

## MOTOR ACCIDENT INJURIES BILL 2017

Amendments made by Legislative Council on 29 March 2017.

---

No. 1 **CDP No. 1 [c2017-014]**

Page 19, clause 2.25. Insert after line 27:

- (b) must be undertaken if the average realised profits of insurers for 1 or more years are greater than the average filed profits of insurers by 2% or more of the average filed profits, and

No. 2 **OPP No. 4 [c2017-009D]**

Page 19, clause 2.25, line 29. Omit “greater or”.

No. 3 **CDP No. 3 [c2017-014]**

Page 19, clause 2.25, lines 38–44. Omit all words on those lines. Insert instead:

- (3) If, as a result of the exercise of a function under this section, the Authority determines that premiums and Fund levies under Division 10.4 should be adjusted to avoid excess profits, the Authority must take action to make adjustments to avoid those excess profits.
- (4) The Authority may, following any adjustment referred to in subsection (2) of premiums and Fund levies under Division 10.4 to avoid excess losses, direct payments from the Motor Accidents Operational Fund under that Division to insurers corresponding to any increase in Fund levies otherwise payable.
- (5) The Authority must, following any adjustment referred to in subsection (2) of premiums and Fund levies under Division 10.4 to avoid excess profits, direct insurers to make payments to the Motor Accidents Operational Fund under that Division corresponding to any reduction in Fund levies otherwise payable.
- (6) An amount payable to or from the Motor Accidents Operational Fund under subsection (4) or (5) is not recoverable from or payable to policy holders.

No. 4 **GRNS No. 1 [c2017-015]**

Page 40, clause 3.33, line 34. Omit “resides outside Australia”. Insert instead “is not an Australian citizen or a permanent resident of Australia”.

No. 5 **GRNS No. 2 [c2017-015]**

Page 40, clause 3.33, lines 35 and 36. Omit “while the person is residing”.

- No. 6      **GRNS No. 3 [c2017-015]**  
Page 48, clause 4.5, lines 5–7. Omit all words on those lines. Insert instead:
- (a) damages for past or future economic loss due to loss of earnings or the deprivation or impairment of earning capacity, and
- No. 7      **CDP No. 4 [c2017-014]**  
Page 76, clause 7.12. Insert after line 40:
- (5) The claimant and the insurer must provide to the merit reviewer such information as the reviewer may reasonably require for the purposes of the merit review.
  - (6) It is a condition of an insurer’s licence under this Act that the insurer must comply with subsection (5).
  - (7) The merit reviewer may decline to review the reviewable decision if the claimant or the insurer has failed to provide any such information required by the reviewer.
- No. 8      **CDP No. 5 [c2017-014]**  
Page 77, clause 7.13. Insert after line 22:
- (6) If a merit reviewer is satisfied that a certificate under this section contains an obvious error, the merit reviewer may issue a replacement certificate to correct the error.
- No. 9      **CDP [c2017-014]**  
Page 77 and 78, clause 7.15, line 40 on page 77 to line 12 on page 78.  
Omit all words on those lines.
- No. 10     **CDP No. 6 [c2017-014]**  
Page 78, clause 7.16, lines 26 and 27. Omit “Sections 7.14 (Effect of merit review decision) and 7.15 (Effect of decision on internal review or merit review) apply”. Insert instead “Section 7.14 (Effect of merit review decision) applies”.
- No. 11     **CDP No. 7 [c2017-014]**  
Page 79, clause 7.21. Insert after line 41:
- (4) The claimant and the insurer must provide to the medical assessor such information as the assessor may reasonably require for the purposes of the medical assessment.
  - (5) It is a condition of an insurer’s licence under this Act that the insurer must comply with subsection (4).
  - (6) The medical assessor may decline to make a medical assessment if the claimant or the insurer has failed to provide any such information required by the assessor.

No. 12     **GRNS No. 4 [c2017-015]**

Page 84, clause 7.33, lines 20–23 and 26–40. Omit all words on those lines.

No. 13     **CDP No. 8 [c2017-014]**

Page 88, clause 7.44. Insert after line 11:

- (5) It is a condition of an insurer’s licence under this Act that the insurer must comply with a direction given to the insurer under this section.

No. 14     **GRNS No. 5 [c2017-015]**

Page 89. Insert after line 32:

**7.48 Persons under legal incapacity**

- (1) A claimant who is a person under legal incapacity in relation to proceedings under this Part may not make any application or refer any matter to the Dispute Resolution Service, or carry on proceedings, under this Part except by his or her appointed representative in accordance with the Motor Accident Guidelines.

- (2) In this section:

*appointed representative*, in relation to a person under legal incapacity, means a person appointed to represent the person under legal incapacity (whether by a claims assessor or otherwise) in accordance with the Motor Accident Guidelines.

*person under legal incapacity* includes:

- (a) a child under the age of 18 years,  
and
- (b) an involuntary patient or forensic patient within the meaning of the *Mental Health Act 2007*, and
- (c) a person under guardianship within the meaning of the *Guardianship Act 1987*, and
- (d) a protected person within the meaning of the *NSW Trustee and Guardian Act 2009*, and
- (e) an incommunicate person, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs.

No. 15     **CDP No. 9 [c2017-014]**

Page 89. Insert after line 32:

**7.48 Effect of decisions under this Part**

- (1) This section applies where a decision is made in accordance with this Part by an insurer on an internal review or by a decision-maker on a merit review,

medical assessment or assessment of a dispute about a miscellaneous claims assessment matter.

- (2) If the decision results in an increase in the amount of payments of statutory benefits payable to a claimant, the claimant is entitled to the increase in payments from the date of the original decision that is the subject of the review or assessment concerned.
- (3) If the decision results in the discontinuation of or a further reduction in any payments of statutory benefits payable to a claimant, and is less favourable to the claimant than the decision that is the subject of the review or assessment, the requirements of Division 3.3 (Weekly payments of statutory benefits to injured persons) as to the giving of notice before discontinuing or reducing weekly payments of statutory benefits extend to the discontinuation or further reduction that results from the decision on the review or assessment concerned.
- (4) This section extends to any new decision made by a review panel under section 7.16 (Review of merit review decision by review panel) or 7.27 (Review of medical assessment by review panel).

No. 16      **CDP No. 10 [c2017-014]**

Page 146, Schedule 4, Part 2. Insert after line 23:

**7      Determination of premiums for taxis and hire vehicles**

- (1) This clause applies in respect of Motor Accident Guidelines that:
  - (a) relate to the determination of insurance premiums for third-party policies for taxis or hire vehicles (within the meaning of section 2.26 (Special provisions relating to taxis and hire vehicles and other vehicles)), and
  - (b) provide for the premium, or part of the premium, to be paid on the basis of the distance travelled by the vehicles.
- (2) This clause applies only in respect of Motor Accident Guidelines issued during the period of 3 years starting on the commencement of this Act.
- (3) In determining the guidelines for insurance premiums for third-party policies for taxis and hire vehicles, the Authority is to ensure that similar insurance premiums are to be paid for taxis and hire vehicles having regard to relevant factors of comparison, such as the class of the vehicles, the distance travelled by the vehicles and the activities in which the vehicles are engaged.
- (4) However, the methodology used to determine the

distance travelled may differ according to the class of vehicle.

- (5) Subclause (3) does not apply to the determination of guidelines under section 2.26 (Special provisions relating to taxis and hire vehicles and other vehicles) to the extent that the determination relates only to that part of the premium to be paid before the issue of a third-party policy.
  - (6) The Motor Accident Guidelines may provide for the refund of part of the premium paid for a third-party policy after the period for which the policy is issued by reference to digital information recorded about the distance travelled by the motor vehicle.
  - (7) The Motor Accident Guidelines may exclude any class of vehicles from the operation of this provision.
-