to be calculated under this section as in force when the statutory benefits are paid.	21 22 23
(6)	The regulations may make provision for the adjustment of the dollar amounts specified in this section.	24 25
65ZM	Special provisions for psychological and psychiatric injury	26
(1)	If an injured person receives a psychological injury and a physical injury, arising out of the same incident, the injured person is only entitled to receive statutory benefits under this Part in respect of impairment resulting from one of those injuries, and for that purpose the following provisions apply:	27 28 29 30 31
(a)	the degree of permanent impairment that results from the psychological injury is to be assessed separately from the degree of permanent impairment that results from the physical injury,	32 33 34 35
(b)	the person is entitled to receive statutory benefits under this Part for impairment resulting from whichever injury results in the greater amount of statutory benefits being payable to the person under this Part (and is not entitled to receive statutory benefits under this Part for impairment resulting from the other injury),	36 37 38 39 40 41

	(c) a dispute as to which injury results in the greater amount of statutory benefits is to be determined by a claims assessor.	1 2
	Note. If there is more than one physical injury those injuries will still be assessed together as one injury under section 60A, but separately from any psychological injury. Similarly, if there is more than one psychological injury those psychological injuries will be assessed together as one injury, but separately from any physical injury.	3 4 5 6 7
	(2) In this section: <i>psychological injury</i> includes psychiatric injury.	8 9
	(3) This section applies only in respect of statutory benefits payable under this Part.	10 11
	Part 3A.6 Redemption of statutory benefits claims	12
65ZN	Claim can be redeemed	13
	(1) A claim for statutory benefits can be redeemed by payment to the claimant of a lump sum calculated in accordance with the MAA Claims Handling Guidelines.	14 15 16
	(2) A claim is redeemed by redeeming all liabilities to pay statutory benefits under this Chapter to the claimant.	17 18
65ZO	Agreement or approval required for redemption	19
	(1) A claim cannot be redeemed except by agreement between the parties or with the approval of a claims assessor.	20 21
	(2) The MAA Claims Handling Guidelines can specify cases in which the claim cannot be redeemed except with the approval of a claims assessor.	22 23 24
65ZP	Process for approval of claims assessor	25
	(1) A claims assessor is not to approve the redemption of a claim unless satisfied that:	26 27
	(a) redemption is appropriate in the circumstances, and	28
	(b) the amount to be paid is adequate for redemption of the liabilities concerned, and	29 30
	(c) the proposed redemption satisfies the requirements of this Part and the MAA Claims Assessment Guidelines.	31 32
	(2) On an application for the approval of a claims assessor for a proposed redemption, the claims assessor may substitute an amount determined by the claims assessor to be adequate for redemption of the liabilities concerned and may approve the redemption on the basis of the substituted amount.	33 34 35 36 37

65ZQ	Process for redemption	1
(1)	Redemption of a claim does not require the agreement of either party if the redemption is approved by a claims assessor.	2 3
(2)	Either party to a claim can apply to the Authority for the approval of a proposed redemption by a claims assessor and must give notice of the application to the other party to the claim.	4 5 6
(3)	If the case is one in which the MAA Claims Handling Guidelines require redemption of the claim, the insurer must apply to the Authority for the approval by a claims assessor of a proposed redemption of the claim.	7 8 9 10
(4)	An injured person may request redemption of a claim by a written request to the insurer but the insurer is not required to comply with the request (unless the case is one in which the MAA Claims Handling Guidelines require redemption).	11 12 13 14
65ZR	Guidelines and regulations	15
(1)	The MAA Claims Handling Guidelines may provide for the following:	16 17
(a)	requirements to be satisfied before a claim can be redeemed,	18 19
(b)	matters to be considered in determining whether redemption is appropriate and whether an amount is adequate for redemption of a liability,	20 21 22
(c)	cases in which a claim must or must not be redeemed,	23
(d)	procedures to be followed by insurers in connection with redemptions,	24 25
(e)	forms to be used in connection with redemptions,	26
(f)	the making of requests for redemption by injured persons and the obligations of insurers in connection with any such request.	27 28 29
(2)	The regulations may prescribe the discount rate that is to be applied in determining, for the purposes of the redemption of a claim, the present value of statutory benefits payable in the future.	30 31 32 33
65ZS	Effect of redemption	34
	Payment of a lump sum in redemption of a claim discharges all liabilities to pay statutory benefits under this Chapter in respect of the injury concerned but does not affect any liability to pay damages.	35 36 37 38

Part 3A.7 Statutory benefits dispute resolution

65ZT Statutory benefits decisions of insurers

A *statutory benefits decision* of an insurer is any decision by the insurer about statutory benefits under this Chapter, including (without limitation) the following decisions:

- (a) a decision about liability for statutory benefits,
- (b) a decision about the kind or amount of statutory benefits payable to a claimant,
- (c) a decision to vary the amount of, suspend or discontinue payments of statutory benefits.

65ZU Internal review of statutory benefits decisions

- (1) A claimant for statutory benefits under this Chapter can request an insurer to conduct a review (an *internal review*) of any statutory benefits decision of the insurer in connection with the claim.
- (2) A request for an internal review of a statutory benefits decision must be made within 30 days after the claimant becomes aware of the decision unless the request is allowed by the MAA Claims Handling Guidelines to be made later than that.
- (3) The claimant must provide the insurer with such information as the insurer may reasonably require and request for the purposes of an internal review.
- (4) The MAA Claims Handling Guidelines may provide for the following:
 - (a) the making of a request for an internal review, including the form of a request and the information to accompany a request,
 - (b) the circumstances in which a request for an internal review may be made later than 30 days after the claimant is notified of the insurer's decision,
 - (c) the individuals who may or may not conduct an internal review,
 - (d) the way in which an internal review is to be conducted (including requiring the giving of reasons for an insurer's decision on an internal review).
- (5) The insurer is to conduct an internal review in accordance with the MAA Claims Handling Guidelines and is to complete and

notify the claimant of the results of the review in accordance with the following requirements:	1 2
(a) if the decision concerned is a decision that concerns a medical assessment matter (as defined in Part 3.4)—the review must be completed and the results notified within 14 days after the request for the review is received by the insurer,	3 4 5 6 7
(b) in any other case—the review must be completed and the results notified within 21 days after the request for the review is received by the insurer.	8 9 10
(6) The MAA Claims Handling Guidelines may provide for particular circumstances in which an insurer has a longer period to complete and notify the results of an internal review.	11 12 13
(7) An internal review can consider information that was not provided before the decision being reviewed was made.	14 15
(8) An internal review of a decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision.	16 17 18
65ZV Determination of disputes by claims assessor	19
(1) A dispute about a statutory benefits decision cannot be referred for determination by a claims assessor until the decision has been the subject of an internal review by the insurer under this Part.	20 21 22
(2) A dispute must be referred for determination by a claims assessor within 30 days after the claimant receives notice of the insurer's decision on the internal review of the statutory benefits decision concerned unless the dispute is allowed to be referred later than that under the MAA Claims Handling Guidelines.	23 24 25 26 27
(3) A dispute can be referred for determination by a claims assessor without an internal review of the statutory benefits decision by the insurer if the insurer has failed to complete an internal review and notify the claimant of the decision on the internal review as and when required to do so, or has declined to conduct a review.	28 29 30 31 32
(4) The referral of a dispute about a statutory benefits decision for determination by a claims assessor does not operate to stay the decision that is the subject of the dispute or otherwise prevent the taking of action based on the decision.	33 34 35 36

<p>(5) The following provisions apply to the procedure for the determination by a claims assessor of a dispute about a statutory benefits decision:</p> <p style="padding-left: 2em;">(a) the claims assessor can consider information that was not provided before the decision that is the subject of the dispute was made,</p> <p style="padding-left: 2em;">(b) the claims assessor is to issue the parties to the dispute with a certificate as to the assessor’s determination and is to attach a brief statement to the certificate setting out the assessor’s reasons for the determination.</p> <p>Note. Section 60 provides for a claims assessor to refer disputes and issues about medical matters for assessment by a medical assessor.</p> <p>65ZW Protection of claimant—favourable and unfavourable decisions</p> <p>(1) The following provisions have effect if the result of a decision dispute under this Part is less favourable or more favourable to the claimant than the original decision:</p> <p style="padding-left: 2em;">(a) if the decision is less favourable and results in the discontinuation of or a further reduction in weekly payments of statutory benefits payable to the claimant, the requirements of Part 3A.3 as to the giving of notice before discontinuing or reducing weekly payments of statutory benefits extend to a discontinuation or further reduction that results from the decision dispute,</p> <p style="padding-left: 2em;">(b) if the decision is more favourable and results in an increase in the amount of weekly payments to which the claimant is entitled, the claimant is entitled to weekly payments on the basis of the increased amount from the date of the original decision.</p> <p>(2) In this section:</p> <p style="padding-left: 2em;"><i>decision dispute</i> means an internal review under this Part of a statutory benefits decision or determination by a claims assessor of a dispute about a statutory benefits decision.</p> <p style="padding-left: 2em;"><i>original decision</i> means the decision that is the subject of an internal review (when the decision dispute is the internal review) or the statutory benefits decision that is the subject of dispute (when the decision dispute is a determination by a claims assessor of a dispute about a statutory benefits decision).</p> <p>65ZX IRO procedural review of earnings decisions</p> <p>(1) A statutory benefits decision by an insurer about an injured person’s pre-accident earning capacity or post-accident earning</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p>
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capacity (an <i>earnings decision</i>) can be reviewed by the Independent Review Officer as provided by this section.	1 2
(2) An injured person can refer an earnings decision of an insurer for review by the Independent Review Officer. The review is a review only of the insurer's procedures in making the earnings decision and not of any judgment or discretion exercised by the insurer in making the decision.	3 4 5 6 7
(3) An earnings decision cannot be referred to the Independent Review Officer unless a dispute about the decision has been determined by a claims assessor or a claims assessor has declined to make a determination about the dispute.	8 9 10 11
(4) An application for review of an earnings decision by the Independent Review Officer must be made in the form approved by the Independent Review Officer and specify the grounds on which the review is sought. The injured person must notify the insurer and the Authority in a form approved by the Independent Review Officer of the application for review.	12 13 14 15 16 17
(5) The following provisions apply to the review:	18
(a) an application for review must be made within 30 days after the claimant receives notice of the claims assessor's determination of the dispute concerned or of the decision to decline to make a determination, unless the application is allowed to be made later than that under the MAA Claims Handling Guidelines,	19 20 21 22 23 24
(b) the injured person and the insurer must provide such information as the Independent Review Officer may reasonably require and request for the purposes of the review,	25 26 27 28
(c) an application for review can be rejected if the application is frivolous or vexatious or because the injured person has failed to provide information requested by the Independent Review Officer,	29 30 31 32
(d) the review does not operate to stay the decision or otherwise prevent the taking of action based on the decision,	33 34 35
(e) the Independent Review Officer is to notify the insurer, the Authority and the injured person of the findings of the review.	36 37 38
(6) The Independent Review Officer may make recommendations to an insurer, based on the findings of a review, for changes to the insurer's procedures for the purpose of improving those	39 40 41

	procedures. The Independent Review Officer is to give reasons for any such recommendations.	1 2
(7)	Recommendations made to an insurer by the Independent Review Officer must be given effect to by the insurer.	3 4
(8)	The findings or recommendations of the Independent Review Officer do not affect the earnings decision or any internal review or assessment by a claims assessor of the earnings decision.	5 6 7
Part 3A.8 Costs		8
65ZY	Definition of “legal costs”	9
	In this Part, <i>legal costs</i> means costs for the provision of legal services (including disbursements).	10 11
65ZZ	Claimant entitled to recover costs and expenses of claim	12
(1)	A claimant for statutory benefits is entitled to recover from the insurer against whom the claim is made the reasonable and necessary costs and expenses incurred by the claimant in connection with the claim.	13 14 15 16
	Note. Costs and expenses can include the cost of medical and other tests and reports.	17 18
(2)	This section does not extend to legal costs.	19
(3)	The regulations may make provision for or with respect to fixing the maximum costs and expenses recoverable by a claimant under this section.	20 21 22
65ZZA	Payment and recovery of legal costs	23
(1)	An Australian legal practitioner is not entitled to be paid or recover legal costs for any legal services provided to a party to a claim for statutory benefits (whether the claimant or the insurer) in connection with the claim unless payment of those legal costs is permitted by the regulations or a claims assessor.	24 25 26 27 28
	Note. Section 149 provides for regulations to fix maximum costs recoverable by legal practitioners for legal services and related services in motor accident matters.	29 30 31
(2)	A claimant for statutory benefits is entitled to recover from the insurer against whom the claim is made reasonable and necessary legal costs incurred by the claimant if payment of those costs is permitted by the regulations or a claims assessor. The regulations can fix the maximum legal costs that a claimant is entitled to recover from the insurer.	32 33 34 35 36 37

- (3) A claims assessor can permit payment of legal costs incurred by a claimant but only if satisfied that:
 - (a) the claimant is under a legal disability, or
 - (b) exceptional circumstances exist that justify payment of legal costs incurred by the claimant, being circumstances specified by the MAA Claims Assessment Guidelines as exceptional circumstances for that purpose.
- (4) An insurer is not entitled to recover from the claimant any legal costs in relation to the claim.

Part 3A.9 Restrictions and limitations on statutory benefits

65ZZB Effect of death on entitlement to statutory benefits

The following provisions apply to statutory benefits payable under this Chapter to an injured person if the person dies (whether or not the person's death is caused by the motor accident):

- (a) statutory benefits payable under Part 3A.3 (Weekly payments of statutory benefits to injured persons) are not payable in respect of any period after the person's death,
- (b) statutory benefits under Part 3A.5 (Lump sum statutory benefits for permanent impairment) are not payable if not paid before the person's death (even if a claim for statutory benefits was made before the person's death),
- (c) statutory benefits paid before the person's death cannot be recovered by the insurer merely because the person has died,
- (d) statutory benefits (other than statutory benefits under Part 3A.5) that are payable before the person's death but that are not paid before the person's death remain payable and are payable to the deceased's estate.

65ZZC Workers compensation

- (1) An injured person is not entitled to statutory benefits under this Chapter if compensation under the *Workers Compensation Act 1987* (**workers compensation**) is payable to the injured person in respect of the injury concerned (or would be payable if the liability for workers compensation had not been commuted).
- (2) The relevant insurer for a claim for statutory benefits under this Chapter is not entitled to refuse payment of statutory benefits

under this Chapter on the grounds that workers compensation is payable in respect of the injury unless:	1
(a) the injured person has made a successful claim for workers compensation in respect of the injury, or	2
(b) the injured person has failed to comply with a request by the relevant insurer under this section to make a claim for workers compensation in respect of the injury.	3
(3) A claim for workers compensation is considered to have been successful if liability for any workers compensation has been accepted by the insurer for the claim under the <i>Workers Compensation Act 1987</i> . Liability is considered to have been accepted until liability is wholly denied (and for that purpose a denial of liability does not count while it is the subject of a dispute under that Act).	4
(4) If the relevant insurer for a claim for statutory benefits under this Chapter considers on reasonable grounds that workers compensation is or may be payable in respect of the injury concerned, the insurer may require the injured person to make a claim for workers compensation in respect of the injury.	5
(5) Statutory benefits are not payable under this Chapter in respect of any matter for which workers compensation was paid before liability for workers compensation was denied.	6
(6) Statutory benefits are not payable under Part 3A.2 (Statutory benefits for death) if workers compensation is paid or payable in respect of the death under Division 1 of Part 3 of the <i>Workers Compensation Act 1987</i> .	7
(7) A person who makes a claim for statutory benefits under this Chapter and a claim for workers compensation must inform both insurers of that fact (unless the insurers would already be aware of both claims having being made). Insurers under this Act and the <i>Workers Compensation Act 1987</i> may exchange information for the purposes of facilitating the proper operation of this section.	8
65ZZD No statutory benefits for at-fault driver if vehicle uninsured	9
(1) Statutory benefits are not payable under this Chapter in respect of the death of or injury to a person resulting from the fault of the person as the owner or driver of a motor vehicle in the use or operation of the vehicle if the vehicle did not have motor accident insurance cover at the time of the motor accident.	10

(2)	This section does not apply to a person who was the driver of the vehicle at the time of the motor accident if:	1 2
(a)	the driver was driving the motor vehicle with the authority of the owner or had reasonable grounds for believing and did in fact believe that the driver had such authority, and	3 4 5
(b)	the driver had reasonable grounds for believing and did in fact believe that the motor vehicle had motor accident insurance cover.	6 7 8
65ZZE	Recovery of statutory benefits from uninsured at-fault driver or owner	9 10
(1)	Any amount properly paid under this Chapter by the relevant insurer as statutory benefits in respect of death or injury may be recovered by the insurer from the owner or driver of a motor vehicle whose fault in the use or operation of the vehicle caused the death or injury if the vehicle did not have motor accident insurance cover at the time of the motor accident.	11 12 13 14 15 16
(2)	This section does not apply to a person who was the driver of the vehicle at the time of the motor accident if:	17 18
(a)	the driver was driving the motor vehicle with the authority of the owner or had reasonable grounds for believing and did in fact believe that the driver had such authority, and	19 20 21
(b)	the driver had reasonable grounds for believing and did in fact believe that the motor vehicle had motor accident insurance cover.	22 23 24
65ZZF	No statutory benefits where serious driving offence committed	25
(1)	Statutory benefits under this Chapter are not payable to an injured person after the person has been charged with or convicted of a serious driving offence that contributed to the person's injury.	26 27 28
(2)	This section does not prevent the payment of statutory benefits if the person is acquitted of the offence charged or the proceedings are discontinued (otherwise than in circumstances of a plea of guilty to another serious driving offence that contributed to the person's injury).	29 30 31 32 33
(3)	A serious driving offence is considered to have contributed to a person's injury only if:	34 35
(a)	the injury occurred at the time of, or following, conduct of the person that constitutes the serious driving offence, and	36 37
(b)	that conduct contributed materially to the injury or to the risk of injury.	38 39

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- (4) A person is considered to have been charged with a serious driving offence if proceedings for a serious driving offence are pending against the person, and the person is considered to have been charged when those proceedings were commenced. 1
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- (5) A *serious driving offence* is: 5
- (a) an offence that is a major offence under the *Road Transport Act 2013* or an offence under section 115 or 116 (2) (a)–(e) of that Act, or 6
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- (b) any other offence prescribed by the regulations as a serious driving offence, 9
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- but does not include an offence under section 110 (1), (2) or (3) of the *Road Transport Act 2013* or any other offence prescribed by the regulations as excepted from this definition. 11
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- (6) This section does not entitle an insurer to recover payments of statutory benefits made before the person is charged with or convicted of the relevant serious driving offence. 14
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- 65ZZG No statutory benefits for self-inflicted injury** 17
- No statutory benefits are payable in respect of the death of or injury to a person occurring as a result of the person’s deliberate act done with the intention of causing death or serious injury to himself or herself. 18
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- 65ZZH Effect of recovery of damages on statutory benefits** 22
- (1) If a person (*the claimant*) recovers damages in respect of the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle then (except to the extent that subsection (2), (3) or (4) covers the case): 23
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- (a) the claimant ceases to be entitled to any further statutory benefits under Part 3A.3 (Weekly payments of statutory benefits to injured persons) or 3A.5 (Lump sum statutory benefits for permanent impairment) in respect of the injury concerned (including statutory benefits claimed but not yet paid), and 28
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- (b) the amount of any statutory benefits already paid under Part 3A.3 or 3A.5 in respect of the injury concerned is to be deducted from the damages (awarded or otherwise paid as a lump sum) and is to be paid to the person who paid the statutory benefits. 34
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- (2) If damages in respect of an injury are recovered from the person liable to pay statutory benefits under this Chapter, pursuant to a 39
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- cause of action that survives for the benefit of the estate of a
deceased person under the *Law Reform (Miscellaneous
Provisions) Act 1944*, the amount of any statutory benefits under
Part 3A.3 or 3A.5 already paid in respect of the injury concerned
are to be repaid out of the estate of the deceased person to the
person who paid the statutory benefits. 1
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 - (3) If damages are recovered in an action under the *Compensation to
Relatives Act 1897* in respect of the death of a person, the amount
of any statutory benefits under Part 3A.2 (Statutory benefits for
death) paid in respect of the death is to be deducted from the
damages (awarded or otherwise paid as a lump sum) and is to be
paid to the person who paid the statutory benefits. 7
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 - (4) If a person recovers damages in respect of an injury from the
employer liable to pay compensation under the *Workers
Compensation Act 1987*: 13
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 - (a) the person ceases to be entitled to any further statutory
benefits under this Chapter in respect of the injury
concerned (including statutory benefits claimed but not yet
paid), and 16
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 - (b) the amount of any statutory benefits already paid under
Part 3A.3 in respect of the injury concerned is to be
deducted from the damages (awarded or otherwise paid as
a lump sum) and is to be paid to the person who paid the
statutory benefits. 20
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Part 3A.10 Role of CARS 25

65ZZI Jurisdiction of claims assessors 26

- (1) Subject to this Act, a claims assessor has exclusive jurisdiction to
examine, hear and determine all matters arising under this Act in
connection with statutory benefits payable under this Chapter. 27
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- (2) Except as otherwise provided by this Act, a decision of a claims
assessor under this Act in connection with statutory benefits
payable under this Chapter is final and binding on the parties and
is not subject to appeal or review. 30
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65ZZJ Procedure for referral of matters to claims assessor 34

The MAA Claims Assessment Guidelines may make provision
for or with respect to the procedures to be followed by the parties
to a claim in connection with the referral of a dispute or other
matter concerning statutory benefits for determination by a
claims assessor. 35
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65ZZK	Reference of question of law to Supreme Court	1
(1)	A claims assessor may in proceedings in connection with a claim for statutory benefits, of his or her own motion or at the request of a party, refer a question of law arising in the proceedings to the Supreme Court for the opinion of the Court if the Principal Claims Assessor has consented in writing to the question being referred.	2 3 4 5 6 7
(2)	The Supreme Court has jurisdiction to hear and determine any question of law referred to it under this section.	8 9
(3)	If a question of law arising in proceedings has been referred to the Supreme Court under this section, the claims assessor must not:	10 11
(a)	give a decision in the proceedings to which the question is relevant while the reference is pending, or	12 13
(b)	proceed in a manner, or make a decision, that is inconsistent with the opinion of the Supreme Court on the question.	14 15 16
65ZZL	Appeal on question of law	17
(1)	A party to proceedings before a claims assessor in respect of statutory benefits under this Chapter may appeal to the Supreme Court, on a question of law, against any decision of the claims assessor in those proceedings.	18 19 20 21
(2)	The Supreme Court may, on the hearing of any appeal under this section, remit the matter to a claims assessor for determination in accordance with any decision of the Court and may make such other order in relation to the appeal as the Court thinks fit.	22 23 24 25
(3)	A decision of the Supreme Court on an appeal under this section is binding on a claims assessor and on all the parties to the proceedings in respect of which the appeal was made.	26 27 28
(4)	The following appeals under this section may be made only with leave of the Supreme Court:	29 30
(a)	an appeal from a decision as to costs only,	31
(b)	an appeal where the amount of statutory benefits in dispute is less than \$20,000 (or such other amount as may be prescribed by the regulations),	32 33 34
(c)	an appeal from a decision made with the consent of the parties.	35 36
(5)	Subject to any order of the Court, an appeal under this section stays the operation of the decision appealed against (and prevents	37 38

	the taking of action to implement the decision pending the outcome of the appeal).	1 2
(6)	In this section, <i>decision</i> includes an award, determination, ruling, opinion and direction.	3 4
65ZZM	Recovery of amounts ordered to be paid	5
(1)	For the purposes of the recovery of any amount ordered to be paid by a claims assessor, the claims assessor is to issue a certificate certifying as to the amount to be paid and identifying the person liable to pay the certified amount.	6 7 8 9
(2)	The certificate can be filed in the registry of a court having jurisdiction to give judgment for a debt of the same amount as the amount certified, and once filed operates as such a judgment.	10 11 12
	Part 3A.11 Miscellaneous	13
65ZZN	Payment of lump sum benefits to NSW Trustee and Guardian	14
(1)	A claims assessor may direct that an amount payable to a person under this Chapter in redemption of a claim for statutory benefits or as statutory benefits under Part 3A.5 is to be paid to the NSW Trustee in trust for the benefit of the person entitled to the payment if the person is under 18 years of age or is under a legal disability.	15 16 17 18 19 20
(2)	Any money so paid to the NSW Trustee may be invested, applied, paid out or otherwise dealt with by the NSW Trustee in such manner as the NSW Trustee thinks fit for the benefit of the person entitled to the money, subject to any directions of a claims assessor.	21 22 23 24 25
(3)	The receipt of the NSW Trustee is sufficient discharge in respect of any money paid to the NSW Trustee under this section.	26 27
(4)	All amounts held by the NSW Trustee under this section are to form part of a common fund established under the <i>NSW Trustee and Guardian Act 2009</i> and are available for investment as provided by that Act.	28 29 30 31
(5)	A power conferred by this section on the NSW Trustee to invest money for the benefit of a person includes a power to invest the money in any manner that the NSW Trustee is authorised under the <i>NSW Trustee and Guardian Act 2009</i> to invest money held in trust by the NSW Trustee.	32 33 34 35 36

(6)	In this section, <i>NSW Trustee</i> means the NSW Trustee and Guardian constituted under the <i>NSW Trustee and Guardian Act 2009</i> .	1 2 3
65ZZO	Recovery of overpayments of statutory benefits	4
(1)	If, by reason of anything done or omitted to be done by a person claiming statutory benefits, an insurer pays to the person an amount of statutory benefits that exceeds the amount due to the person or that is an amount the insurer is not liable to pay, the person is liable to refund that amount to the insurer.	5 6 7 8 9
(2)	An insurer may recover any amount that a person is liable to refund to the insurer under this section as a debt due to the insurer.	10 11 12
65ZZP	Recovery of statutory benefits from insurer of at-fault vehicle	13
(1)	An insurer who as the relevant insurer for a claim pays statutory benefits under this Chapter in respect of the death of or injury to a person is entitled to recover the amount of statutory benefits properly paid from the insurer of the at-fault vehicle.	14 15 16 17
(2)	An insurer is the insurer of the at-fault vehicle in respect of statutory benefits if the insurer provides motor accident insurance cover for the motor accident concerned to the owner or driver of a motor vehicle whose fault in the use or operation of the vehicle caused the death or injury in respect of which the statutory benefits are paid.	18 19 20 21 22 23
(3)	If there is a dispute between insurers on the question of which insurer is the insurer of the at-fault vehicle, the question may be referred to the Authority for assessment by a claims assessor and the claims assessor's assessment is binding on insurers for the purposes of this section.	24 25 26 27 28
(4)	Insurers may enter into arrangements approved by the Authority that provide for the determination of which insurer is the insurer of the at-fault vehicle in respect of a claim for statutory benefits.	29 30 31
(5)	The Insurance Industry Deed may make provision for or with respect to entitling insurers who pay statutory benefits under this Chapter to recover those payments from other insurers independently of this section.	32 33 34 35
(6)	To remove doubt, this section is not limited to licensed insurers.	36
65ZZQ	Approved forms	37
(1)	The Authority may approve forms for use by insurers for the purposes of this Chapter.	38 39

(2)	The use of an approved form is mandatory for the purpose for which it has been approved.	1 2
[69]	Section 66 Interpretation	3
	Omit section 66 (1).	4
[70]	Section 68 Claims Handling Guidelines of Authority	5
	Omit “to licensed insurers” from section 68 (1).	6
[71]	Section 68 (1A)	7
	Insert after section 68 (1):	8
	(1A) The MAA Claims Handling Guidelines may provide for such other matters as may be authorised or required by or under this Act to be provided for by those Guidelines.	9 10 11
[72]	Section 68 (3)	12
	Omit “is to consult”. Insert instead “may consult”.	13
[73]	Section 68 (6) and (7)	14
	Insert after section 68 (5):	15
	(6) MAA Claims Handling Guidelines are to be published in the Gazette and take effect on the day of that publication or, if a later day is specified in the Guidelines for that purpose, on the day so specified.	16 17 18 19
	(7) Sections 40 (Notice of statutory rules to be tabled) and 41 (Disallowance of statutory rules) of the <i>Interpretation Act 1987</i> apply to MAA Claims Handling Guidelines in the same way as those sections apply to statutory rules.	20 21 22 23
[74]	Section 69 Claims Assessment Guidelines of Authority	24
	Insert “Chapter 3A and” before “Part 4.4” in section 69 (1).	25
[75]	Section 69 (1A)	26
	Insert after section 69 (1):	27
	(1A) The MAA Claims Assessment Guidelines may provide for such other matters as may be authorised or required by or under this Act to be provided for by those Guidelines.	28 29 30
[76]	Section 69 (3)	31
	Omit “is to consult”. Insert instead “may consult”.	32

[77] Part 4.1A	1
Insert after Part 4.1:	2
Part 4.1A General duties of claimants and insurers	3
69A Duty to act with utmost good faith	4
(1) An insurer and a claimant each have a duty to act towards the other with the utmost good faith in connection with a claim.	5 6
(2) The duty of a claimant to act with the utmost good faith includes the following duties:	7 8
(a) a duty to act honestly and not mislead,	9
(b) a duty to disclose all relevant information (including reports by health professionals) in a timely manner,	10 11
(c) a duty to promptly do all things reasonably necessary to facilitate the resolution of any dispute involving the claim.	12 13
(3) The duty of an insurer to act with the utmost good faith includes the following duties:	14 15
(a) the duty to provide a claimant with information about entitlements to statutory benefits and damages,	16 17
(b) the duty to provide a claimant with details of the information (including reports by health professionals) relied on to make a decision on a claim,	18 19 20
(c) a duty to provide written reasons for all decisions that materially affect a claimant's entitlement to statutory benefits or damages,	21 22 23
(d) a duty to make prompt payment of statutory benefits and damages.	24 25
(4) It is a condition of an insurer's licence under Part 7.1 that the insurer must comply with a duty under this section.	26 27
69B Duty of claimant to minimise loss	28
(1) A claimant has a duty to take all reasonable steps to minimise loss caused by injury resulting from a motor accident.	29 30
(2) This duty of a claimant includes the following duties:	31
(a) the duty to undergo reasonable and necessary treatment and care and do all such things as may be reasonable and necessary for the claimant's rehabilitation,	32 33 34
(b) the duty to commence or return to work as soon as reasonably practicable.	35 36

69C	Directions for compliance with duties	1
(1)	A claims assessor may give directions to a party to a claim for the purpose of ensuring compliance by the party with a duty arising under this Part.	2 3 4
(2)	If a claimant fails to comply with such a direction without reasonable excuse, the claims assessor may direct the insurer to suspend weekly payments of statutory benefits to the claimant under Chapter 3A while the failure continues.	5 6 7 8
(3)	If an insurer fails to comply with such a direction without reasonable excuse, the claims assessor may direct the insurer to not discontinue or reduce weekly payments of statutory benefits to the claimant under Chapter 3A while the failure continues.	9 10 11 12
69D	Reports to Authority on compliance	13
	A claims assessor may provide reports to the Authority on the failure of a claimant or insurer to comply with any duty arising under this Part.	14 15 16
[78]	Sections 70–70C	17
	Omit section 70. Insert instead:	18
70	Requirement to report motor accident to police	19
(1)	A motor accident that gives rise to a claim must be reported to a police officer by or on behalf of the claimant unless a police officer attended the motor accident. This requirement is referred to in this Part as the <i>police report requirement</i> for a claim.	20 21 22 23
(2)	The police report requirement must be complied with within 28 days after the motor accident.	24 25
	Note. The following sections deal with the consequences of not complying with the police report requirement within 28 days after the motor accident.	26 27 28
70A	Police report requirement for claim for statutory benefits	29
(1)	A claim for statutory benefits cannot be made unless and until the police report requirement for the claim has been complied with.	30 31
(2)	If the police report requirement for a claim is not complied with within 28 days after the motor accident, weekly payments of statutory benefits under Chapter 3A are not payable in respect of any period before the requirement is complied with.	32 33 34 35
(3)	A claims assessor may determine that weekly payments of statutory benefits under Chapter 3A are to be payable in respect of any period before the police report requirement is complied	36 37 38

with (despite a failure to comply with the requirement within 28 days after the motor accident), but only for the purposes of the redemption of liability to make weekly payments of statutory benefits. 1
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70B Police report requirement for claims for damages 5

(1) A person who makes a claim for damages must provide to the insurer a full and satisfactory explanation for any non-compliance with the police report requirement within 28 days after the motor accident. 6
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(2) If the police report requirement for a claim for damages is not complied with within 28 days after the motor accident, a claim for damages cannot be referred for assessment under Part 4.4 unless: 10
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(a) the insurer has lost the right to reject the claim on the ground of that non-compliance, or 14
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(b) a claims assessor has, on the assessment of a dispute as to whether the claimant has a full and satisfactory explanation for the non-compliance, assessed that sufficient cause existed to justify the delay in reporting the motor accident to a police officer and that a report of the motor accident to a police officer was made within a reasonable period in the circumstances, or 16
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(c) the claim is referred only for a certificate of exemption from assessment under Part 4.4. 23
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(3) The insurer loses the right to reject a claim for damages on the ground of non-compliance with the police report requirement if the insurer: 25
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(a) does not, within 2 months after receiving the claim, reject the claim on the ground of that non-compliance or ask the claimant to provide a full and satisfactory explanation for the non-compliance, or 28
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(b) does not, within 2 months after receiving an explanation for the non-compliance, reject the explanation. 32
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(4) If court proceedings are commenced on a claim for damages in respect of which the police report requirement has not been complied with, the insurer may apply to the court to have the proceedings dismissed on that ground. 34
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(5) An application to have proceedings dismissed on the ground of non-compliance with the police report requirement cannot be made more than 2 months after the statement of claim is served on the defendant and received by the insurer and also cannot be 38
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	made if the insurer has lost the right to reject the claim on the ground of that non-compliance.	1 2
(6)	On an application to have proceedings dismissed on the ground of non-compliance with the police report requirement, the court must dismiss the proceedings unless satisfied that sufficient cause existed to justify the delay in reporting the motor accident to a police officer and that a report of the motor accident to a police officer was made within a reasonable period in the circumstances.	3 4 5 6 7 8 9
(7)	In this section, a reference to an insurer includes a reference to the person against whom the claim is made.	10 11
70C	Requirement for provisional notice of claim for statutory benefits	12
(1)	Provisional notice of a claim for statutory benefits must be given to the relevant insurer or the Authority by or on behalf of the claimant. Provisional notice of a claim must be given in the form and manner required by the MAA Claims Handling Guidelines.	13 14 15 16
(2)	Statutory benefits are not payable unless provisional notice of the claim has been given under this section.	17 18
(3)	If provisional notice of a claim for statutory benefits has not been given under this section within 28 days after the motor accident, weekly payments of statutory benefits are not payable in respect of any period before provisional notice is given.	19 20 21 22
(4)	A claims assessor may determine that weekly payments of statutory benefits are to be payable in respect of any period before provisional notice of a claim is given under this section (despite a failure to give provisional notice within 28 days after the motor accident), but only for the purposes of the redemption of liability to make weekly payments of statutory benefits.	23 24 25 26 27 28
(5)	If provisional notice of a claim for statutory benefits has not been given, the making of a claim for statutory benefits operates as the giving of provisional notice of the claim (with provisional notice deemed to have been given when the claim is made), and separate provisional notice of the claim is not required.	29 30 31 32 33
[79]	Section 72 Time for and notice of making of claims	34
	Omit “6 months” from section 72 (1). Insert instead “12 months”.	35

[80] Section 72 (2) and (2A)	1
Omit section 72 (2). Insert instead:	2
(2) A claim for statutory benefits is made by giving notice of the claim to the relevant insurer.	3 4
(2A) A claim for damages is made by giving notice of the claim:	5
(a) to the insurer of the motor vehicle concerned, or	6
(b) to the person against whom the claim is made if there is no insurer of the motor vehicle concerned.	7 8
Note. Section 79A provides for a claim for damages to be made by notifying the relevant insurer for a claim for damages if that insurer is acting as agent for the insurer of the motor vehicle concerned. Section 73A provides for how a claim for statutory benefits can be extended to a claim for damages.	9 10 11 12 13
[81] Section 72 (3)	14
Omit “subsection (2)”. Insert instead “this section”.	15
[82] Section 72 (4)	16
Insert after section 72 (3):	17
(4) A claim for statutory benefits and a claim for damages can be made separately or they can be made together as part of the one claim.	18 19 20
[83] Section 72A	21
Insert after section 72:	22
72A Late making of claim for statutory benefits	23
A claim for statutory benefits may be made more than 12 months after the relevant date for the claim under section 72 if the failure to make the claim within 12 months after the relevant date was occasioned by ignorance, mistake, absence from the State or other reasonable cause, and either:	24 25 26 27 28
(a) the claim is made within 3 years after the relevant date, or	29
(b) the claim is not made within that 3 years but the claim is in respect of the death of a person or injury resulting in a degree of permanent impairment of the injured person of greater than 10%.	30 31 32 33
[84] Section 73 Late making of claim for damages	34
Omit “A claim may be made more than 6 months” from section 73 (1).	35
Insert instead “A claim for damages may be made more than 12 months”.	36

[85] Section 73 (3)	1
Omit “If a late claim is made”.	2
Insert instead “If a late claim for damages is made”.	3
[86] Section 73 (5)	4
Insert “for damages” after “claim”.	5
[87] Section 73, note	6
Omit “6 months” wherever occurring. Insert instead “12 months”.	7
[88] Section 73A	8
Insert after section 73:	9
73A Extending a claim for statutory benefits to a claim for damages	10
(1) Once a claim for statutory benefits has been made, a claim for damages can be made by extending the claim for statutory benefits to a claim for damages.	11 12 13
(2) A claim for statutory benefits is extended to a claim for damages by giving notice to the relevant insurer in the form approved by the Authority of the claimant’s intention to pursue the claim as a claim for damages.	14 15 16 17
(3) If a claim for statutory benefits is extended to a claim for damages, a separate claim for damages is not required and the claim becomes a claim for damages and a claim for statutory benefits.	18 19 20 21
(4) The claim for damages is taken to have been made when the notice of intention to pursue the claim as a claim for damages is given to the relevant insurer. Section 73 (Late making of claim for damages) does not apply to the claim for damages.	22 23 24 25
[89] Section 74 Form of notice of claim	26
Insert after section 74 (1):	27
(1A) The approved form for a notice of a claim may:	28
(a) provide for a separate claim for statutory benefits and a separate claim for damages, and	29 30
(b) require different or additional particulars and information depending on whether the claim is a claim for statutory benefits or a claim for damages.	31 32 33

[90] Section 75 Other approved forms	1
Insert after section 75 (1):	2
(1A) The use of an approved form is mandatory for the purpose for which it has been approved.	3 4
[91] Section 75A	5
Insert after section 75:	6
75A Rejecting claim for statutory benefits for failure to comply with section 74	7 8
(1) An insurer cannot reject a claim for statutory benefits on the ground of failure to comply with section 74 later than 2 weeks after the claim is received by the insurer.	9 10 11
(2) An insurer cannot reject a claim for statutory benefits on the ground of failure to comply with section 74 if the failure is:	12 13
(a) technical and of no significance, or	14
(b) a failure of a kind that the MAA Claims Handling Guidelines provide is capable of being remedied by the insurer.	15 16 17
[92] Section 76 Rejecting claim for damages for failure to comply with section 74	18 19
Omit “a claim cannot be referred for assessment” from section 76 (1).	20
Insert instead “a claim for damages cannot be referred for assessment”.	21
[93] Section 76 (2) and (3)	22
Insert “for damages” after “a claim” wherever occurring.	23
[94] Section 77 Insured not to admit liability or act in respect of claim	24
Insert “so as to prejudice or otherwise interfere with the exercise of any power of the insurer under section 78” after “in respect of a claim” in section 77 (1).	25 26
[95] Section 79A	27
Insert after section 79:	28
79A Relevant insurer to act as insurer agent for claims for damages	29
(1) The insurer (the <i>relevant insurer</i>) against whom a claim for statutory benefits in respect of the death of or injury to a person can be made under this Act is, for the purposes of any claim for damages in respect of the death or injury, appointed by this	30 31 32 33

- section as the agent of the insurer of the at-fault vehicle for the following purposes: 1
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- (a) dealing with and finalising any claim for damages in respect of the death or injury against which a person is indemnified by the insurer of the at-fault vehicle, 3
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 - (b) satisfying any such claim or any judgment in respect of any such claim, 6
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 - (c) any other purpose prescribed by the regulations. 8
- (2) The following arrangements are to apply for the purposes of the operation of this section in respect of a claim for damages: 9
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- (a) the claim is notified to the insurer of the at-fault vehicle by being notified to the relevant insurer (for the purposes of the requirements of this Act for the making of claims), 11
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 - (b) the relevant insurer is to notify the insurer of the at-fault vehicle of the making of the claim, 14
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 - (c) the relevant insurer is to consult with the insurer of the at-fault vehicle about decisions to be made in connection with the claim, including the decision whether to admit or deny liability for the claim, 16
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 - (d) the relevant insurer may exercise any function as agent of the insurer of the at-fault vehicle either in the name of the relevant insurer or in the name of the insurer of the at-fault vehicle, 20
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 - (e) the agency established by this section cannot be revoked by the insurer of the at-fault vehicle, 24
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 - (f) the insurer of the at-fault vehicle is not entitled to give any directions to the relevant insurer in connection with the exercise of functions by the relevant insurer as agent under this section of the insurer of the at-fault vehicle, 26
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 - (g) the relevant insurer is entitled to be reimbursed by the insurer of the at-fault vehicle for any amount paid by the relevant insurer as damages in respect of the claim, 30
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 - (h) the relevant insurer is not entitled to be reimbursed by the insurer of the at-fault vehicle for any costs and expenses incurred in the course of the agency under this section unless the insurer of the at-fault vehicle is not a licensed insurer, 33
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 - (i) the amount that the relevant insurer is entitled to be reimbursed by the insurer of the at-fault vehicle for any costs and expenses incurred in the course of the agency 38
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	(when that insurer is not a licensed insurer) is an amount specified in or determined under the regulations.	1 2
(3)	The regulations may make provision for or with respect to the following in connection with the operation of this section:	3 4
	(a) regulating the exercise of functions of a relevant insurer as agent of the insurer of the at-fault vehicle,	5 6
	(b) the obligations of the insurer of the at-fault vehicle to provide assistance to and otherwise co-operate with the relevant insurer in connection with a claim for damages,	7 8 9
	(c) requirements for consultation between the relevant insurer and the insurer of the at-fault vehicle about a claim for damages,	10 11 12
	(d) requirements for the sharing of information between the relevant insurer and the insurer of the at-fault vehicle about a claim for damages,	13 14 15
	(e) establishing entitlements to possession and ownership of records and other documents in connection with a claim,	16 17
	(f) providing for circumstances in which this section is not to apply in respect of a claim.	18 19
(4)	A motor vehicle is the <i>at-fault vehicle</i> for a claim for damages if the claim alleges that the death or injury was caused by the fault of the owner or driver of the vehicle in the use or operation of the vehicle.	20 21 22 23
[96]	Section 80 General duty to try to resolve claim expeditiously	24
	Insert “and a claimant” after “insurer” in section 80 (1).	25
[97]	Section 80A	26
	Insert after section 80:	27
80A	Acceptance of liability for claim for statutory benefits	28
(1)	An insurer must, within 4 weeks after a claimant makes a claim for statutory benefits, give the claimant written notice in a form approved by the Authority stating whether or not the insurer accepts liability for statutory benefits.	29 30 31 32
(2)	If the insurer fails to notify the claimant in accordance with this section, the insurer is taken to have accepted liability for statutory benefits.	33 34 35

(3)	An insurer is not prevented from accepting liability for statutory benefits after having denied that liability and the acceptance of liability does not prevent the subsequent denial of liability.	1 2 3
(4)	An insurer who has accepted (or is deemed to have accepted) liability for statutory benefits must commence payment of statutory benefits without delay. An insurer cannot recover statutory benefits paid on the basis of the acceptance of liability for statutory benefits if the insurer subsequently denies liability.	4 5 6 7 8
(5)	It is a condition of an insurer's licence under Part 7.1 that the insurer must comply with this section.	9 10
[98]	Section 81 Duty of insurer with respect to admission or denial of liability in claim for damages	11 12
	Omit section 81 (1). Insert instead:	13
(1)	When a claim for damages is made, the insurer must as expeditiously as possible give written notice to the claimant in a form approved by the Authority as to whether the insurer admits or denies liability for the claim. The insurer must in any event give that notice within 3 months after the claim is made.	14 15 16 17 18
[99]	Section 81 (2A)	19
	Insert after section 81 (2):	20
(2A)	If an insurer admits fault in respect of a claim but fails to admit any other element of liability, the insurer is not considered to have admitted liability for the claim.	21 22 23
[100]	Section 81A	24
	Insert after section 81:	25
81A	Costs penalty for unreasonable denial of liability	26
(1)	If an insurer denies liability (whether for part or all of a claim), a claims assessor may, in assessing costs on the claim, impose a costs penalty under this section if the claims assessor is of the opinion that there was no reasonable basis for the denial of liability.	27 28 29 30 31
(2)	There is considered to be a reasonable basis for a denial of liability only if the denial was based on provable facts and a reasonably arguable view of the law.	32 33 34
(3)	The costs penalty that may be imposed on an insurer under this section is a penalty of up to 25% (imposed by increasing the costs	35 36

	to be awarded against the insurer, or decreasing the costs to be awarded in favour of the insurer, by up to 25%).	1 2
	(4) In this section, <i>costs</i> means costs for the provision of legal services (including disbursements).	3 4
[101]	Section 82 Duty of insurer to make offer of settlement on claim for damages	5 6
	Insert “on a claim for damages” after “to the claimant” in section 82 (1).	7
[102]	Section 82A	8
	Insert after section 82:	9
	82A Restrictions on settlement of claim for damages	10
	(1) A claim for damages cannot be settled unless:	11
	(a) the claimant is represented in respect of the claim by an Australian legal practitioner, or	12 13
	(b) the settlement is approved by a claims assessor.	14
	(2) A claims assessor is not to approve the settlement of a claim unless satisfied that the settlement is in the claimant’s best interest and complies with any applicable requirements of the MAA Claims Assessment Guidelines.	15 16 17 18
[103]	Section 83 Duty of insurer to make hospital, medical and other payments	19
	Omit the section.	20
[104]	Section 84 Duty of insurer with respect to rehabilitation of injured person	21
	Omit the section.	22
[105]	Section 84A Duty of insurer to make interim payments on claim for damages in case of hardship	23 24
	Omit “the claim” from section 84A (1). Insert instead “a claim for damages”.	25

[106] Section 84B	1
Insert after section 84A:	2
84B Resolution of statutory benefits claims	3
(1) The relevant insurer for a claim for statutory benefits must refer the claim to the Authority for review by a claims assessor if the claim is unresolved 2 years after the date of the motor accident concerned or (in the case of a claim made more than 12 months after the date of the motor accident) 1 year after the claim is made.	4 5 6 7 8 9
(2) A claim for statutory benefits is <i>unresolved</i> if the claim is active and has not yet been redeemed. A claim is <i>active</i> if the insurer is liable to pay statutory benefits on the claim under Part 3A.3 or 3A.4. A claim for statutory benefits is not unresolved if a claim for damages has also been made.	10 11 12 13 14
(3) On the review of an unresolved claim, the claims assessor is to decide what action is necessary to resolve the claim and may give directions to the parties for the purpose of facilitating or expediting resolution of the claim, including directions for the following:	15 16 17 18 19
(a) the making of a claim for damages,	20
(b) the referral of a dispute or medical dispute for assessment,	21
(c) the redemption of the claim,	22
(d) the efficient management of the claim.	23
[107] Section 85 Duty of claimant to co-operate with other party	24
Omit section 85 (1). Insert instead:	25
(1) A claimant must co-operate fully in respect of the claim with the other party to the claim (being the insurer on the claim or, if there is no insurer, the person against whom the claim is made) for the purpose of giving the other party sufficient information:	26 27 28 29
(a) to be satisfied as to the validity of the claim and, in particular, to assess whether the claim or any part of the claim, may be fraudulent, and	30 31 32
(b) to be able to make an early assessment of liability, and	33
(c) to be able to make an informed offer of settlement in the case of a claim for damages.	34 35
[108] Section 85 (2)	36
Omit “or the other party’s insurer”.	37

[109] Section 85 (3) (g)	1
Insert “for damages” after “proceedings”.	2
[110] Section 85 (4)	3
Omit “The duty under this section”.	4
Insert instead “A duty under this section in respect of a claim for damages”.	5
[111] Section 85A Duty of claimant to provide relevant particulars of claim for damages	6
Insert “for damages” after “claimant” in section 85A (1).	7
[112] Section 85A (3) (a1)	8
Insert before section 85A (3) (a):	9
(a1) the motor accident concerned, and	10
[113] Section 85B Consequences of failure to provide relevant particulars of claim for damages	11
Insert “for damages” after “a claimant” in section 85B (1).	12
[114] Section 86 Medical and other examination of claimant	13
Omit “A claimant must comply with any request by the person against whom the claim is made or the person’s insurer” from section 86 (1).	14
Insert instead “A claimant must comply with any request by the insurer”.	15
[115] Section 86 (4)	16
Omit “such a request”. Insert instead “a request under this section”.	17
[116] Section 86 (4) (a1)	18
Insert before section 86 (4) (a):	19
(a1) weekly payments of statutory benefits under Part 3A.3 are suspended for any period during which the failure continues, and	20
[117] Section 87 Duty of owner and driver to co-operate with insurers	21
Insert “and the relevant insurer” before “in respect of the claim” in section 87 (1).	22
[118] Section 87 (1), note	23
Insert at the end of section 87 (1):	24
Note. This section does not limit the duties that an owner or driver has when they are a claimant for statutory benefits.	25
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[119] Section 87 (2A)	1
Insert after section 87 (2):	2
(2A) An owner or driver who gives an insurer preliminary notice of a claim for statutory benefits against the insurer in respect of a motor accident is not required to give separate notice of the motor accident to the insurer under this section.	3 4 5 6
[120] Section 87 (3)	7
Omit “furnish to the insurer”.	8
Insert instead “furnish to the vehicle owner’s insurer or the relevant insurer in respect of the claim”.	9 10
[121] Part 4.3A	11
Insert after Part 4.3:	12
Part 4.3A Claims Assessment and Resolution Service	13 14
87A Motor Accidents Claims Assessment and Resolution Service	15
(1) The Authority is to establish in association with its operations a unit, to be known as the Motor Accidents Claims Assessment and Resolution Service.	16 17 18
(2) The Service is to consist of claims assessors and such other officers of the Authority as the Authority determines.	19 20
(3) The objects of the Motor Accidents Claims Assessment and Resolution Service in dealing with claims and disputes in connection with claims are as follows:	21 22 23
(a) to provide a timely, fair and cost effective system for the assessment of claims and disputes that is accessible, transparent, independent and professional,	24 25 26
(b) to assess claims and disputes fairly and according to the substantial merits of the matter with as little formality and technicality as is practicable and to minimise the cost to the parties,	27 28 29 30
(c) to ensure the quality and consistency of decision making by claims assessors,	31 32
(d) to make appropriate use of the knowledge and experience of claims assessors,	33 34

(e)	to establish and maintain effective communication and liaison with stakeholders concerning the role of the Service.	1 2 3
87B	Appointment of claims assessors	4
(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 of the Authority.	5 6 7 8
(2)	A claims assessor has the functions that are conferred on the claims assessor by or under this Act.	9 10
(3)	The Authority may remove a claims assessor from office at any time.	11 12
(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.	13 14 15 16
87C	Principal Claims Assessor	17
(1)	The Minister is to appoint a person who is an Australian lawyer as Principal Claims Assessor.	18 19
(2)	The Principal Claims Assessor has and may exercise all the functions of a claims assessor under this Act.	20 21
(3)	The Principal Claims Assessor is responsible for making arrangements as to the claims assessor who is to deal with any particular proceedings.	22 23 24
(4)	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.	25 26 27
(5)	The Principal Claims Assessor can delegate to any claims assessor any of the Principal Claims Assessor's functions under this Act, except this power of delegation.	28 29 30
(6)	Schedule 3 has effect.	31
87D	Power of claims assessor to require information	32
(1)	A claims assessor may give a direction in writing to a party to proceedings before the claims assessor requiring the party:	33 34
(a)	to produce to the assessor, at a time and place specified in the direction, specified documents in the possession of the	35 36

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party, being documents that the assessor considers relevant to the proceedings, or	1 2
(b) to furnish specified information to the assessor within a time specified in the direction, being information that the assessor considers relevant to the proceedings, or	3 4 5
(c) to give within a time specified in the direction any specified consent, authority or direction that the assessor considers necessary or desirable for the purpose of facilitating the provision by another person of documents or information pursuant to a direction under subsection (2).	6 7 8 9 10
(2) A claims assessor may give a direction in writing to a person who is not a party to proceedings before the claims assessor requiring the person:	11 12 13
(a) to produce to the assessor, at a time and place specified in the direction, specified documents in the possession of the person, being documents that the assessor considers relevant to the proceedings, or	14 15 16 17
(b) to furnish specified information to the assessor within a time specified in the direction, being information that the assessor considers relevant to the proceedings.	18 19 20
(3) The Authority must pay the reasonable costs incurred by a person in complying with a direction under subsection (2).	21 22
(4) A person who fails without reasonable excuse to comply with a direction given to the person under this section is guilty of an offence. Maximum penalty: 50 penalty units.	23 24 25 26
(5) If a party to proceedings on a claims assessment fails without reasonable excuse to produce a document or furnish information in compliance with a direction given to the person under this section, the person cannot as a party to proceedings before a court in respect of the claim have the document or information admitted in the proceedings unless the court otherwise orders in the special circumstances of the case.	27 28 29 30 31 32 33
(6) The regulations may make provision for or with respect to any of the following matters:	34 35
(a) exempting specified kinds of documents or information from the operation of this section,	36 37
(b) specifying cases and circumstances in which a claims assessor is required to exercise the assessor's powers under this section.	38 39 40

87E	Power of claims assessor to provide documents and information to a party	1
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(1)	When documents or information are produced or furnished to a claims assessor by a party to proceedings (whether or not pursuant to a requirement under this Act), the assessor may produce or furnish the documents or information to any other party to the proceedings.	3
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(2)	When documents or information are produced or furnished to a claims assessor by a person who is not a party to the proceedings (pursuant to a direction under this Part), the assessor may produce or furnish the documents or information to any party to the proceedings.	8
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(3)	The regulations may make provision for or with respect to any of the following matters:	13
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(a)	exempting specified kinds of documents or information from the operation of this section,	15
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(b)	specifying cases and circumstances in which a claims assessor is required to exercise the assessor's powers under this section,	17
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		19
(c)	specifying circumstances in which documents or information produced or furnished to a claims assessor may not be produced or furnished by the assessor to a party to the proceedings.	20
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87F	Power of claims assessor to summon and compel witnesses	24
(1)	A claims assessor may:	25
(a)	call any person to appear as a witness at proceedings before the claims assessor, and	26
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(b)	examine any witness on oath or affirmation, or by use of a statutory declaration, at proceedings before the claims assessor, and	28
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(c)	examine or cross-examine any witness to such extent as the assessor thinks proper in order to elicit information relevant to the exercise of the assessor's functions in proceedings before the claims assessor, and	31
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(d)	compel any witness to answer questions that the assessor considers to be relevant in proceedings before the claims assessor.	35
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(2)	A claims assessor may issue a summons signed by the claims assessor requiring a person to do any of the following:	1 2
(a)	attend and give evidence at proceedings before the claims assessor,	3 4
(b)	attend and produce documents or other things at proceedings before the claims assessor.	5 6
(3)	A person who, without reasonable excuse, fails to comply with the requirements of a summons is guilty of an offence. Maximum penalty: 100 penalty units.	7 8 9
87G	Protection of claims assessors	10
(1)	A matter or thing done or omitted to be done by a claims assessor in the exercise of the assessor's functions does not, if the matter or thing was done or omitted in good faith, subject the assessor personally to any action, liability, claim or demand.	11 12 13 14
(2)	Any such liability attaches instead to the Crown.	15
(3)	A claims assessor is, in any legal proceedings, competent but not compellable to give evidence or produce documents in respect of any matter in which he or she was involved in the course of the exercise of his or her functions as a claims assessor.	16 17 18 19
87H	Proceedings before claims assessors	20
(1)	In this section: <i>proceedings</i> means any conference or other proceeding held with or before a claims assessor, and includes any such proceedings at which the parties (or some of them) participate by telephone, closed-circuit television or other means.	21 22 23 24 25
(2)	A person who is a party to proceedings is entitled to be represented by an Australian legal practitioner or by an agent. The claims assessor may however refuse to permit a party to be represented by an agent if of the opinion that the agent does not have sufficient authority to make binding decisions on behalf of the party.	26 27 28 29 30 31
(3)	A party to proceedings is entitled to such representation or assistance (for example, the assistance of an interpreter) as may be necessary to enable the party to communicate adequately at the proceedings.	32 33 34 35
(4)	A claims assessor must take into account any written submission prepared by an Australian legal practitioner acting for a party to a claim and submitted by or on behalf of the party (whether or not	36 37 38

	the party is represented by an Australian legal practitioner at proceedings on the claim).	1 2
(5)	A claims assessor may, subject to any general directions of the Principal Claims Assessor, conduct proceedings with all relevant parties in attendance and with relevant experts in attendance, or separate proceedings in private with any of them.	3 4 5 6
(6)	If the claims assessor is satisfied that sufficient information has been supplied to him or her in connection with a claim, the assessor may exercise functions under this Act without holding any formal hearing.	7 8 9 10
(7)	In proceedings before a court with respect to a claim for damages (other than proceedings under Part 4.6), evidence of a statement made in proceedings before a claims assessor is not admissible unless the person who made the statement agrees to the evidence being admitted.	11 12 13 14 15
	Note. See also section 115 with respect to disclosure of result of assessment.	16 17
871	Control and direction of claims assessors	18
(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.	19 20 21
(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 a claim.	22 23 24 25 26 27
(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 that affects the interests of the parties to a claim.	28 29 30 31
(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 application of the provisions of this Act and the regulations and of other relevant matters.	32 33 34 35 36
(5)	This section does not affect the exercise of the functions of the Chief Executive Officer under the <i>Public Sector Employment and Management Act 2002</i> with respect to claims assessors who are members of staff of the Authority.	37 38 39 40

(6)	This section applies to the Principal Claims Assessor in the same way as it applies to a claims assessor.	1 2
87J	MAA monitoring and oversight	3
(1)	Claims assessments and other proceedings on a claim before a claims assessor are subject to relevant provisions of the MAA Claims Assessment Guidelines.	4 5 6
(2)	The Authority may make arrangements for the provision of training and information to claims assessors to promote accurate and consistent decisions by claims assessors.	7 8 9
(3)	The Authority may cause details of the decisions of claims assessors under this Act to be published.	10 11
[122]	Section 89 Application	12
	Omit section 89 (1). Insert instead:	13
(1)	This Part applies only to a claim for damages but so applies whether or not the insurer admits or denies liability.	14 15
[123]	Part 4.4, Division 1A Document exchange and settlement conference before claims assessment	16 17
	Omit the Division.	18
[124]	Section 90 Reference of claim	19
	Insert at the end of section 90:	20
(2)	A party to a claim must use their best endeavours to settle the claim before referring it for assessment under this Part.	21 22
[125]	Section 91	23
	Omit the section. Insert instead:	24
91	Time limits for referring claims	25
(1)	A party to a claim cannot refer the claim for assessment under this Part until at least 42 days after the party gives each other party to the claim notice of the party's intention to refer the claim for assessment. The MAA Claims Assessment Guidelines may provide for the form of the notice and how the notice is to be given.	26 27 28 29 30 31
(2)	A party to a claim cannot refer a claim for assessment under this Part more than 3 years after the motor accident concerned unless the party provides a full and satisfactory explanation for the delay	32 33 34

	to a claims assessor and the claims assessor grants leave for the claim to be referred for assessment.	1 2
[126]	Section 93 Arrangements for assessment Omit the section.	3 4
[127]	Section 94 Assessment of claims Omit “accepted liability” from section 94 (1) (a). Insert instead “admitted liability”.	5 6 7
[128]	Section 95 Status of assessments Omit “accepts” from section 95 (2) (a). Insert instead “admits”.	8 9
[129]	Section 96 Special assessments of certain disputes in connection with claims Insert after section 96 (1) (a1): (a2) whether a late claim may be made in accordance with section 72A, or	10 11 12 13 14
[130]	Section 96 (1) (f) Omit “in case of financial hardship”). Insert instead “on claim for damages in case of hardship) or the amount of any such payment”.	15 16 17 18
[131]	Section 96 (3) Omit “Division 3”. Insert instead “Part 4.3A”.	19 20
[132]	Section 96 (4) Omit “to the extent that it relates to the duties of the parties with respect to the claim under Part 4.3”.	21 22 23
[133]	Part 4.4, Division 3 Provisions relating to claims assessors Omit the Division.	24 25
[134]	Part 4.5, heading Omit the heading to Part 4.5. Insert instead:	26 27
	Part 4.5 Court proceedings on claims for damages	28 29

[135] Section 106A	1
Insert before section 107:	2
106A Application	3
This Part applies to court proceedings on a claim for damages.	4
[136] Section 117 False claims	5
Omit section 117 (a).	6
[137] Section 120 Claims register	7
Omit the definition of <i>claim</i> in section 120 (8).	8
[138] Sections 123A–123C	9
Insert after section 123:	10
123A Damages that may be awarded	11
(1) The only damages that may be awarded are:	12
(a) damages for economic loss as permitted by Part 5.2, and	13
(b) damages for non-economic loss as permitted by Part 5.3.	14
(2) This section does not apply to an award of damages in an action under the <i>Compensation to Relatives Act 1897</i> .	15
123B No damages unless permanent impairment greater than 10%	17
No damages may be awarded in respect of injury unless the degree of permanent impairment of the injured person as a result of the injury caused by a motor accident that occurs after the commencement of Chapter 3A (No-fault statutory benefits) is greater than 10%.	18
Note. This section does not apply to an award of damages in respect of the death of a person. Section 60A provides for the assessment of degree of permanent impairment.	19
123C Assessment of impairment required before award of damages if dispute over impairment threshold	20
(1) If there is a dispute about whether the degree of permanent impairment of an injured person is sufficient for an award of damages, the court may not award any damages unless the degree of permanent impairment has been assessed by a medical assessor under Part 3.4 (Medical assessment).	21
Note. The assessment of the medical assessor under Part 3.4 is conclusive in proceedings before the court—see section 61.	22
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(2)	The court may, at any stage in proceedings for an award of damages, refer the matter for assessment of the degree of permanent impairment under Part 3.4.	1 2 3
(3)	This section does not prevent:	4
(a)	the degree of impairment from being re-assessed under Part 3.4, or	5 6
(b)	a claim from being settled at any time.	7
[139]	Section 124	8
	Insert before section 125:	9
124	Limits on economic loss—past and future loss of earnings only	10
(1)	The only damages that may be awarded for economic loss are:	11
(a)	damages for past economic loss due to loss of earnings, and	12 13
(b)	damages for future economic loss due to the deprivation or impairment of earning capacity.	14 15
(2)	This section does not apply to an award of damages in an action under the <i>Compensation to Relatives Act 1897</i> .	16 17
[140]	Section 125 Maximum for loss of earnings etc	18
	Omit section 125 (2). Insert instead:	19
(2)	In the case of such an award, the court is to disregard the amount (if any) by which the injured or deceased person’s net weekly earnings would (but for the injury or death) have exceeded the maximum weekly statutory benefits amount under Part 3A.3 (even though that maximum weekly statutory benefits amount is a maximum gross earnings amount).	20 21 22 23 24 25
(3)	The maximum amount of damages that may be awarded for economic loss due to the loss of employer superannuation contributions is the relevant percentage of damages payable (in accordance with this Part) for the deprivation or impairment of the earning capacity on which the entitlement to those contributions is based.	26 27 28 29 30 31
(4)	The relevant percentage is the percentage of earnings that is the minimum percentage required by law to be paid as employer superannuation contributions.	32 33 34
[141]	Section 127 Damages for future economic loss—discount rate	35
	Omit section 127 (1) (c) and (d).	36

[142] Section 130	1
Omit the section. Insert instead:	2
130 Economic loss reduction	3
A court must reduce the amount of economic loss of an injured person or deceased person as a consequence of a motor accident by any amount of a kind prescribed by the regulations for the purposes of this section.	4 5 6 7
[143] Sections 131–133	8
Omit the sections.	9
[144] Section 134 Maximum of amount of damages for non-economic loss	10
Omit “amounts relating to award of” from section 134 (2).	11
Insert instead “maximum for non-economic loss”.	12
[145] Section 137 Payment of interest	13
Omit section 137 (2).	14
[146] Section 138 Contributory negligence—generally	15
Omit section 138 (3). Insert instead:	16
(3) The damages recoverable in respect of the motor accident are to be reduced by such percentage as the court thinks just and equitable in the circumstances of the case unless subsection (4A) requires that the damages be reduced by a fixed percentage.	17 18 19 20
[147] Section 138 (4A)	21
Insert after section 138 (4):	22
(4A) The regulations may fix the percentage by which damages are to be reduced on account of contributory negligence in respect of specified conduct that constitutes contributory negligence of an injured or deceased person. Damages recoverable in respect of a motor accident that are to be reduced on account of contributory negligence attributable to any such conduct are to be reduced by that fixed percentage.	23 24 25 26 27 28 29
[148] Sections 141B, 141C and 142	30
Omit the sections.	31

[149] Section 146	1
Omit the section. Insert instead:	2
146 Indexation of maximum for non-economic loss damages	3
(1) The Minister is, on or before 1 October 2013 and on or before 1 October in each succeeding year, to declare, by order published on the NSW legislation website, the amount that is to apply, as from the date specified in the order, for the purposes of section 134.	4 5 6 7 8
(2) The amount declared is to be the amount applicable under section 134 (or that amount as last adjusted under this section) adjusted by the percentage change in the amounts estimated by the Australian Statistician of the average weekly total earnings of full-time adults in New South Wales over the 4 quarters preceding the date of the declaration for which those estimates are, at that date, available.	9 10 11 12 13 14 15
(3) An amount declared for the time being under this section applies to the exclusion of the amount under section 134.	16 17
(4) If the Australian Statistician fails or ceases to estimate the amounts referred to in subsection (2), the amount declared is to be the amount determined in accordance with the regulations.	18 19 20
(5) In adjusting an amount to be declared for the purpose of section 134, the amount determined in accordance with subsection (2) is to be rounded to the nearest \$1,000 (with the amount of \$500 being rounded up).	21 22 23 24
[150] Section 149 Regulations fixing maximum costs recoverable by Australian legal practitioners	25 26
Insert after section 149 (1):	27
(1A) Without limiting subsection (1), the regulations may fix maximum costs for legal services provided to a claimant by reference to the amount recovered by the claimant.	28 29 30
[151] Section 152A	31
Insert after section 152:	32
152A Sharing of information as to costs	33
The regulations may make provision for or with respect to requiring a party to a claim to disclose to any other party to the claim the costs payable by the party on a solicitor and client basis for legal services provided to the party in respect of the claim.	34 35 36 37

[152] Section 163 Matters not subject to conditions of licence	1
Insert after section 163 (4):	2
(5) This section does not prevent the imposition as a condition of a licence under this Part of a condition that limits the kinds of third-party policy that can be issued by the insurer, for example a condition that limits the insurer to issuing third-party policies for particular classes of motor vehicle or to particular classes of owner.	3 4 5 6 7 8
[153] Section 170A	9
Insert after section 170:	10
170A Publication of information about insurers	11
(1) The Authority may from time to time publish any of the following information about licensed insurers under this Act:	12 13
(a) information about the level of compliance by licensed insurers with the requirements of and duties imposed under this Act and the regulations, the guidelines under this Act, the conditions of licences under this Act or the Insurance Industry Deed,	14 15 16 17 18
(b) information about the pricing by licensed insurers of premiums for third-party policies,	19 20
(c) information about the profitability of the insurance operations of licensed insurers,	21 22
(d) information that compares the performance of licensed insurers in connection with claims under this Act (for example, by reference to timeliness, outcomes, customer service or complaints),	23 24 25 26
(e) any other information about licensed insurers that the Authority considers should be made public in the public interest.	27 28 29
(2) Information published under this section can identify individual insurers.	30 31
(3) No liability (including liability in defamation) is incurred for publishing in good faith information under this section or a fair report or summary of such a publication.	32 33 34

[154] Part 7.2A	1
Insert after Part 7.2:	2
Part 7.2A Self-insurance for government bodies	3
183A Definitions	4
In this Part:	5
<i>government body</i> means any of the following:	6
(a) a department of the Government,	7
(b) a State owned corporation,	8
(c) a public authority or instrumentality of the State, the Commonwealth, another State or a Territory,	9 10
(d) a local council,	11
(e) a controlled entity of one or more public bodies.	12
<i>self-insurer</i> means a government body that is approved as a self-insurer under this Part.	13 14
183B Government bodies may be approved as self-insurers	15
(1) The Authority may, with the approval of the Minister, grant approval for a government body to be a self-insurer for the purposes of this Act.	16 17 18
(2) The Authority may withdraw a government body's approval as a self-insurer at any time by giving not less than 3 months' notice in writing to the government body.	19 20 21
183C Self-insurers deemed to be licensed insurers	22
A self-insurer is deemed to be a licensed insurer for the purpose of:	23 24
(a) issuing third-party policies in respect of motor vehicles of which the self-insurer is the owner, or	25 26
(b) issuing third-party policies in respect of motor vehicles of which another government body is the owner.	27 28
183D Application of relevant Acts to self-insurers and self-insurer policies	29 30
(1) Part 2.3 (Insurance premiums) does not apply in respect of a third-party policy (<i>self-insurer policies</i>) issued by a self-insurer.	31 32

(2)	The regulations may make provision for or with respect to the application of relevant provisions of this Act to self-insurers as licensed insurers or to self-insurer policies.	1 2 3
(3)	In particular, the regulations can:	4
(a)	exempt self-insurers or self-insurer policies from the operation of relevant provisions of this Act, or	5 6
(b)	modify or adapt the operation of relevant provisions of this Act in their application to self-insurers as licensed insurers or to self-insurer policies.	7 8 9
(4)	In this section:	10
	<i>relevant provisions</i> of this Act means the provisions of Parts 2.2, 7.1, 7.2 and 8.4.	11 12
183E	SiCorp as self-insurer	13
	If the NSW Self Insurance Corporation is approved as a self-insurer under this Part, the Corporation has and may exercise the functions of a self-insurer under this Part.	14 15 16
[155]	Section 206 Functions of the Authority	17
	Omit section 206 (2) (a). Insert instead:	18
(a)	to monitor the operation of the motor accidents scheme under this Act, and in particular to conduct (or arrange for other persons to conduct) research into and to collect statistics or other information on the level of statutory benefits and damages paid by insurers, the level of damages assessed by claims assessors and awarded by the courts, the handling of claims by insurers and other matters relating to that scheme,	19 20 21 22 23 24 25 26
[156]	Section 206 (2) (c1)	27
	Insert after section 206 (2) (c):	28
(c1)	to investigate and respond to complaints about premiums for third-party policies, the market practices of licensed insurers and claims handling practices of insurers, and to monitor compliance by insurers with this Act and guidelines under this Act,	29 30 31 32 33
[157]	Section 206 (2) (e)	34
	Insert “claims for statutory benefits and” before “the claims assessment procedure”.	35 36

[158] Part 8.2	1
Insert after Part 8.1:	2
Part 8.2 CTP Independent Review Officer	3
Division 1 Administrative arrangements	4
207 Appointment of Independent Review Officer	5
(1) The Governor may appoint a CTP Independent Review Officer.	6
(2) The Independent Review Officer holds office for such term not exceeding 5 years as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	7 8 9 10
(3) The office of Independent Review Officer is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Governor or under subsection (4).	11 12 13 14
(4) The same person may be appointed to hold the office of CTP Independent Review Officer and the office of WorkCover Independent Review Officer (under the <i>Workplace Injury Management and Workers Compensation Act 1998</i>) at the same time.	15 16 17 18 19
(5) The Independent Review Officer is entitled to be paid:	20
(a) remuneration in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> , and	21 22
(b) such travelling and subsistence allowances as the Minister may from time to time determine.	23 24
(6) The <i>Public Sector Employment and Management Act 2002</i> does not apply to the appointment of the Independent Review Officer, and the holder of that office is not, as holder, subject to that Act.	25 26 27
(7) The staff of the Independent Review Officer are to be employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> .	28 29 30
208 Vacancy in office	31
(1) The office of Independent Review Officer becomes vacant if the holder:	32 33
(a) dies, or	34
(b) completes a term of office and is not re-appointed, or	35

(c)	resigns the office by instrument in writing addressed to the Governor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	3 4 5 6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	8 9 10 11 12
(g)	is removed from office under this section.	13
(2)	The Governor may remove the Independent Review Officer from office:	14 15
(a)	for misbehaviour, or	16
(b)	for incapacity, or	17
(c)	if the Independent Review Officer is absent from duty for a period in excess of his or her leave entitlement as approved by the Governor unless the absence is caused by illness or other unavoidable cause.	18 19 20 21
(3)	If the office of Independent Review Officer becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	22 23
209	Appointment of acting Independent Review Officer	24
(1)	The Minister may, from time to time, appoint a person to act in the office of the Independent Review Officer during the illness or absence of the Independent Review Officer or during a vacancy in the office of the Independent Review Officer. The person, while so acting, has all the functions of the Independent Review Officer and is taken to be the Independent Review Officer.	25 26 27 28 29 30
(2)	The Minister may, at any time, remove a person from office as acting Independent Review Officer.	31 32
(3)	An acting Independent Review Officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.	33 34 35

Division 2	Functions	1
210	Functions of Independent Review Officer	2
	The Independent Review Officer has the following functions:	3
	(a) to deal with complaints made to the Independent Review Officer under this Division,	4 5
	(b) to review decisions of insurers under section 65ZX (IRO procedural review of earnings decisions),	6 7
	(c) to inquire into and report to the Minister on such matters arising in connection with the operation of this Act (except this Chapter) as the Independent Review Officer considers appropriate or as may be referred to the Independent Review Officer for inquiry and report by the Minister,	8 9 10 11 12
	(d) to encourage the establishment by insurers of complaint resolution processes for complaints arising under this Act,	13 14
	(e) such other functions as may be conferred on the Independent Review Officer by or under this or any other Act.	15 16 17
210A	Complaints about insurers	18
	(1) A claimant may complain to the Independent Review Officer about any act or omission (including any decision or failure to decide) of an insurer that affects the entitlements, rights or obligations of the claimant under this Act.	19 20 21 22
	(2) The Independent Review Officer is not to deal with a complaint while the matter that is the subject of the complaint is the subject of investigation by the insurer or the Authority.	23 24 25
	(3) The Independent Review Officer deals with a complaint by investigating the complaint and reporting to the claimant, the insurer and the Authority on the findings of the investigation, including the reasons for those findings. The Independent Review Officer's findings can include non-binding recommendations for specified action to be taken by the insurer or the claimant.	26 27 28 29 30 31 32
	(4) The Independent Review Officer is to deal with a complaint within a period of 30 days after the complaint is made unless the Independent Review Officer notifies the claimant and the insurer within that period that a specified longer period will be required to deal with the complaint.	33 34 35 36 37
	(5) The Independent Review Officer may decline to deal with a complaint on the basis that it is frivolous or vexatious or should	38 39

	not be dealt with for such other reason as the Independent Review Officer considers relevant.	1 2
210B	Requirement to provide information	3
(1)	The Independent Review Officer may require an insurer or a claimant who has applied for review of a decision of an insurer to provide specified information that the Independent Review Officer reasonably requires for the purposes of the exercise of any function of the Independent Review Officer.	4 5 6 7 8
(2)	It is a condition of an insurer's licence that the insurer comply with a request for the provision of information under this section.	9 10
(3)	The Independent Review Officer can decline to deal with a complaint if the claimant who makes the complaint fails to comply with a request to provide information to the Independent Review Officer.	11 12 13 14
(4)	The Authority must provide the Independent Review Officer with such information as the Independent Review Officer reasonably requires and requests for the purposes of the exercise of any function of the Independent Review Officer.	15 16 17 18
210C	Annual report	19
(1)	As soon as practicable after 30 June (but before 31 December) in each year, the Independent Review Officer is to prepare and forward to the Minister a report on his or her activities for the 12 months ending on 30 June in that year.	20 21 22 23
(2)	The report is to be tabled in Parliament and for that purpose the Minister is to lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.	24 25 26 27
(3)	The Minister is to give the Authority and insurers an opportunity to comment on the report before it is tabled in Parliament and may include with the report when it is tabled a statement as to the comments of the Authority and insurers.	28 29 30 31
(4)	The report is to include the following information:	32
	(a) the number and type of complaints made and dealt with under this Division during the year,	33 34
	(b) the sources of those complaints,	35
	(c) the number and type of complaints that were made during the year but not dealt with,	36 37

(d)	information on the operation of the process for review of earnings decisions of insurers during the year and any recommendations for legislative or other improvements to that process,	1 2 3 4
(e)	such other information as the Independent Review Officer considers appropriate to be included or as the Minister directs to be included.	5 6 7
(5)	Matters included in a report must not identify individual claimants.	8 9
210D	Delegation of functions	10
	The Independent Review Officer may delegate the exercise of any function of the Independent Review Officer (other than this power of delegation) to:	11 12 13
(a)	any member of staff of the Independent Review Officer, or	14
(b)	any person, or any class of persons, authorised for the purposes of this section by the regulations.	15 16
[159]	Section 212 Motor Accidents Authority Fund	17
	Omit section 212 (2) (a). Insert instead:	18
(a)	the appropriate proportion of the money contributed under this Part in respect of a relevant period (being the proportion of the Fund levy under section 214 that is the amount determined under section 213 (1) (d) as the total amount to be contributed to the Fund in respect of that relevant period),	19 20 21 22 23 24
[160]	Section 212 (3) (b) and (b1)	25
	Insert after section 212 (3) (a):	26
(b)	the remuneration of the Independent Review Officer and staff of the Independent Review Officer and costs incurred in connection with the exercise of the functions of the Independent Review Officer,	27 28 29 30
(b1)	grants to the Lifetime Care and Support Authority Fund (under the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i>) pursuant to a direction under section 213A (Grants to Lifetime Care and Support Authority Fund),	31 32 33 34

[161] Section 213A	1
Insert after section 213:	2
213A Grants to Lifetime Care and Support Authority Fund	3
(1) The Authority may direct the payment from the Fund of any surplus that may arise in the Fund as a grant to the Lifetime Care and Support Authority Fund (under the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i>).	4 5 6 7
(2) A grant directed by the Authority under this section is required to be paid from the Fund into the Lifetime Care and Support Authority Fund.	8 9 10
[162] Section 214 Contributions to Fund by persons to whom third-party policies issued	11 12
Omit section 214 (1). Insert instead:	13
(1) The total of the following amounts is to be contributed by the payment to the Authority of a levy (the Fund levy) by persons to whom third-party policies are issued during a relevant period:	14 15 16
(a) the amount determined under section 213 (1) (d) in respect of the relevant period,	17 18
(b) the amount of the required fund contribution under section 49 of the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i> in respect of the relevant period.	19 20 21
[163] Section 214 (3)	22
Omit the subsection. Insert instead:	23
(3) A Fund levy can be determined to differ according to any criteria that the Authority considers appropriate.	24 25
[164] Section 214A Payment and collection of Fund levy	26
Insert after section 214A (6):	27
(7) For the purposes of the application of this section to a self-insurer under Part 7.2A, the premium payable for a third-party policy deemed to have been issued by a self-insurer is the amount determined for that purpose in accordance with the MAA Premiums Determination Guidelines.	28 29 30 31 32

[165] Section 222 Service of documents generally	1
Insert after section 222 (2):	2
(3) A notice or other document is sufficiently given to or served on a person in connection with a claim for damages made by the person if it is given to or served on an Australian legal practitioner acting for the person in connection with the claim.	3 4 5 6
[166] Schedule 5 Savings, transitional and other provisions	7
Omit clause 2 (1). Insert instead:	8
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	9 10 11
[167] Schedule 5, Part 11	12
Insert after Part 10:	13
Part 11 Provisions arising from Motor Accident Injuries Amendment Act 2013	14 15
41 Definitions	16
In this Part:	17
<i>amending Act</i> means the <i>Motor Accident Injuries Amendment Act 2013</i> .	18 19
<i>2013 amendments</i> means amendments made by the amending Act.	20 21
42 General transitional provision	22
An amendment made by the amending Act does not apply to a claim in respect of a motor accident that occurs before the commencement of the amendment, except as otherwise provided by this Part or the regulations.	23 24 25 26
43 Regulations can apply certain amendments to existing claims	27
(1) The regulations may specify circumstances in which an amendment made by the amending Act to Part 3.4 or Chapter 4 extends to a claim in respect of a motor accident that occurred before the commencement of the amendment.	28 29 30 31
(2) This clause does not limit the power to make regulations under clause 2.	32 33

44	Applicable maximum for loss of earnings	1
(1)	The change to the amount that is to apply under section 125 (2) effected by the amendment to section 125 by the amending Act applies only for the purposes of an award of damages in respect of a motor accident that occurs after the commencement of the amendment.	2 3 4 5 6
(2)	Section 125 continues to apply as if it had not been amended by the amending Act for the purposes of an award of damages in respect of a motor accident that occurs before the commencement of the amendment.	7 8 9 10
(3)	The amendment made by the amending Act that substitutes section 146 applies only for the purposes of an award of damages in respect of a motor accident that occurs after the commencement of the amendment.	11 12 13 14
(4)	Section 146 continues to apply as if it had not been substituted by the amending Act for the purposes of an award of damages in respect of a motor accident that occurs before the section was substituted.	15 16 17 18
45	Authority can require insurers to file new premiums	19
(1)	The Authority may by notice in writing require licensed insurers to file a full set of premiums for third-party policies issued after a date specified by the Authority (being a date that is not earlier than 3 months after the notice is served).	20 21 22 23
(2)	Licensed insurers must comply with a requirement under this clause.	24 25
46	Special provisions for premiums during transition period	26
(1)	The following special arrangements are to apply in relation to the premiums payable for third-party policies issued during the transition period:	27 28 29
(a)	the Premiums Guidelines are to make provision for the adjustment of premiums to ensure that unearned premium surplus attributable to policies in force immediately before the start of the transition period is applied for the purposes of an appropriate reduction in premiums payable for policies issued during the transition period,	30 31 32 33 34 35
(b)	the Premiums Guidelines are to make provision for the adjustment of premiums to avoid transitional excess profits and transitional excess losses,	36 37 38

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- (c) the Premiums Guidelines may establish risk equalisation measures that make provision for the redistribution of premium income among licensed insurers for the purpose of achieving an appropriate balance between the premium income of a licensed insurer and the risk profile of the third-party policies issued by the insurer, 1
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 - (d) the Authority may determine the range of premiums that are appropriate for third-party policies issued during the transition period (*transitional policies*) and any such determination must be made on the basis of independent actuarial advice and taking into account the likely effect of the 2013 amendments on the cost of claims, 7
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 - (e) the grounds on which the Authority may, under Part 2.3 of this Act, reject premiums filed for transitional policies include that the premiums will not fall within the range of premiums determined by the Authority under this clause to be appropriate for transitional policies. 13
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 - (2) The Premiums Guidelines may make provision for: 18
 - (a) determining the likely cost of claims for claims arising after the start of the transition period, and 19
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 - (b) determining (or establishing a methodology for determining) the amount of unearned premium surplus, transitional excess profit and transitional excess loss. 21
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 - (3) It is a condition of a licence granted under Part 7.1 that the licensed insurer must comply with the requirements of any risk equalisation measures established by the Premiums Guidelines for the redistribution of premium income among licensed insurers. 24
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 - (4) In this clause: 29
 - Premiums Guidelines* means the MAA Premiums Determination Guidelines under Part 2.3 of this Act. 30
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 - reasonable profit* means underwriting profit determined in accordance with the Premiums Guidelines to represent an adequate return on invested capital. 32
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 - transition period* means the period that starts on a day determined by the Authority by order in writing (being a day that is before the commencement of Chapter 3A) and ends 3 years after the commencement of Chapter 3A. 35
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 - transitional excess loss* means a shortfall in underwriting profit below a reasonable profit to the extent that the shortfall is attributable to an overestimation of the reduction in cost of claims to result from the 2013 amendments. 39
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transitional excess profit means underwriting profit in excess of a reasonable profit to the extent that the excess is attributable to an underestimation of the reduction in cost of claims to result from the 2013 amendments. 1
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unearned premium surplus means an increase in underwriting profit that results from a reduction in the cost of claims after the commencement of the transition period to the extent that the reduction is attributable to the 2013 amendments. 5
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47 Claims Handling Guidelines 9

Section 68 (6) and (7) (as inserted by the amending Act) do not apply to MAA Claims Handling Guidelines made before the commencement of those subsections. 10
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48 CARS amendments 13

(1) Any act, matter or thing done or omitted to be done under Division 3 (Provisions relating to claims assessors) of Part 4.4 before the repeal of that Division and that has effect immediately before that repeal is taken to have been done or omitted under Part 4.3A. 14
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(2) This clause extends to the following: 19

(a) the establishment of the Motor Accidents Claims Assessment and Resolution Service, 20
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(b) the appointment of the Principal Claims Assessor, 22

(c) the appointment of claims assessors, 23

(d) any direction given by the Principal Claims Assessor or a claims assessor, 24
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(e) anything done or omitted in proceedings before a claims assessor. 26
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49 First annual report of CTP Independent Review Officer 28

The first annual report of the CTP Independent Review Officer under section 210C is to be a report of his or her activities during the period from the commencement of that section until 30 June 2014 and is to be prepared and forwarded to the Minister as required by that section as soon as practicable after 30 June 2014 but before 31 December 2014. 29
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50	Transitional arrangements for Fund levies under Motor Accidents (Lifetime Care and Support) Act 2006	1 2
	Part 7 (Funding of the Scheme) of the <i>Motor Accidents (Lifetime Care and Support) Act 2006</i> continues to apply to and in respect of a Fund levy determined for a relevant period that commences before the amendment of that Part by the amending Act as if that Part had not been amended by the amending Act.	3 4 5 6 7
51	Transitional arrangements for railway and other public transport accidents	8 9
(1)	Chapter 5 (Award of damages) of this Act continues to apply as it was in force immediately before the commencement of section 123A of this Act for the purposes of the application of that Chapter to an award of damages as provided for by section 121 (Application of common law damages for motor accidents to railway and other public transport accidents) of the <i>Transport Administration Act 1988</i> .	10 11 12 13 14 15 16
(2)	The regulations may except an award of damages from the operation of this clause if statutory benefits are payable under Chapter 3A in respect of the death or injury concerned.	17 18 19

Schedule 2	Amendment of Motor Accidents	1
	(Lifetime Care and Support) Act 2006	2
	No 16	3
[1] Section 38 Minister		4
	Omit “or 50 (Contributions to fund by third-party policy holders)” from section 38 (2).	5 6
[2] Section 48 Lifetime Care and Support Authority Fund		7
	Omit section 48 (2) (a). Insert instead:	8
	(a) the appropriate proportion of the money contributed under Part 8.4 of the <i>Motor Accident Injuries Act 1999</i> in respect of a relevant period (being the proportion of the Fund levy under section 214 of that Act that is the amount determined under section 49 of this Act as the required Fund contribution in respect of that relevant period),	9 10 11 12 13 14
[3] Section 49 Determination by MAA of amount to be contributed to Fund		15
	Omit “The Authority is to determine” from section 49 (1).	16
	Insert instead “The MAA is to determine”.	17
[4] Section 49 (3)		18
	Omit the subsection. Insert instead:	19
	(3) The MAA’s determination in respect of a relevant period is to be made in accordance with the report of an independent actuary engaged by the MAA to report to the MAA on the amount required to be contributed to the Fund as referred to in subsection (1).	20 21 22 23 24
[5] Section 49 (4) and (5)		25
	Omit “Authority” wherever occurring. Insert instead “MAA”.	26
[6] Section 49, note		27
	Insert at the end of the section:	28
	Note. The required Fund contribution is contributed as part of the Fund levy under section 214 of the <i>Motor Accident Injuries Act 1999</i> .	29 30
[7] Sections 50–53		31
	Omit the sections.	32

**Schedule 3 Amendment of Civil Liability Act 2002
 No 22**

Section 3B Civil liability excluded from Act

Omit section 3B (2) (a1) and (b).

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Schedule 4	Amendment of Motor Accidents Compensation Regulation 2005	1
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[1] Clause 1 Name of Regulation		3
	Omit “ <i>Motor Accidents Compensation</i> ”.	4
	Insert instead “ <i>Motor Accident Injuries</i> ”.	5
[2] Clause 3 Definitions		6
	Omit “ <i>Motor Accidents Compensation</i> ” from clause 3 (1).	7
	Insert instead “ <i>Motor Accident Injuries</i> ”.	8
[3] Clause 11 Contracting out—solicitor/client costs		9
	Omit the clause.	10