

Motor Accidents Compensation Regulation 2005

[2005-492]



New South Wales

Status Information

Currency of version

Historical version for 1 October 2008 to 25 March 2010 (accessed 27 June 2024 at 0:04)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 21 April 2009

Motor Accidents Compensation Regulation 2005



New South Wales

Contents

Part 1 Preliminary	5
1 Name of Regulation	5
2 Commencement	5
3 Definition	5
Part 2 Fees payable by insurers for certain treatment	5
4 Definition of “AMA List”	5
5 Application of Part	5
6 Maximum amounts payable by insurer for certain treatment	6
Part 3 Costs	6
Division 1 Unregulated costs	6
7 Costs not regulated by this Part	6
Division 1A Recovery of certain medical assessment costs	6
7A Non-attendance or cancellation of appointment	7
Division 1B Travel costs	7
7B Private motor vehicle travel expenses incurred by injured persons	7
Division 2 Maximum costs recoverable by legal practitioners	7
8 Application of Division	7
9 Fixing of maximum costs recoverable by legal practitioners	8
10 Excluded matters	8

11 Contracting out—solicitor/client costs 9

Division 3 Maximum fees recoverable by medical practitioners for medico-legal services

..... 9

12 Application of Division 9

13 Fixing of maximum fees recoverable by medical practitioners for medico-legal services 9

Division 4 Costs in relation to expert witnesses 10

14 Limit on costs for expert witnesses 10

Division 5 Assessment of costs by claims assessor 10

15 Claims assessor may assess costs 10

Division 6 Goods and services tax 11

16 GST may be added to costs 11

Part 3A Provisions consequent on enactment of Motor Accidents Compensation Amendment Act 2006

..... 11

16A Definition 11

16B Supplementary estimates and determinations 12

16C Payment of unpaid contributions under former section 214 12

Part 3B Provisions consequent on enactment of Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007

..... 12

16D Definition 12

16E Application of certain amendments to existing claims 12

16F Damages in respect of motor accidents 13

16G Medical assessment 13

16H Principal Claims Assessor 13

Part 4 Miscellaneous 13

17 Current third-party insurance policies issued under Motor Accidents Act 1988 13

17A Time for payment by insurer of assessed amount of damages 14

18 Motor vehicles taken to be subject to unregistered vehicle permits 14

19 Prescribed authority for access to protected information	16
20 Savings	16
Schedule 1 Maximum costs for legal services	16
Schedule 2 Maximum fees for medico-legal services	24

Motor Accidents Compensation Regulation 2005



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Accidents Compensation Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note—

This Regulation replaces the *Motor Accidents Compensation Regulation (No 2) 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Motor Accidents Compensation Act 1999*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Fees payable by insurers for certain treatment

4 Definition of “AMA List”

(1) In this Part:

AMA List means the document called *List of Medical Services & Fees* published by the Australian Medical Association and dated 1 November 2004 as amended or replaced, from time to time, by a document recognised by the Authority in accordance with subclause (2).

(2) The Authority may, by notice published in the Gazette, recognise a document, that has been published by the Australian Medical Association, as an amendment to, or replacement of, the AMA List.

5 Application of Part

(1) This Part applies in relation to treatment to which section 56 of the Act applies, being

treatment:

- (a) that is provided to an injured person by a health care professional, and
- (b) in respect of which a fee is specified in the AMA List.

(2) However, this Part does not apply in relation to treatment received by an injured person before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*).

6 Maximum amounts payable by insurer for certain treatment

The maximum amount for which an insurer is liable in respect of any claim for fees payable for treatment to which this Part applies is the amount listed, in respect of the treatment concerned, in the AMA List.

Note—

Section 56 does not apply to treatment that is provided at a hospital (whether to an in-patient or an out-patient) and for which any payment is required to be made to the hospital and not to the provider of the treatment. The section also applies to the fee payable to a private hospital for any treatment at the hospital.

Part 3 Costs

Division 1 Unregulated costs

7 Costs not regulated by this Part

Costs referred to in this Part (clause 15 excepted) do not include any of the following:

- (a) fees for accident investigators' reports or accident reconstruction reports,
- (b) fees for accountants' reports,
- (c) fees for reports from health care professionals,
- (d) fees for other professional reports relating to treatment or rehabilitation (for example, architects' reports concerning house modifications),
- (e) fees for interpreter or translation services,
- (f) court fees,
- (g) travel costs and expenses of the claimant in the matter for attendance at the Claims Assessment and Resolution Service or a court,
- (h) witness expenses at the Claims Assessment and Resolution Service or a court.

Division 1A Recovery of certain medical assessment costs

7A Non-attendance or cancellation of appointment

If the Authority schedules an appointment for a medical assessment under Part 3.4 of the Act and the claimant, without reasonable excuse:

- (a) fails to attend the appointment, or
- (b) cancels the appointment within 72 hours of the scheduled time,

the Authority may recover from the claimant all or part of the costs reasonably incurred by the Authority as a consequence of the non-attendance or cancellation.

Division 1B Travel costs

7B Private motor vehicle travel expenses incurred by injured persons

(1) For the purposes of sections 64 (5), 84 (6) and 86 (5) of the Act, the cost of travel by a private motor vehicle for the purposes of:

- (a) attending a medical assessment under Part 3.4 of the Act, or
- (b) obtaining rehabilitation services under Part 4.3 of the Act, or
- (c) attending a medical examination or rehabilitation assessment under Part 4.3 of the Act,

is to be calculated at the rate of \$0.55 per kilometre.

(2) This clause extends to claims pending on the commencement of this clause.

Division 2 Maximum costs recoverable by legal practitioners

8 Application of Division

(1) This Division is made under section 149 of the Act and applies to the following costs payable on a party and party basis, on a solicitor and client basis or on any other basis:

- (a) legal costs, and
- (b) costs for matters that are not legal services but are related to proceedings in a motor accidents matter.

Note—

Section 149 (2) of the *Motor Accidents Compensation Act 1999* provides that a legal practitioner is not entitled to be paid or recover for a legal service or other matter an amount that exceeds any maximum costs fixed for the service or matter by regulations under section 149.

(2) This Division does not affect costs recovered before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*)

or for which a bill of costs was issued before that commencement.

Note—

Section 147 (2) of the *Motor Accidents Compensation Act 1999* provides that expressions in Chapter 6 (Costs) of that Act (and consequently expressions used in this Part) have the same meaning as in Part 11 (Legal fees and other costs) of the *Legal Profession Act 1987*, except where otherwise provided. Under the *Legal Profession Act 1987*, “costs” includes barristers’ and solicitors’ fees as well as other items that may be charged by barristers and solicitors (such as expenses and disbursements).

9 Fixing of maximum costs recoverable by legal practitioners

(1) The maximum costs for:

- (a) legal services provided by a legal practitioner to a claimant or to an insurer in any motor accidents matter, and
- (b) matters that are not legal services but are related to proceedings in a motor accidents matter,

are the costs set out in Schedule 1, except as otherwise provided by this Part.

Note—

Division 2 of Part 11 of the *Legal Profession Act 1987* requires barristers and solicitors, before providing any legal services to a client, to provide the client with a written disclosure of the basis of the costs (or an estimate of the likely costs) of legal services concerned.

- (2) If there is a change in the legal practitioner retained by a claimant or insurer in a motor accidents matter, the relevant costs are to be apportioned between the legal practitioners concerned.
- (3) If there is a dispute as to such an apportionment, either legal practitioner concerned (or the client claimant or insurer concerned) may refer the dispute to a claims assessor for determination (unless the dispute arose in a matter in which, under section 92 of the Act, the claim is exempt from assessment).
- (4) A legal practitioner has the same right of appeal against a determination made under subclause (3) as the practitioner would have under section 208L or 208M of the *Legal Profession Act 1987* if the determination were a determination made by a costs assessor under Part 11 of that Act in relation to a bill of costs.

10 Excluded matters

- (1) The maximum costs set out in Schedule 1 do not apply in respect of a matter in which, under section 92 of the Act, the claim is exempt from assessment.
- (2) An exclusion under this clause in respect of a matter involving a claim referred to in section 92 (1) (b) of the Act extends to any costs incurred before the matter became exempt.

11 Contracting out—solicitor/client costs

- (1) This clause applies in respect of costs in a motor accidents matter if a legal practitioner:
 - (a) makes a disclosure under Division 2 of Part 11 of the *Legal Profession Act 1987* (sections 180 and 181 excepted) to a party to the matter with respect to the costs, and
 - (b) enters into a costs agreement (other than a conditional costs agreement, within the meaning of that Part, that provides for the payment of a premium on the successful outcome of the matter concerned) with that party as to those costs in accordance with Division 3 of that Part, and
 - (c) before entering into the costs agreement, advises the party (in a separate written document) that, even if costs are awarded in favour of the party, the party will be liable to pay such amount of the costs provided for in the costs agreement as exceeds the amount that would be payable under the Act in the absence of a costs agreement.
- (2) Schedule 1 does not apply to the costs concerned to the extent that they are payable on a solicitor and client basis.

Division 3 Maximum fees recoverable by medical practitioners for medico-legal services

12 Application of Division

- (1) This Division is made under section 150 of the Act and applies in respect of fees for the provision of medical reports, and appearances as witnesses, by medical practitioners.

Note—

Section 150 (2) of the *Motor Accidents Compensation Act 1999* provides that a medical practitioner is not entitled to be paid or recover any fee for providing a service that exceeds any maximum fee fixed under section 150 for the provision of the service.

- (2) This Division does not affect fees recovered before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*) or for which a bill was issued before that commencement.

13 Fixing of maximum fees recoverable by medical practitioners for medico-legal services

The maximum fees for providing a service specified in Schedule 2 in relation to any motor accident are the fees set out in that Schedule for that service, except as otherwise provided by this Part.

Division 4 Costs in relation to expert witnesses

14 Limit on costs for expert witnesses

- (1) Costs are not to be included in an assessment or award of damages in respect of any expert witness giving evidence, or providing a report, on behalf of the claimant in relation to a claims assessment or in court proceedings under the Act, except for costs in respect of:
 - (a) one medical expert in any speciality (unless there is a substantial issue as to a matter referred to in section 58 (1) (c) or (d) of the Act—in which case costs are payable in respect of 2 medical experts in any speciality relevant to the injury concerned), and
 - (b) 2 experts of any other kind.
- (2) Subclause (1) does not apply if the claims assessor or court concerned agrees that costs are payable in respect of a greater number of expert witnesses in the matter.
- (3) This clause extends to costs incurred in connection with medical assessments.

Division 5 Assessment of costs by claims assessor

15 Claims assessor may assess costs

- (1) In making an assessment and specifying damages under section 94 of the Act in respect of a claim, a claims assessor may include in the assessment an assessment of the claimant's costs (including costs for legal services referred to in Schedule 1 and fees for medico-legal services referred to in Schedule 2) in the matter.
- (2) An assessment of those costs may also be made (whether or not an assessment has been made under subclause (1)) if a court does not determine a matter after the issue of a certificate under section 94 but remits the matter to the Motor Accidents Claims Assessment and Resolution Service for further assessment.
- (3) In making an assessment under this clause, a claims assessor:
 - (a) may have regard to the amount of any written offer of settlement made by either party to the matter, and
 - (b) must give effect to:
 - (i) any requirement of a court under section 151 (3) of the Act, and
 - (ii) Division 4 of this Part, and
 - (c) must have regard to the matters set out in sections 208A (1) and 208B of the [Legal Profession Act 1987](#).

- (4) The amount of any assessment under this clause must not exceed the relevant amounts set out in Schedules 1 and 2.
- (5) A claimant or an insurer (or a legal practitioner retained by a claimant or an insurer in respect of the relevant claim) has the same right of appeal against an assessment made under this clause as the claimant, insurer or legal practitioner would have under section 208L or 208M of the *Legal Profession Act 1987* if the assessment were a determination made by a costs assessor under Part 11 of that Act in respect of a bill of costs.

Division 6 Goods and services tax

16 GST may be added to costs

- (1) Despite the other provisions of this Part, a cost fixed by this Part may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost as so increased is taken to be the cost fixed by this Part.
- (2) This clause does not permit a legal practitioner or medical practitioner to charge or recover, in respect of GST payable in respect of a service, an amount that is greater than:
 - (a) 10% of the maximum amount payable under this Part to the legal practitioner or medical practitioner in respect of the legal or other service apart from this clause, or
 - (b) the amount permitted under the New Tax System Price Exploitation law, whichever is the lesser.
- (3) In this clause:

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

New Tax System Price Exploitation law means:

- (a) the New Tax System Price Exploitation Code, as applied as a law of New South Wales by the *Price Exploitation Code (New South Wales) Act 1999*, or
- (b) Part VB of the *Trade Practices Act 1974* of the Commonwealth.

Part 3A Provisions consequent on enactment of Motor Accidents Compensation Amendment Act 2006

16A Definition

In this Part:

the 2006 amending Act means the *Motor Accidents Compensation Amendment Act 2006*.

16B Supplementary estimates and determinations

The Authority is required, as soon as practicable after the commencement of this Part, to exercise its functions under sections 213 and 214 of the Act, as amended by the 2006 amending Act, in relation to its estimated expenditure from the Fund during the 2006/2007 financial year in connection with:

- (a) any bulk billing arrangements under section 54 of the Act, and
- (b) any amounts payable to the RTA with respect to the RTA's functions under the Act.

Note—

The Authority's functions under those sections, as previously in force, have already been exercised in relation to all other expenditures from the Fund.

16C Payment of unpaid contributions under former section 214

Section 214 of the Act, as in force immediately before the commencement of this Part, continues to apply to any unpaid contributions under that section as if the 2006 amending Act had not been enacted.

Note—

Clause 23 of Schedule 5 to the Act provides that amounts received into the Fund in relation to such contributions are taken to have been received as if they had been collected by an insurer from persons to whom third-party policies have been issued.

Part 3B Provisions consequent on enactment of *Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007*

16D Definition

In this Part:

the 2007 amending Act means the *Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007*.

16E Application of certain amendments to existing claims

The amendments to sections 96 (1) (d) and 123 of the Act by the 2007 amending Act extend to claims pending on the commencement of those amendments.

Note—

The amendments to sections 96 (1) (d) and 123 of the Act also extend to claims made after the commencement of those amendments even if the motor accident concerned occurred before the commencement—see Part 6 of Schedule 5 to the Act.

16F Damages in respect of motor accidents

The amendment to section 122 of the Act by the 2007 amending Act extends to:

- (a) claims made after the commencement of the amendment even if the motor accident concerned occurred before that commencement, and
- (b) claims pending on the commencement of the amendment.

16G Medical assessment

The amendment to section 132 of the Act by the 2007 amending Act extends to a matter referred for assessment under Part 3.4 of the Act after the commencement of the amendment even if the motor accident concerned occurred before that commencement.

16H Principal Claims Assessor

- (1) The person designated as Principal Claims Assessor under section 99 (3) of the Act and holding office as such immediately before the repeal of that subsection by the 2007 amending Act is taken to hold office as Principal Claims Assessor under section 99A of the Act (as inserted by the 2007 amending Act) and may continue to exercise all of the functions of Principal Claims Assessor until such time as the Minister appoints a person under section 99A of the Act.
- (2) The person appointed, or taken to have been appointed, as Principal Claims Assessor may exercise the functions of Principal Claims Assessor in respect of any claim whether it was referred for assessment under Part 4.4 of the Act before or after the commencement of this clause.

Part 4 Miscellaneous

17 Current third-party insurance policies issued under [Motor Accidents Act 1988](#)

- (1) A third-party policy of insurance issued under the [Motor Accidents Act 1988](#) that has effect for any period on or after 17 December 1999 (being the date of commencement of the [Motor Accidents Compensation Regulation \(No 2\) 1999](#)) is taken, in respect of any motor accident occurring on or after that commencement, to be a third-party policy of insurance issued under the [Motor Accidents Compensation Act 1999](#).
- (2) Any such policy may be cancelled on or after 17 December 1999 only in accordance with the provisions of the [Motor Accidents Compensation Act 1999](#).

Note—

See clause 6 of the [Motor Accidents Compensation Regulation 1999](#) (now repealed) and section 30 (2) of the [Interpretation Act 1987](#) in relation to third-party policies of insurance issued under the [Motor Accidents Act 1988](#) and having effect for any part of the period commencing on 5 October 1999 (and ending on 17 December 1999).

17A Time for payment by insurer of assessed amount of damages

- (1) For the purposes of section 95 (2A) of the Act, an insurer must pay an assessed amount of damages to the claimant concerned within 20 business days of the claimant's communication of acceptance of the assessment.
- (2) Despite subclause (1), if an insurer is required by law to make a deduction from the assessed amount of damages payable to the claimant, the insurer must:
 - (a) notify the person to whom the deduction is payable, and
 - (b) request advice as to the amount of the deduction that is required from the person to whom the deduction is payable within 10 business days of the claimant's communication of acceptance of the assessment, and
 - (c) on receipt of that advice, pay the balance of the assessed amount of damages to the claimant within 20 business days of the date of the advice or, if more than one such person exists, within 20 business days of the receipt of all such advice relating to the assessed amount of damages.
- (3) Interest is payable by the insurer on so much of the assessed amount of damages as remains unpaid after the end of the relevant period for payment of the assessed amount of damages. The rate of any such interest is three-quarters of the rate prescribed for the purposes of section 101 of the *Civil Procedure Act 2005*.

18 Motor vehicles taken to be subject to unregistered vehicle permits

- (1) For the purposes of section 10A of the Act, the following classes of motor vehicles are prescribed:
 - (a) motor vehicles:
 - (i) that are used to perform agricultural tasks (for example, tractors and harvesters), and
 - (ii) in respect of which approval for the placement of identification plates has not been given under section 10A of the *Motor Vehicle Standards Act 1989* of the Commonwealth,
 - (b) motor vehicles:
 - (i) that are designed for use solely over snow, and
 - (ii) in respect of which approval for the placement of identification plates has not been given under section 10A of the *Motor Vehicle Standards Act 1989* of the Commonwealth,
- but only during such time as the motor vehicles are within the boundaries of Kosciuszko National Park,

- (c) motor vehicles that:
 - (i) were manufactured 30 or more years ago, and
 - (ii) are used on a road solely in the course of, or as an incident to, an activity of an organisation that is identified in the records of the RTA as an historic vehicle club,
- (d) motor vehicles that:
 - (i) weigh more than 250 kg when unladen, and
 - (ii) are designed or used solely for cutting grass or for purposes incidental to cutting grass,
- (e) motor vehicles that:
 - (i) are used solely for the purposes of road construction, maintenance or repair, and
 - (ii) are not used on a road otherwise than while at, or proceeding to or returning from, the place where the road construction, maintenance or repair is carried out,
- (f) motor vehicles that:
 - (i) are classified by the RTA as earthwork plant or industrial plant, and
 - (ii) are subject to a conditional registration in consequence of that classification,
- (g) motor vehicles that are subject to a conditional registration on the basis that they are to be used solely on Stockton Beach for recreation purposes,
- (h) motor vehicles that are motorised buggies or carts and are designed and used for the purpose of:
 - (i) carrying golfers, spectators or golfing equipment on a golf course, or
 - (ii) carrying persons in a holiday resort or retirement village or the like,
- (i) motor vehicles that:
 - (i) are designed or used solely for the conveyance of a person with a disability that substantially impairs the person's mobility, and
 - (ii) weigh more than 110 kg when unladen, and
 - (iii) are capable of travelling at more than 10 kilometres an hour,
- (j) motor vehicles that are trackless trains,

(k) any other motor vehicles that have been granted full exemption from:

- (i) motor vehicle tax within the meaning of the *Motor Vehicles Taxation Act 1988* (under section 17 (1) (p) of that Act), or
- (ii) charges within the meaning of the *Road Transport (Heavy Vehicles Registration Charges) Act 1995* (under section 30 (2) of that Act).

(2) Section 10A (1) of the Act applies, from 28 February 2003 (being the date of commencement of the *Motor Accidents Compensation Amendment (Unregistered Vehicle Permits) Regulation 2003*), to a vehicle referred to in section 10A (1) (a)-(c) that became subject to a conditional registration on or after 20 May 2002 and before 28 February 2003.

(3) In this clause, **conditional registration** means a conditional registration under the *Road Transport (Vehicle Registration) Act 1997*.

19 Prescribed authority for access to protected information

For the purposes of section 217 (2) (b) of the Act, the Australian Prudential Regulation Authority is a prescribed authority.

20 Savings

Any act, matter or thing that had effect under the *Motor Accidents Compensation Regulation (No 2) 1999* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

Schedule 1 Maximum costs for legal services

(Clause 9 (1))

1 Costs determined by reference to certain stages in the matter

- (1) The maximum costs for legal services provided for a stage of a motor accidents matter set out in Column 1 of Table A to this clause are the costs set out in Column 2 opposite that stage.
- (2) However, if a legal practitioner was first retained in the matter after a certificate as to the claims assessment is issued under section 94 of the Act, the costs are those set out in Table B to this clause.
- (3) Costs may be charged for more than one stage described in this Schedule.
- (4) Other than stage 1 in the Tables to this clause, each stage specifies the maximum costs payable for all legal services provided in the period commencing on the occurrence of one specified event and concluding on either the occurrence of another specified event or settlement of the matter (whichever occurs first).

Table A

Column 1

Column 2

Stage

Costs

1	For assistance in completing an accident notification form	Nil (except, in respect of a legal practitioner acting for a claimant, in so far as the assistance forms part of stage 2)
2	From the acceptance of the retainer to the preparation and service of a notice of claim under section 72 of the Act (including the provision of all relevant particulars about the claim to the insurer, even if those particulars are requested after the claim is served)	(a) in the case of a legal practitioner acting for a claimant—\$260 (b) in the case of a legal practitioner acting for an insurer—nil
3	From service of the notice of claim under section 72 of the Act to the preparation and service of a response to the insurer's offer of settlement under section 82 of the Act	(a) in the case of a legal practitioner acting for a claimant—\$380 (b) in the case of a legal practitioner acting for an insurer—nil

4

If settlement occurs without the issue of a certificate under section 94 of the Act—from service of the response to the insurer's offer of settlement under section 82 of the Act to finalisation of the matter

In addition to the \$640 specified for stages 2 and 3 (if chargeable):

- (a) if the settlement amount is \$20,000 or less and the insurer wholly admitted liability for the claim—\$640
- (b) if the settlement amount is \$20,000 or less and the insurer denied liability for up to 25% of the claim—10% of the settlement amount
- (c) if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer wholly admitted liability for the claim—\$640 plus 12% of every dollar of the settlement amount over \$20,000
- (d) if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer denied liability for up to 25% of the claim—\$2,400 plus 12% of every dollar of the settlement amount over \$20,000
- (e) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer wholly admitted liability for the claim—\$4,800 plus 10% of every dollar of the settlement amount over \$50,000
- (f) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer denied liability for up to 25% of the claim—\$6,600 plus 10% of every dollar of the settlement amount over \$50,000
- (g) if the settlement amount is \$100,001 or more and the insurer wholly admitted liability for the claim—\$10,600 plus 2% of every dollar of the settlement amount over \$100,000
- (h) if the settlement amount is

		\$100,001 or more and the insurer denied liability for up to 25% of the claim—\$12,400 plus 2% of every dollar of the settlement amount over \$100,000
5	If settlement occurs after the issue of a certificate under section 94 of the Act but without the commencement of court proceedings—from the issue of the certificate to finalisation of the matter	<p>The total of the following:</p> <p>(a) an amount determined, in accordance with stage 4, by reference to the amount of the assessment as if that assessment were the amount of the settlement referred to in stage 4,</p> <p>(b) 2% of the assessment</p>
6	If the matter is finalised after the commencement of court proceedings (whether by way of settlement or an award of damages)—from the issue of the certificate under section 94 of the Act to finalisation of the matter	<p>The total of the following:</p> <p>(a) an amount determined under stage 5,</p> <p>(b) 2% of the settlement or award</p>

Table B

Column 1

Stage

1 Advice on the issue of the certificate under section 94 of the Act

Column 2

Costs

\$320

2	From the giving of the advice on the certificate issued under section 94 of the Act to finalisation of matter by settlement or award of damages	<p>In addition to the \$320 specified for stage 1:</p> <p>(a) if the settlement amount or award is \$20,000 or less—nil</p> <p>(b) if the settlement amount or award is more than \$20,000 but less than \$50,001—10% of the settlement amount or award over \$20,000</p> <p>(c) if the settlement amount or award is \$50,001 or more but less than \$100,001—\$3,500 plus 8% of every dollar of the settlement amount or award over \$50,000</p> <p>(d) if the settlement amount or award is \$100,001 or more—\$8,200 plus 2% of every dollar of the settlement amount or award over \$100,000</p>
---	---	---

2 Other costs for legal services

- (1) Maximum costs for legal services provided in motor accidents matters may include (in addition to the costs for legal services provided for a stage in the matter, as referred to in clause 1) the costs set out in the Table to this clause.
- (2) However, an amount for the fees for senior counsel, or for more than one advocate, are not to be included unless the court so orders.

Table

Nature of costs	Maximum costs
Costs associated with a medical dispute under Part 3.4 of the Act, as allowed by the claims assessor	up to \$640 but not exceeding \$1,520 in respect of any one claim, regardless of the number or kind of disputes
Costs associated with a dispute referred to in section 96 of the Act, as allowed by the claims assessor	up to \$760 in respect of any one claim, regardless of the number or kind of disputes
Cost of representation at an assessment conference under section 104 of the Act:	
(a) flat fee	\$510

- (b) additional amount, at the claims assessor's discretion, if the conference exceeds 2 hours up to \$160 per hour for each hour (or part of an hour) in excess of 2 hours

Cost of representation in court, per day:

- (a) advocate other than senior counsel \$2,000
- (b) senior counsel \$2,790

Cost of conference directly related to an assessment of the claim or a court hearing, per hour (or part of an hour) \$160

3 Country loadings

- (1) An advocate whose principal chambers or offices are in the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard in a town outside that area, to a loading for that town in accordance with the Table to this clause. If proceedings take place at two or more towns outside that area, the loading payable is that appropriate to the town that is the farther or farthest from those chambers or offices.
- (2) An advocate whose principal chambers or offices are in a town outside the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard in the Sydney Metropolitan area, to a loading for that town in accordance with the Table to this clause.
- (3) An advocate whose principal chambers or offices are in a town outside the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard at another such town, to a loading for that other town in accordance with the Table to this clause. If proceedings take place at two or more towns outside that area, the loading payable is that appropriate to the town that is the farther or farthest from those chambers or offices.
- (4) For the purposes of this clause, if a town is not included in the Table to this clause, the loading for that town is to be the loading for the nearest town that is so included.
- (5) If an advocate holds more than one brief in respect of proceedings heard at a place on any one day and a loading is applicable under this item, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

Table

Town	Loading \$
------	------------

Albury	915
Armidale	839
Batemans Bay	838
Bathurst	665
Bega	1,011
Bourke	1,444
Broken Hill	1,559
Campbelltown	80
Casino	943
Cessnock	520
Cobar	1,328
Coffs Harbour	739
Condobolin	1,125
Cooma	1,116
Coonamble	1,076
Cootamundra	763
Cowra	587
Deniliquin	983
Dubbo	779
Forbes	779
Glen Innes	739
Gosford	223
Goulburn	550
Grafton	905
Griffith	744
Gundagai	873
Gunnedah	861
Hay	963
Inverell	865

Katoomba	303
Kempsey	796
Lismore	853
Lithgow	346
Maitland (including East Maitland)	520
Moree	780
Moruya	653
Moss Vale	359
Mudgee	620
Murwillumbah	963
Muswellbrook	552
Narrabri	724
Narrandera	719
Newcastle	520
Nowra	520
Nyngan	1,236
Orange	593
Parkes	801
Penrith	80
Port Macquarie	671
Queanbeyan	666
Singleton	800
Tamworth	776
Taree	620
Tweed Heads	904
Wagga Wagga	689
Wentworth	1,460
Wollongong	329
Yass	586

Young

763

4 Interstate loadings

- (1) An advocate whose principal chambers or offices are in New South Wales is entitled, in respect of proceedings heard or partially heard in another State or Territory, to such reasonable loading as is determined by the court or the claims assessor.
- (2) If an advocate holds more than one brief in respect of proceedings heard at a place on any one day and a court or assessor determines that a loading is applicable under this item, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

Schedule 2 Maximum fees for medico-legal services

(Clause 13)

\$

Appearances as witnesses

1	Medical practitioners and other medical professionals called to give evidence other than expert evidence, per hour (or proportionately if not for a full hour) to a maximum of \$495	250
2	Medical practitioners and other medical professionals called to give expert evidence: <ol style="list-style-type: none"> (a) for the first one and a half hours (including time travelling to the court from the medical professional's home, hospital, place of practice, office or other place and return to that place from the court) (b) for every full hour after the first hour and a half (or proportionately if not for a full hour) <p>to a maximum of \$2,060</p>	580 250
3	Travelling allowance in connection with appearance as witness	0.38 per kilometre
4	Accommodation and meals in connection with appearance as witness	reasonable costs

Medical reports

5	Report (in the form, if any, provided for in the MAA Medical Guidelines) made by an attending general practitioner: <ol style="list-style-type: none"> (a) if a re-examination of the patient is not required 	125
---	--	-----

	(b) if a re-examination of the patient is required	190	
6	Report (in the form, if any, provided for in the MAA Medical Guidelines) made by an attending specialist:		
	(a) if a re-examination of the patient is not required	250	
	(b) if a re-examination of the patient is required	330	
7	Report (in the form, if any, provided for in the MAA Medical Guidelines) made by a specialist who has not previously treated the patient:		
	(a) if an examination of the patient is not required	330-415	
	(b) if an examination of the patient is required	390-685	
			(depending, in both cases, on the complexity of the matter, the number of documents to be studied and the amount of research required)
8	Charges for copying medical reports	1 per page	
	Cancellation fee		
9	Fee if appearance or medical report is not required	No more than 50% of the relevant amount specified in this Table	