Motor Accident Injuries Regulation 2017

[2017-498]

New South Wales

Status Information

Currency of version

Current version for 22 September 2023 to date (accessed 13 June 2024 at 16:15)

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.

Notes—

- **Staged repeal status**
  This legislation is currently due to be automatically repealed under the Subordinate Legislation Act 1989 on 1 September 2024

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 22 September 2023

Motor Accident Injuries Regulation 2017

New South Wales

Contents

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New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Accident Injuries Regulation 2017*.

2 Commencement

This Regulation commences on 8 September 2017 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation—

person under legal incapacity has the same meaning as in section 7.47 of the Act.

the Act means the *Motor Accident Injuries Act 2017*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

4 Meaning of "threshold injury", section 1.6(4) of the Act

(1) An injury to a spinal nerve root that manifests in neurological signs (other than radiculopathy) is included as a soft tissue injury for the purposes of the Act.

(2) Each of the following injuries is included as a threshold injury for the purposes of the Act—

(a) acute stress disorder,

(b) adjustment disorder.

Note—

See section 1.6 (5) of the Act in relation to the making of Motor Accident Guidelines for or with respect to

the assessment of whether an injury is a threshold injury.

(3) In this clause ***acute stress disorder*** and ***adjustment disorder*** have the same meanings as in the document entitled *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, published by the American Psychiatric Association in May 2013.

Part 2 Third-party insurance

5 Motor vehicles subject to unregistered vehicle permits (section 2.4 (1) (c))

(1) For the purposes of section 2.4 of the Act, the following classes of motor vehicles are prescribed as classes of motor vehicles that are taken, for the purposes of a third-party policy under the Act, to be subject to an unregistered vehicle permit and not to conditional registration—

(a) motor vehicles that comply with subclause (2) and that—

(i) are used to perform agricultural tasks (for example, tractors and harvesters), or

(ii) are designed for use solely over snow and are located within the boundaries of Kosciuszko National Park,

(b) motor vehicles that were manufactured 30 or more years ago and 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 TfNSW as a historic vehicle club,

(c) motor vehicles that weigh more than 250 kilograms when unladen and are designed or used solely for cutting grass or for purposes incidental to cutting grass,

(d) motor vehicles that are used solely for the purposes of road construction, maintenance or repair and 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,

(e) motor vehicles that are subject to conditional registration under the *Road Transport Act 2013* on the basis that they are—

(i) classified by TfNSW as earthwork plant or industrial plant, or

(ii) used solely on Stockton Beach for recreation purposes,

(f) 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,

(g) motor vehicles that are designed or used solely for the conveyance of a person with a disability that substantially impairs the person's mobility and that are capable of travelling at more than 10 kilometres per hour,

(h) motor vehicles that are trackless trains,

(i) chargeable heavy vehicles within the meaning of Schedule 2 to the *Road Transport Act 2013* that have been granted full exemption from registration charges under the *Road Transport (Vehicle Registration) Regulation 2017*,

(j) a motor vehicle that has been granted full exemption from motor vehicle tax within the meaning of the *Motor Vehicles Taxation Act 1988*.

(2) A motor vehicle complies with this subclause if—

(a) the vehicle is not required to be entered on the RAV by the *Road Vehicle Standards Act 2018* of the Commonwealth or rules made under that Act, and

(b) if applicable—approval for the placement of identification plates was not given in relation to the vehicle under the *Motor Vehicle Standards Act 1989* of the Commonwealth, section 10A, as in force from time to time before its repeal.

(3) In this clause—

RAV means the Register of Approved Vehicles kept under the *Road Vehicle Standards Act 2018* of the Commonwealth, section 14(1).

6 Cancellation of third-party policies—request for suspension or cancellation of motor vehicle registration (section 2.8 (6) and (9))

(1) A licensed insurer may request TfNSW under section 2.8 of the Act to suspend or cancel the registration of a motor vehicle to which a third-party policy relates if the requirements of this clause relating to notification of the request are complied with.

(2) The notification required to be given of the licensed insurer's intention to request the suspension must be given to the owner of the motor vehicle at least 14 days before the request is made.

(3) The notification must specify the following—

(a) the registration number of the motor vehicle,

(b) the policy number for the third-party policy,

(c) the grounds on which the licensed insurer intends to request the suspension,

(d) the amount outstanding in respect of the third-party policy,

(e) the date of commencement, and the date of expiration, of the proposed

suspension period,

(f) the manner in which the outstanding amount may be paid,

(g) the time within which the outstanding amount must be paid,

(h) any penalties that may be imposed in relation to driving an unregistered motor vehicle,

(i) contact details for inquiries in relation to the payment or proposed suspension.

Part 3 Statutory benefits

7 Minimum weekly statutory benefits amount (section 3.10)

For the purposes of Division 3.3 of the Act, the ***minimum weekly statutory benefits amount*** is the amount that is 2.5% of the maximum weekly statutory benefits amount.

8 Application of provisions of Civil Liability Act 2002 relating to mental harm (section 3.39)

(1) The application of Part 3 (Mental harm) of the *Civil Liability Act 2002* to the payment of statutory benefits under Part 3 of the Act in connection with an injury is subject to the modification set out in this clause.

(2) The requirement in section 30 (3) of the *Civil Liability Act 2002* (to reduce damages awarded to the plaintiff for pure mental harm in the same proportion as any reduction in the damages that may be recovered from the defendant by or through the victim on the basis of the contributory negligence of the victim) is to be read as a requirement to apply the at-fault statutory benefits limitations to the payment of statutory benefits to the claimant in the same way as they apply to the payment of statutory benefits to the victim.

(3) The ***at-fault statutory benefits limitations*** are the provisions of Part 3 of the Act that provide for the reduction of, or cessation of entitlement to, weekly payments of statutory benefits to injured persons wholly or mostly at fault in the motor accident from which the injury resulted.

(4) Words and expressions used in subclause (2) have the same meaning as they have in section 30 of the *Civil Liability Act 2002*.

8A Time for making claims (section 6.13(2))

(1) For the Act, section 6.13(2), payment of weekly payments of statutory benefits for a period before a claim is made is permitted if—

(a) the claim is made within 3 months after the date of the motor accident to which the claim relates, and

(b) the claimant provides a full and satisfactory explanation for the delay in making the claim.

(2) The matters that must be taken into account in determining whether the claimant has a full and satisfactory explanation for the delay in making the claim include, but are not limited to, whether, before the expiry of the period of 28 days for making the claim—

(a) the claimant was aware of the right to make the claim, or

(b) the claimant was a person under a legal incapacity, or

(c) the claimant was prevented from making the claim before the expiry of that period because of illness or injury.

(3) An explanation for the delay in making a claim is taken to be a full and satisfactory explanation for the purposes of subclause (1)(b) if the insurer has not rejected the explanation within 14 days after receiving the explanation.

(4) This clause does not apply to a motor accident occurring before 1 April 2023.

Part 4 Award of damages

9 Accommodation or travel for which damages may be awarded (section 4.5)

The kind of accommodation or travel for which damages may be awarded (subject to Division 4.2 of the Act) is any accommodation or travel for which the claimant has incurred, or is likely to incur, a cost as a result of the injury caused by the motor accident.

Part 5 Dispute resolution

Division 1 Internal review

10 Merit review decisions for which internal review not required (section 7.11 (3))

Section 7.11 (Internal review required before making merit review application) of the Act does not apply to a reviewable decision about any of the following merit review matters—

(a) whether for the purposes of section 6.24 (Duty of claimant to co-operate with other party) of the Act a request made of the claimant is reasonable or whether the claimant has a reasonable excuse for failing to comply,

(b) whether the claimant has provided the insurer with all relevant particulars about a claim in accordance with section 6.25 (Duty of claimant to provide relevant particulars of claim for damages) of the Act,

(c) whether the insurer is entitled to give a direction to the claimant under section 6.26 (Consequences of failure to provide relevant particulars of claim for damages) of the

Act,

(d) whether for the purposes of section 8.10 (Recovery of costs and expenses in relation to claims for statutory benefits) of the Act the costs and expenses incurred by the claimant are reasonable and necessary.

11 Miscellaneous dispute decisions for which internal review not required (section 7.41 (3))

Section 7.41 (Internal review required before miscellaneous claims assessment) of the Act does not apply to a dispute about which insurer is the insurer of the at-fault motor vehicle for the purposes of section 3.3 of the Act (Determination of relevant insurer).

Division 2 Merit review

12 Insurer to notify claimant of review rights (section 7.16 (a))

(1) The insurer must notify a claimant in writing of any right of the claimant to request an internal review or apply for a merit review in relation to a decision of the insurer.

Maximum penalty—5 penalty units.

(2) The notification must be given when the insurer notifies the claimant of the decision to which the right to request the internal review or to apply for the merit review applies.

(3) This clause extends to any decision of the insurer in relation to which a merit review application may be made only after the decision has been the subject of an internal review.

Division 3 Medical assessment

13 Grounds for further medical assessment (section 7.24 (2))

(1) A medical dispute may be referred again for assessment under Division 7.5 of the Act on the grounds of deterioration of the injury or additional relevant information about the injury.

(2) A matter may not be referred again for assessment by a party to the medical dispute on the grounds of deterioration of the injury or additional relevant information about the injury unless the deterioration or additional information is such as to be capable of having a material effect on the outcome of the previous assessment.

Division 4 Claims assessment

14 Claims exempt from assessment (section 7.34 (1) (a))

The following kinds of claims are exempt from assessment under Division 7.6 of the Act—

(a) a claim in respect of which the claimant is a person under legal incapacity,

(b) a claim involving an action under the *Compensation to Relatives Act 1897* brought on behalf of a person under legal incapacity,

(c) a claim made against a person other than an insurer,

(d) a claim in connection with which the insurer has, by notice in writing to the claimant, alleged that the claimant has engaged in conduct in contravention of section 6.41 (Fraud on motor accidents injuries scheme) of the Act,

(e) a claim in respect of which the insurer has, by notice in writing to the claimant and to the owner or driver of the motor vehicle to which a third-party policy relates, declined to indemnify the owner or driver under the third-party policy.

15 Notification of acceptance or rejection of assessed damages

(1) A claimant is to give to the insurer written notice of the claimant's acceptance or rejection of any amount of damages assessed under Division 7.6 of the Act in relation to the claim.

(2) The insurer is to give to the claimant and the Commission written notice of any rejection by the insurer, or any mutual acceptance by the insurer and the claimant, of an amount of damages assessed under Division 7.6 of the Act in relation to a claim.

(3) For the purposes of this Division, the ***assessment acceptance day*** is the earlier of the following days—

(a) the day on which the insurer receives a notice under this clause of the claimant's acceptance of an amount of damages,

(b) the day that is 21 days after the certificate of assessment is issued to the insurer.

16 Time for payment of assessed damages (section 7.38 (3))

(1) The amount of damages and costs payable by an insurer in respect of a claim for damages assessed under Division 7.6 of the Act must be paid within 28 days after the assessment acceptance day, except as otherwise provided by this clause.

(2) The insurer must give notification in accordance with this clause of any deduction that the insurer is required by law to make from the assessed amount of damages.

(3) Notification of a deduction relating to a claim—

(a) is to be given to the person to whom the deduction is payable, and

(b) is to include a request for advice as to the amount of the deduction that is required, and

(c) is to be given within 14 days after the assessment acceptance day.

(4) The insurer must pay the balance of the assessed amount of damages to the claimant within 28 days after all advice requested under this clause in relation to deductions for a claim has been received by the insurer.

(5) 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 75% of the rate prescribed for the purposes of section 101 of the *Civil Procedure Act 2005* for the period concerned.

Division 5 Miscellaneous claims assessments

17 Application of claims assessment provisions (section 7.42 (2))

The application of Subdivision 2 of Division 7.6 of the Act to the assessment of a dispute between a claimant and an insurer about a miscellaneous claims assessment matter is subject to the following modifications—

(a) the Subdivision is to be read as if sections 7.33–7.35, 7.36 (3) and 7.38 (2)–(4) were omitted,

(b) the requirement in section 7.36 (1) (a) to make an assessment of the issue of liability for the claim and the amount of damages for that liability is to be read as a requirement to make an assessment of the issues in dispute,

(c) the reference in section 7.38 (1) to an assessment of the issue of liability for a claim not being binding is to be read as a reference to—

(i) an assessment of a dispute about a miscellaneous claims assessment matter relating to a claim for statutory benefits being binding, subject to section 3.44 (Statutory benefits determinations relating to fault etc not binding in relation to common law claims), and

(ii) an assessment of a dispute about a miscellaneous claims assessment matter relating to a claim for damages not being binding.

Division 6 Miscellaneous

18 Medical matters subject to evidence restriction (section 7.52 (4))

For the purposes of paragraph (b) of the definition of ***medical matter*** in section 7.52 (4) of the Act, the following medical assessment matters are prescribed as medical matters in relation to which evidence given by a health practitioner is not admissible—

(a) whether any treatment and care provided to an injured person is reasonable and necessary in the circumstances or relates to an injury caused by a motor accident for the purposes of section 3.24 (Entitlement to statutory benefits for treatment and care)

of the Act,

(b) whether for the purposes of section 3.28 (Cessation of statutory benefits after 26 weeks to injured adult persons most at fault or to injured persons with threshold injuries) of the Act treatment or care provided to an injured person will improve the recovery of the injured person,

(c) the degree of impairment of the earning capacity of an injured person that has resulted from an injury caused by a motor accident,

(d) whether an injury is a threshold injury for the purposes of the Act.

Part 6 Costs

Division 1 Preliminary

19 Definition

In this Part and in Schedule 2—

health practitioner has the same meaning as in the Health Practitioner Regulation National Law.

20 Costs not regulated by this Part

Costs referred to in this Part (Division 4 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 practitioners (other than medical practitioners),

(d) fees for other professional reports relating to treatment or rehabilitation (for example, architects' reports concerning house modifications),

(e) fees for clinical records of treating health practitioners (including medical practitioners),

(f) fees for interpreter or translation services,

(g) fees for police reports,

(h) fees or charges under the *Government Information (Public Access) Act 2009*,

(i) court fees,

(j) travel costs and expenses of the claimant for attendance at the Commission or a court,

(k) witness expenses at the Commission or a court.

Division 2 Maximum legal and other costs

Note—

Section 8.3 (3) of the Act provides that an Australian 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 8.3, or any amount for a legal service or other matter of a particular kind declared by the regulations.

21 Application of Division

This Division applies to the following costs payable on a party and party basis, on a practitioner and client basis or on any other basis—

(a) legal costs,

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

Note—

Section 8.1 (2) of the Act provides that expressions in Part 8 (Costs and fees) of that Act (and consequently expressions used in this Part) have the same meaning when used in relation to legal costs in the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*) except where otherwise provided in that Part.

22 Fixing of maximum costs recoverable by legal practitioners (sections 8.3 and 8.10)

(1) Except as otherwise provided by this Part, the costs set out in Schedule 1 are the maximum costs recoverable by Australian legal practitioners and claimants for—

(a) legal services provided by an Australian legal practitioner to a claimant or to an insurer in a motor accidents matter, and

(b) matters that are not legal services but are related to a motor accidents matter.

(2) If there is a change in the Australian legal practitioner retained by a claimant or insurer in a motor accidents matter, the relevant costs are to be apportioned between the Australian legal practitioners concerned.

(3) If there is a dispute as to such an apportionment, either Australian legal practitioner concerned (or the client claimant or insurer concerned) may refer the dispute to the President for determination (unless the dispute arose in a matter involving a claim for damages that is exempt from assessment under section 7.34 of the Act).

(4) The President is to arrange for a dispute referred under this section to be dealt with by—

(a) if the dispute arose in a matter involving a claim for statutory benefits—a merit reviewer, or

(b) if the dispute arose in a matter involving a claim for damages—a member of the

Commission assigned to the Motor Accidents Division of the Commission.

(5) An Australian legal practitioner has the same right of appeal against a determination made under subclause (3) as the practitioner would have under section 205 of the *Legal Profession Uniform Law (NSW)* if the determination were a determination of a costs assessor under Division 7 of Part 4.3 of that Law.

23 Costs not payable for internal review (section 8.3 (1) (c))

It is declared that no costs are payable for legal services provided to a claimant or to an insurer in connection with an application for internal review by the insurer under Part 7 of the Act.

23A Certain costs not payable for compensation matter applications (section 8.3(1)(c))

It is declared that no costs are payable for legal services in relation to a compensation matter application concerning a claim for damages, within the meaning of section 26 of the *Personal Injury Commission Act 2020*, to the extent that the costs are payable on a practitioner and client basis.

24 Excluded matters (section 8.11)

(1) The maximum costs set out in Schedule 1 do not apply in respect of a legal service or other matter provided to a claimant or an insurer in a motor accidents matter involving a claim that is exempt from assessment under section 7.34 (Claims exempt from assessment) of the Act.

(2) An exclusion under subclause (1) extends to any costs incurred before the matter became exempt.

(3) The provisions of Part 8 of the Act do not apply to a legal service provided to a claimant by the Authority through the advisory service established under section 7.49 (Advisory service) of the Act.

25 Maximum costs for matters subject to costs agreement

(1) Schedule 1 does not apply to costs in a motor accidents matter to the extent that the costs are payable on a practitioner and client basis if—

(a) an Australian legal practitioner makes a disclosure under Division 3 of Part 4.3 of the *Legal Profession Uniform Law (NSW)* to a party to the matter with respect to the costs, and

(b) the practitioner 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 4 of that Part, and

(c) the practitioner, 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, and

(d) the practitioner (but only if the party is a claimant) provides to the Authority, in the manner and time approved by the Authority, a costs breakdown in relation to the claim when the claim is finalised, and

(e) the amount paid in resolution of the claim by way of settlement or an award of damages is more than $75,000.

(2) However, the maximum costs recoverable in any such matter on a practitioner and client basis are fixed at the amount calculated by subtracting $75,000 from the amount paid in resolution of the claim.

(3) The ***amount paid in resolution of a claim*** includes any amount payable in connection with the claim on a party and party basis.

(4) The maximum costs specified in subclause (2) are inclusive of all legal services provided in the course of the claim during the period commencing on the acceptance of the retainer and ending on the resolution of the claim.

(5) This clause does not apply to a motor accidents matter involving a claim for statutory benefits.

26 Maximum costs for claims made by minors (section 8.3 (1))

(1) The maximum costs for legal services provided to a claimant in connection with an exempt minor claim are (unless otherwise ordered by the court) as follows—

(a) except as provided by paragraph (b) or (c)—$5,000,

(b) if the amount paid in resolution of the claim is more than $25,000 (but not more than $50,000) and no associate of the claimant has made a claim in respect of the motor accident concerned—$10,000, or

(c) if the amount paid in resolution of the claim is more than $50,000 (but not more than $75,000) and no associate of the claimant has made a claim in respect of the motor accident concerned—$15,000.

(2) A claim is an ***exempt minor claim*** if a certificate has been issued under section 7.34 of the Act to the effect that the claim is exempt from assessment under Division 7.6 of the Act solely on the ground that the claimant is, on the date on which the certificate is issued, under the age of 18 years.

(3) A person is an ***associate*** of a claimant if—

(a) at the time of the accident to which the claim relates, the person was an occupant of the same motor vehicle as the claimant, and

(b) the person has retained to act on the person's behalf in respect of any claim arising from the motor accident the same law practice as the claimant has retained in respect of the claimant's claim.

(4) This clause does not apply to a claim if the amount paid in resolution of the claim is more than $75,000.

(5) The maximum costs specified in this clause are inclusive of all legal services provided in the course of the claim during the period commencing on the acceptance of the retainer and ending on the resolution of the claim.

(6) If there is a change in the Australian legal practitioner retained by a claimant or insurer in connection with a claim to which this clause applies, the relevant costs are to be apportioned between the Australian legal practitioners concerned.

(7) Any dispute as to such an apportionment may be determined by the court or referred by either Australian legal practitioner concerned (or the client or insurer concerned) to the Commission for determination.

(8) In this clause—

resolution means any final resolution of a claim, whether by way of settlement, an award of damages or otherwise.

Division 3 Medico-legal fees and expert witnesses

Note—

Section 8.4 (2) of the Act provides that a health practitioner is not entitled to be paid or recover any fee for providing a service that exceeds any maximum fee fixed under section 8.4 for the provision of the service.

27 Application of Division

This Division applies in respect of fees for the provision of medical reports, and appearances as witnesses, by health practitioners.

28 Maximum fees recoverable by medical practitioner (section 8.4 (1))

(1) 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.

(2) A reference in that Schedule to a ***report*** means, if the Motor Accident Guidelines require medical reports to be in a particular form, a report in that form.

(3) A claimant may not claim an amount set out in item 5 or 6 (relating to reports by

treating medical practitioners) of Schedule 2 in respect of an initial report by a treating medical practitioner unless the claimant has requested in writing that the insurer provide the report to the claimant and the insurer has failed to do so within a reasonable time.

Division 4 Assessment of claims

29 Assessment of costs to produce information (section 8.6(4))

The Commission may assess the reasonable costs in relation to the issuing of, or compliance with, a direction under section 49 of the *Personal Injury Commission Act 2020*.

30 Costs where claimant does not accept assessed amount of damages

(1) This clause applies to a claim for damages if—

(a) an assessment of the amount of damages for liability under the claim is made under Division 7.6 of the Act, and

(b) the claimant does not accept that amount of damages in settlement of the claim within 21 days after the certificate of assessment is issued.

(2) If the amount of court awarded damages in respect of the claim does not exceed the amount of damages specified in the certificate of assessment, the claimant is liable to pay the costs, not exceeding $25,000 (or such other amount as is determined by the Authority by order published in the Gazette), incurred by any party in respect of the claim.

(3) The insurer is liable to pay the costs incurred by any party in respect of the claim if the amount of court awarded damages—

(a) exceeds the amount of damages specified in the certificate of assessment by at least $2,000 or 20% (whichever is the greater), or

(b) exceeds the amount of damages specified in the certificate of assessment by at least $200,000.

(4) In any other case, the insurer and claimant are liable to pay their own costs incurred in respect of the claim.

(5) Subclauses (2)–(4) apply subject to any direction of a court as to costs.

(6) This clause does not apply to costs incurred in the matter before the certificate of assessment is issued.

(7) If court proceedings are adjourned under section 6.34 of the Act for further claims assessment because a party to the proceedings has adduced significant evidence in the proceedings that was available to the party at the time of the original claims

assessment but was not made available to the Commission, the court—

(a) is to take the failure of the party to make that evidence available to the Commission into account, and

(b) may require the party to pay a greater share of the costs incurred after the initial certificate of assessment was issued and until a further certificate of assessment is issued in connection with the claim.

(8) In this section—

costs means costs payable on a party and party basis.

court awarded damages means all damages of any kind awarded by a court in respect of a claim (without the addition of interest) after taking into account any deduction or reduction in accordance with Part 4 of the Act.

31 Costs where insurer does not accept assessed amount of damages

(1) This clause applies to a claim for damages if—

(a) an assessment of the amount of damages for liability under the claim is made under Division 7.6 of the Act, and

(b) the insurer does not admit liability under the claim within 21 days after the certificate of assessment is issued.

(2) Subject to any direction of a court as to costs, the insurer is liable to pay the costs of the claimant incurred in respect of the claim and the maximum costs set out in this Regulation do not apply in respect of those costs.

(3) This clause does not apply to costs incurred in the matter before the certificate of assessment is issued.

(4) In this clause—

costs of the claimant means the costs of the claimant payable on a party and party basis, including any court fees prescribed under section 8.7 of the Act.

Division 5 Other costs matters

32 Non-attendance or cancellation of medical assessment (section 7.28 (1) and (3) (d))

(1) The Authority may recover from a claimant all or part of the costs reasonably incurred by the President as a consequence of the claimant—

(a) failing to attend an appointment scheduled by the President for a medical assessment of the claimant under Division 7.5 of the Act, or

(b) cancelling such an appointment within 72 hours of the scheduled time.

(2) The Authority may not recover the costs if the claimant has a reasonable excuse for the failure to attend or for the cancellation.

33 Calculation of private motor vehicle travel expenses for attendance at medical or other assessment or examination (sections 6.27 (5) and 7.28 (5))

For the purposes of sections 6.27 (5) and 7.28 (5) of the Act, the cost of travel by a private motor vehicle for the purposes of either of the following is to be calculated at the rate of $0.66 per kilometre—

(a) attending a medical assessment under Division 7.5 of the Act,

(b) attending a medical or other health related examination, a rehabilitation assessment, an assessment to determine functional and vocational capacity or any other assessment under section 6.27 of the Act.

34 Maximum amounts payable by insurer for treatment and care not provided at hospitals or provided at private hospitals (section 8.9)

(1) The maximum amount for which an insurer is liable in respect of any claim for fees payable for treatment and care to which section 8.9 of the Act applies is the amount listed, in respect of the treatment concerned, in the AMA List.

Note—

Section 8.9 of the Act does not apply to treatment and care 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 does apply to the fee payable to a private hospital for any treatment and care at the hospital.

(2) This clause applies only in relation to treatment and care—

(a) that is provided to an injured person by a health practitioner, and

(b) in respect of which a fee is specified in the AMA List.

(3) In this clause—

AMA List means the document called *List of Medical Services and Fees* published by the Australian Medical Association and dated 1 November 2017 as amended or replaced, from time to time, by a document that—

(a) has been published by the Australian Medical Association, as an amendment to, or replacement of, the AMA List, and

(b) has been recognised by the Authority, by notice published in the Gazette.

35 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 an Australian 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 10% of the maximum amount payable under this Part to the Australian legal practitioner or medical practitioner in respect of the legal or other service apart from this clause.

(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.

Part 7 Miscellaneous

36 Service of documents generally (section 11.5 (1) (f))

(1) A document that is authorised or required by the Act or this Regulation to be served on any person may be served by—

(a) electronic transmission to a mobile phone number specified by the person for the service of documents of that kind, or

(b) electronic transmission through an approved online system that enables the electronic service of documents of that kind.

(2) A document is sufficiently served on a person in connection with a claim for statutory benefits made by the person if it is served on an Australian legal practitioner acting for the person in connection with the claim.

(3) A document is sufficiently served on a person under legal incapacity in connection with a claim made by the person if it is served on the person's appointed legal representative.

(4) This clause authorises additional methods of service to those set out in section 11.5 of the Act.

(5) In this clause—

approved online system means an online system that is approved by—

(a) the Authority, or

(b) the Commission, or

(c) the Commission rules.

37 Service of documents on Authority (section 11.6 (1) (d))

(1) A document may be served on the Authority by electronic transmission through an

online system approved by the Authority for the purpose of enabling documents of that kind to be served in electronic form.

(2) This clause authorises an additional method of service to the methods of service set out in section 11.6 of the Act.

38 Service of documents on Nominal Defendant (section 11.7 (1) (c))

(1) A document may be served on the Nominal Defendant by email to an email address specified by the Nominal Defendant for the service of documents of that kind.

(2) This clause authorises an additional method of service to the methods of service set out in section 11.7 of the Act.

38A Lifetime Care and Support Authority to disclose information to Authority (section 10.15(2) and (3))

(1) The Lifetime Care and Support Authority must disclose to the Authority on request information relating to payments of statutory benefits for treatment and care that the Lifetime Care and Support Authority is required to make as the relevant insurer under the Act, section 3.2(3).

(2) The information that may be requested under subclause (1) includes, but is not limited to—

(a) the total amount of payments of statutory benefits for treatment and care that the Lifetime Care and Support Authority estimates it will be required to make as the relevant insurer under the Act, section 3.2(3) for one or more specified future relevant periods, and

(b) the total amount of payments of statutory benefits for treatment and care that the Lifetime Care and Support Authority was required to make as the relevant insurer under the Act, section 3.2(3) for the current relevant period or one or more specified previous relevant periods, and

(c) the actual administrative and operational costs incurred by the Lifetime Care and Support Authority for one or more specified previous relevant periods, to the extent that those costs relate to the administration of the Act as the relevant insurer under the Act, section 3.2(3), and

(d) the administrative and operational costs that the Lifetime Care and Support Authority estimates it will incur for one or more specified future relevant periods, to the extent that those costs relate to the administration of the Act as the relevant insurer under the Act, section 3.2(3).

(3) The information must be disclosed within—

(a) a reasonable period specified by the Authority, or

(b) another period agreed by the Authority and the Lifetime Care and Support Authority.

(4) The Lifetime Care and Support Authority must, as soon as practicable after becoming aware of a matter that is likely to have a material financial impact on the motor accidents scheme under the Act, disclose to the Authority the following information relating to the matter—

(a) a description of the matter,

(b) an explanation of the reasons the matter has occurred,

(c) an assessment of the risks to the motor accidents scheme,

(d) a description of the steps that have been, or are proposed to be, taken to mitigate those risks.

(5) The matters in relation to which information must be disclosed under subclause (4) include, but are not limited to—

(a) a change in circumstances that is likely to affect the costs of the Lifetime Care and Support Authority in exercising its functions to the extent that those costs relate to the administration of the Act as the relevant insurer under section 3.2(3), and

(b) a change in the amount determined as the required contribution to the MAITC Benefits Fund under the Act, section 10.15(1)(d), for a relevant period, which represents an increase, or a decrease, of more than 10% in the amount determined for that purpose for the immediately preceding relevant period, and

(c) a matter involving one or more of the following that is likely to arise in relation to a claim in proceedings before a court, the Commission or a decision-maker if the Lifetime Care and Support Authority is a party to the proceedings—

(i) an issue that involves a question relating to the application of the Act or an instrument made under the Act,

(ii) an issue that involves a question of constitutional law,

(iii) a submission to a court that would, if accepted, substantially affect the statutory benefits or damages payable under the Act for similar claims,

(iv) criticism by the court, the Commission or the decision-maker.

(6) In this clause—

decision-maker has the same meaning as in the *Personal Injury Commission Act 2020*, section 32.

38B Determination of maximum amounts for claims handling (section 10.15(3)(b))

(1) The Authority may determine, for a relevant period, the maximum amounts that may be determined by the Lifetime Care and Support Authority in relation to the cost of claims handling for the purposes of the Act, section 10.15(1)(b).

(2) The Authority must consult with the Lifetime Care and Support Authority before making a determination for a relevant period.

(3) The Authority must give the Lifetime Care and Support Authority written notice of the determination at least 6 months before the start of the relevant period to which the determination relates.

39 Records relating to collection of Fund levies (section 10.19 (1) (a))

For the purposes of section 10.19 (1) (a) of the Act, the accounting and other records required to be kept by a licensed insurer in relation to Fund levies collected by the insurer on behalf of the Authority are records containing the following particulars in respect of each third-party policy issued by the insurer—

(a) the amount of the Fund levy collected,

(b) the date on which the policy commences,

(c) the date on which the premium for the policy was paid, in conjunction with payment of the Fund levy, by the person to whom it was issued.

40 Determining efficiency of scheme

(1) The object of this clause is to enable the Authority to obtain information about costs in order to advise the Minister as to the efficiency and effectiveness of the motor accidents scheme under the Act.

(2) It is the duty of an Australian legal practitioner who represents a claimant when a claim is finalised (regardless of whether damages are to be paid to the claimant) to ensure that the Authority is provided, in the manner and time approved by the Authority, with a costs breakdown in relation to the claim.

(3) The duty in subclause (2) applies to all claims regardless of whether the claim is exempt from assessment under section 7.34 of the Act. However, the duty does not apply to a claim in a motor accidents matter if the claimant incurs no legal fees in the matter.

(4) If a barrister and a solicitor act for a claimant, the duty in subclause (2) falls on the solicitor and not the barrister.

(5) The Authority may provide any information contained in a costs breakdown to the Minister and may, if directed to do so by the Minister, publicise statistics produced

from any such information.

(6) The Authority may forward to the Legal Services Commissioner any information obtained under this clause.

(7) In this clause—

costs breakdown means a document that sets out, in a form approved by the Authority—

(a) the total amount paid by an insurer in finalising a claim for damages, and

(b) all deductions (including all legal costs and disbursements) in relation to the claim, and

(c) the final amount paid to the claimant.

41 Referral fees

(1) An Australian legal practitioner has a duty not to receive consideration for referring a claimant (who is represented by the Australian legal practitioner) to a person for the purposes of a service being provided in respect of the claimant's claim.

(2) An Australian legal practitioner is taken to receive consideration if a close associate of the Australian legal practitioner receives the consideration.

(3) An Australian legal practitioner has a duty not to give consideration for the referral of a person to the Australian legal practitioner for the purposes of the Australian legal practitioner representing the person in relation to a claim.

(4) An Australian legal practitioner is taken to give consideration if a close associate or close relative of the Australian legal practitioner gives the consideration.

(5) In this clause—

close associate of an Australian legal practitioner means—

(a) an employer of the Australian legal practitioner (including, if the employer is a corporation, a director of the corporation), or

(b) a partner, or a close relative of the partner, of a law firm of which the Australian legal practitioner is also a partner, or

(c) an employee or agent of the Australian legal practitioner or of a person referred to in paragraph (a) or (b), or

(d) a close relative of the Australian legal practitioner.

close relative of a person means—

(a) a spouse or de facto partner of the person, or

(b) a parent, grandparent, child or step-child of the person, or

(c) a sibling (including a half-sister, half-brother and step-sibling) of the person, or

(d) an aunt, uncle, cousin, niece or nephew of the person.

consideration includes a fee or any other financial benefit but does not include hospitality that is reasonable in the circumstances.

42 Savings and transitional provision—the Act, Sch 4, cl 1

(1) The Act, Schedule 2, clause 2(c), as in force immediately before its repeal on 1 April 2023, continues to apply in relation to a motor accident occurring before 1 April 2023.

(2) Subclause (1) is taken to have commenced on 1 April 2023.

Schedule 1 Maximum costs for legal services

(Clause 22 (1))

Part 1 Dispute resolution

1 Merit review

(1) The maximum costs for legal services provided to a claimant or an insurer in connection with a merit review under Division 7.4 of the Act involving a dispute about a regulated merit review matter are 16 monetary units (to a maximum of 60 monetary units per claim).

(2) Each of the following merit review matters is a ***regulated merit review matter***—

(a) whether the insurer is entitled to refuse payment of statutory benefits in accordance with section 3.34 (Effect of death on entitlement to statutory benefits) of the Act,

(b) whether the insurer is entitled to refuse payment of statutory benefits in accordance with section 3.35 (No statutory benefits if workers compensation payable) of the Act,

(c) whether the insurer is entitled to refuse payment of statutory benefits in accordance with section 3.36 (No statutory benefits for at-fault driver or owner if vehicle uninsured) of the Act,

(d) whether the insurer is entitled to refuse payment of statutory benefits in accordance with Part 3 of the *Civil Liability Act 2002* (as applied by section 3.39 (Limitation on statutory benefits in relation to certain mental harm) of the Act),

(e) whether the insurer is entitled to refuse payment of statutory benefits in accordance with section 3.40 (Effect of recovery of damages on statutory benefits) of the Act,

(f) whether the insurer is entitled to delay the making of an offer of settlement under section 6.22 (Duty of insurer to make offer of settlement on claim for damages) of the Act,

(g) whether for the purposes of section 6.24 (Duty of claimant to co-operate with other party) of the Act a request made of the claimant is reasonable or whether the claimant has a reasonable excuse for failing to comply,

(h) whether the claimant has provided the insurer with all relevant particulars about a claim in accordance with section 6.25 (Duty of claimant to provide relevant particulars of claim for damages) of the Act,

(i) whether the insurer is entitled to give a direction to the claimant under section 6.26 (Consequences of failure to provide relevant particulars of claim for damages) of the Act.

(3) The maximum costs for legal services provided in connection with a review of a decision about any merit review matter by a review panel (including in connection with the application for referral of the decision to the review panel) are as follows—

(a) if the President approves the application for referral—16 monetary units,

(b) if the President refuses to approve the application—

(i) for legal services provided to the applicant—nil,

(ii) for legal services provided to the respondent—8 monetary units.

(4) The maximum costs set out in subclause (3) are in addition to the maximum costs set out in subclause (1).

2 Medical disputes

(1) The maximum costs for legal services provided to a claimant or an insurer in connection with a medical assessment under Division 7.5 of the Act are 16 monetary units (to a maximum of 60 monetary units per claim).

(2) The maximum costs for legal services provided in connection with a further medical assessment under section 7.24 of the Act (including in connection with the application for referral of the decision for further assessment) are as follows—

(a) if the President approves the application for referral—16 monetary units,

(b) if the President refuses to approve the application—

(i) for legal services provided to the applicant—nil,

(ii) for legal services provided to the respondent—8 monetary units.

(3) The maximum costs for legal services provided in connection with a review of a medical assessment by a review panel under section 7.26 of the Act (including in connection with the application for referral of the medical assessment to the review panel) are as follows—

(a) if the President approves the application for referral—16 monetary units,

(b) if the President refuses to approve the application—

(i) for legal services provided to the applicant—nil,

(ii) for legal services provided to the respondent—8 monetary units.

(4) The maximum costs set out in subclauses (2) and (3) are in addition to the maximum costs set out in subclause (1).

3 Miscellaneous claims assessments

(1) The maximum costs for legal services provided to a claimant or an insurer in connection with an assessment under Division 7.6 of the Act involving a dispute about a regulated miscellaneous claims assessment matter are 16 monetary units (to a maximum of 60 monetary units per claim).

(2) Each of the following miscellaneous claims assessment matters is a ***regulated miscellaneous claims assessment matter***—

(a) whether for the purposes of section 2.30 (Claim against Nominal Defendant where vehicle not identified) of the Act there has been due inquiry and search to establish the identity of a motor vehicle,

(a1) whether for the purposes of section 2.30 (Claim against Nominal Defendant where vehicle not identified) of the Act the person whose death or injury resulted from the motor accident was a trespasser on land that is a road related area open to or used by the public for driving, riding or parking vehicles,

(b) whether the Nominal Defendant has lost the right to reject a claim under section 2.31 (Rejection of claim for failure to make due inquiry and search to establish identity of vehicle) of the Act for failure to make due inquiry and search to establish the identity of a vehicle,

(c) whether for the purposes of section 3.1 (Statutory benefits payable in respect of death or injury resulting from motor accident) of the Act the death of or injury to a person has resulted from a motor accident in this State,

(d) whether for the purposes of section 3.11 (Cessation of weekly payments to injured

persons most at fault or with threshold injury after 26 weeks) of the Act the motor accident concerned was caused by the fault of another person,

(e) whether for the purposes of section 3.28 (Cessation of statutory benefits after 26 weeks to injured adult persons most at fault or to injured persons with threshold injury) or 3.36 (No statutory benefits for at-fault driver or owner if vehicle uninsured) of the Act the motor accident was caused mostly by the fault of the injured person,

(f) whether the insurer is entitled to refuse payment of statutory benefits in accordance with section 3.37 (No statutory benefits payable to injured person who commits serious driving offence) of the Act,

(g) whether the insurer is entitled to reduce the statutory benefits payable in respect of the motor accident in accordance with section 3.38 (Reduction of weekly statutory benefits after 12 months for contributory negligence) of the Act,

(g1) any issue of liability for a claim, or part of a claim, for statutory benefits referred to in clause 3 (n) of Schedule 2 to the Act,

(g2) whether for the purposes of Part 5 (Recovery for no-fault motor accidents) of the Act a motor accident is a no-fault motor accident,

(h) whether for the purposes of Part 6 (Motor accident claims) of the Act the claimant has given a full and satisfactory explanation for non-compliance with a duty or for delay,

(i) whether for the purposes of section 6.9 (Compliance with verification requirements—claim for statutory benefits) or 6.10 (Compliance with verification requirements—claim for damages) of the Act the motor accident verification requirements have been complied with,

(j) whether notice of a claim has been given in accordance with section 6.12 (Notice of claims for statutory benefits or damages) of the Act,

(k) whether the insurer is entitled to refuse payment of weekly payments of statutory benefits in accordance with section 6.13 (Time for making of claims for statutory benefits) of the Act,

(l) whether a late claim may be made in accordance with section 6.14 (Time for making of claims for damages) of the Act,

(m) whether a claim may be rejected for non-compliance with section 6.15 (How notice of claims given) of the Act.

4 Claims assessments

The maximum costs for legal services provided in a motor accidents matter in connection

with any matter relating to a claims assessment set out in Column 1 of the Table to this clause are the costs set out in Column 2 opposite that matter.

Table

Column 1	Column 2 Monetary units
Representation at an assessment conference under section 7.46 of the Act—	
(a) maximum flat fee	30
(b) maximum additional amount per hour for each hour in excess of 2 hours	3
Conference directly related to an assessment of a claim for damages or a court hearing, maximum per hour	3

5 Court proceedings

The maximum costs for legal services provided in a motor accidents matter in connection with any matter relating to court proceedings set out in Column 1 of the Table to this clause are the costs set out in Column 2 opposite that matter.

An amount for the fees for senior counsel, or for more than one advocate, is not to be included unless the court so orders.

Table

Column 1	Column 2 Monetary units
Interlocutory court proceedings	8
Representation in court—	
(a) maximum per day for advocate other than senior counsel	25
(b) maximum per day for senior counsel	35.5
Conference directly related to an assessment of a claim for damages or a court hearing, maximum per hour	3

6 Compensation matter applications—claims for statutory benefits or damages

(1) The maximum costs for legal services provided in a claim for statutory benefits or damages in connection with a matter relating to a compensation matter application set out in Column 1 of the Table to this clause are the costs set out in Column 2

opposite that matter.

(2) An amount for the fees for senior counsel, or for more than one advocate, is not to be included unless the court so orders.

(3) In this clause—

compensation matter application has the same meaning as in section 26 of the *Personal Injury Commission Act 2020* in relation to which leave has not been granted by the District Court.

Table

Column 1	**Column 2**
	Monetary units
Court proceedings in relation to a compensation matter application	10
Representation in court—	
(a) maximum per day for advocate other than senior counsel	25
(b) maximum per day for senior counsel	35.5
Conference directly related to a compensation matter application	3

Part 2 Additional costs for claims for damages

1 Costs additional to maximum costs for dispute resolution

The maximum costs set out in this Part are in addition to the maximum costs set out in Part 1 of this Schedule.

2 Stages of claim

(1) The maximum costs for legal services provided for a stage of a motor accidents matter set out in Column 2 of Table A to this clause in connection with a claim for damages are the costs set out in Column 3 opposite that stage.

(2) However, if a legal practitioner was first retained in the matter after a certificate as to the claims assessment was issued under section 7.36 of the Act, the maximum costs for legal services provided for a stage set out in Column 2 of Table B to this clause are the costs set out in Column 3 opposite that stage (or, if the stage is described by reference to different factors, the costs calculated in accordance with the provisions of Columns 2 and 3 relating to those factors).

(3) Costs may be charged for more than one stage described in this Schedule.

(4) Other than stage 1 in Table B 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 the occurrence of another specified event or the resolution of the claim (whichever occurs first).

(5) A reference in a Table to this clause to an award of damages is a reference to the amount of the award after deducting the amount of any statutory benefits paid under Division 3.3 of the Act.

Table A Maximum costs for stages of claim—general

Column 1 Stage	Column 2	Column 3 Maximum costs
1	From the acceptance of the retainer to the preparation and service of a notice of claim (including the provision of all relevant particulars about the claim to the insurer, even if those particulars are requested after the claim is served)—	
	(a) in the case of an Australian legal practitioner acting for a claimant, or	2.92 monetary units
	(b) in the case of an Australian legal practitioner acting for an insurer	nil
2	From service of the notice of claim under Division 6.3 of the Act to the preparation and service of a response to the insurer's offer of settlement under section 6.22 of the Act—	
	(a) in the case of an Australian legal practitioner acting for a claimant, or	4.32 monetary units
	(b) in the case of an Australian legal practitioner acting for an insurer	nil
3	If resolution of the claim occurs without the issue of a certificate under section 7.36 of the Act—from service of the response to the insurer's offer of settlement under section 6.22 of the Act to resolution of the claim (in addition to the 7.24 monetary units specified for stages 1 and 2 if chargeable)—	

(a) if the amount to be paid in resolution of the claim (the ***resolution amount***) is not more than $20,000 and the insurer wholly admitted liability for the claim, or	7.24 monetary units
(b) if the resolution amount is not more than $20,000 and the insurer did not wholly admit liability for the claim—for each dollar of the settlement amount, or	10 cents
(c) if the resolution amount is more than $20,000 but not more than $50,000 and the insurer wholly admitted liability for the claim—	
(i) base amount, and	7.24 monetary units
(ii) for each dollar of the resolution amount over $20,000, or	12 cents
(d) if the resolution amount is more than $20,000 but not more than $50,000 and the insurer did not wholly admit liability for the claim—	
(i) base amount, and	25.92 monetary units
(ii) for each dollar of the resolution amount over $20,000, or	12 cents
(e) if the resolution amount is more than $50,000 but not more than $100,000 and the insurer wholly admitted liability for the claim—	
(i) base amount, and	51.84 monetary units
(ii) for each dollar of the resolution amount over $50,000, or	10 cents
(f) if the resolution amount is more than $50,000 but not more than $100,000 and the insurer did not wholly admit liability for the claim—	
(i) base amount, and	71.28 monetary units

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

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

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

3 Country loadings

(1) An advocate whose principal chambers or offices are in the Sydney Metropolitan area is entitled, in respect of proceedings under Division 7.6 of the Act 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 2 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 under Division 7.6 of the Act

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 under Division 7.6 of the Act 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 2 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 under Division 7.6 of the Act at a place on any one day and a loading is applicable under this clause, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

Table

Town	**Maximum loading $**
Albury	1,042
Armidale	956
Batemans Bay	954
Bathurst	756
Bega	1,150
Bourke	1,643
Broken Hill	1,774
Byron Bay	948
Campbelltown	91
Canberra and ACT	757
Casino	1,074
Cessnock	592
Cobar	1,511
Coffs Harbour	841
Condobolin	1,281
Cooma	1,270

Coonamble	1,225
Cootamundra	868
Cowra	669
Deniliquin	1,119
Dubbo	886
Forbes	886
Glen Innes	841
Gosford	254
Goulburn	625
Grafton	1,030
Griffith	847
Gundagai	994
Gunnedah	980
Hay	1,096
Inverell	984
Katoomba	345
Kempsey	906
Lismore	948
Lithgow	393
Maitland and East Maitland	592
Moree	887
Moruya	721
Moss Vale	409
Mudgee	705
Murwillumbah	1,096
Muswellbrook	627
Narrabri	823
Narrandera	818
Newcastle	592

Nowra	592
Nyngan	1,407
Orange	674
Parkes	912
Penrith	91
Port Macquarie	764
Queanbeyan	757
Singleton	910
Tamworth	882
Taree	705
Tweed Heads	1,028
Wagga Wagga	783
Wentworth	1,662
Wollongong	375
Yass	666
Young	868

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 under Division 7.6 of the Act in another State or Territory, to such reasonable loading as is determined by the court or the Commission.

(2) If an advocate holds more than one brief in respect of proceedings under Division 7.6 of the Act heard at a place on any one day and a court or the Commission determines that a loading is applicable under this clause, 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 28 (1))

	Maximum fee

Appearances as witnesses

1	Health practitioners called to give evidence other than expert evidence, per hour (or proportionately if not for a full hour) to a maximum of 9 monetary units	4.5 monetary units
2	Health practitioners called to give expert evidence—	
	(a) for the first 1.5 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)	12 monetary units
	(b) for every full hour after the first 1.5 hours (or proportionately if not for a full hour)	4.5 monetary units
	to a maximum of 36 monetary units	
3	Travelling allowance (for travel by private motor vehicle) in connection with appearance as witness—per kilometre	66 cents
4	Accommodation and meals in connection with appearance as witness	reasonable costs

Medical reports

5	Report made by a treating general practitioner—	
	(a) if a re-examination of the patient is not required	3.75 monetary units
	(b) if a re-examination of the patient is required	4.95 monetary units
6	Report made by a treating specialist—	
	(a) if a re-examination of the patient is not required	12 monetary units
	(b) if a re-examination of the patient is required	16 monetary units
7	Report made by a specialist who has not previously treated the patient (where both parties have not jointly agreed to the appointment of the specialist)—	
	(a) if an examination of the patient is not required	12 monetary units
	(b) if an examination of the patient is required	16 monetary units
8	Report made by a specialist who has not previously treated the patient (where both parties have jointly agreed to the appointment of the specialist)—	
	(a) if an examination of the patient is not required	18 monetary units
	(b) if an examination of the patient is required	22 monetary units

9	Charges for copying medical reports—per page	$1
Cancellation fee		
10	Fee if appearance or medical report is not required	Not more than 50% of the relevant amount specified in this table

Schedule 3 Adjustment of maximum costs and fees for inflation

1 Definitions

In this Schedule—

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

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

2 Calculation of monetary unit for purposes of Regulation

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

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

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

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

where—

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

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

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

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

Editorial note—

Monetary unit amount calculated under this clause—

Adjustment year	Monetary unit amount
2018–19	$102.06
2019–20	$103.76

2020–21	$103.76
2021–22	$106.89
2022–23	$112.53
2023–24	$119.96

3 Rounding of maximum cost and fee amounts

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

4 Notice of indexed maximum costs and fees

(1) As soon as practicable after the CPI number for the June quarter is first published by the Australian Statistician, the Authority is required to—

(a) notify the Parliamentary Counsel of the amount of the monetary unit for the next adjustment year so that notice of that amount can be published on the NSW legislation website, and

(b) give public notice on an appropriate government website of the actual amounts of the maximum costs and fees applying in each adjustment year resulting from the application of the amount of a monetary unit calculated under this Schedule.

(2) This Schedule operates to change an amount of a maximum cost or fee that is calculated by reference to a monetary unit and that change is not dependent on the notification or other notice required by this clause.