

# Personal Injury Commission Regulation 2020

[2020-746]



New South Wales

## Status Information

### Currency of version

Current version for 2 March 2021 to date (accessed 4 July 2024 at 3:20)

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This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2026

### 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 2 March 2021

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## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definition .....	4
<b>Part 2 Medical assessors, merit reviewers and mediators</b> .....	4
4 Definition .....	4
5 Appointment of decision-makers and mediators .....	4
6 Criteria for appointment of medical assessors .....	5
7 Criteria for appointment of mediators .....	5
<b>Part 3 Federal proceedings</b> .....	6
<b>Division 1 Preliminary</b> .....	6
8 Interpretation .....	6
<b>Division 2 Modifications in connection with substituted proceedings</b> .....	6
9 Application of Division .....	6
10 Modification of certain pre-conditions before commencement of proceedings .....	6
11 Costs payable in relation to claims for statutory benefits .....	6
12 Costs payable in relation to motor accidents claims for damages.....	7
13 Costs payable in relation to claims for other motor accidents claims for damages.....	7
<b>Part 4 Miscellaneous</b> .....	7
14 Definition of “relevant Commission officer” .....	7

15 Repeal of Schedule ..... 7

**Schedule 1 (Repealed) ..... 7**

# Personal Injury Commission Regulation 2020



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Personal Injury Commission Regulation 2020*.

### 2 Commencement

This Regulation commences on the establishment day and is required to be published on the NSW legislation website.

### 3 Definition

In this Regulation—

**the Act** means the *Personal Injury Commission Act 2020*.

#### Note—

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

## Part 2 Medical assessors, merit reviewers and mediators

### 4 Definition

In this Part—

**decision-maker** has the same meaning as in Division 4.1 of the Act.

### 5 Appointment of decision-makers and mediators

- (1) For the purposes of sections 33(1) and 39(1) of the Act, the President may, by written instrument given to a person, appoint the person as a decision-maker or mediator.
- (2) The instrument of appointment must include the following information—
  - (a) the term for which the person has been appointed,
  - (b) the type of appointment, including whether the person is appointed on a full-time

basis or some other basis,

- (c) for the appointment of a person as a medical assessor, whether the person is appointed for the purposes of—
  - (i) the *Workplace Injury Management and Workers Compensation Act 1998*, or
  - (ii) the *Motor Accident Injuries Act 2017*, or
  - (iii) the *Motor Accidents Compensation Act 1999*, or
  - (iv) any combination of the Acts referred to in subparagraphs (i)–(iii),
- (d) for the appointment of a person as a medical assessor, whether the person is appointed as a senior medical assessor,
- (e) the restrictions of the appointment, if any.

- (3) A decision-maker holds office for the period specified by the President in the instrument of appointment of the decision-maker, unless sooner removed from office.

**Note—**

Section 39(4) of the Act provides for the period in which a mediator may hold office.

## **6 Criteria for appointment of medical assessors**

For the purposes of section 65(2)(a) of the Act, a person is eligible for appointment as a medical assessor if the person is—

- (a) a registered health practitioner or a medical practitioner within the meaning of the *Health Practitioner Regulation National Law (NSW)*, but only if the practitioner does not have a condition imposed against the practitioner’s registration as a result of disciplinary proceedings under that Law, and
- (b) a member of an Australian or Australasian medical college, faculty or other Australian or Australasian health profession body, and
- (c) in the opinion of the President, suitably qualified and has the necessary skills and expertise to exercise the functions of a medical assessor in relation to the Act or the enabling legislation.

## **7 Criteria for appointment of mediators**

For the purposes of sections 65(2)(a) of the Act, a person is eligible for appointment as a mediator if, in addition to the requirements referred to in section 39(2)(a) of the Act, the person is an accredited mediator under the National Mediator Accreditation System.

**Note—**

Section 39 of the Act sets out other requirements for the appointment of persons as mediators, including the circumstances in which a person is qualified to be appointed as a mediator.

## Part 3 Federal proceedings

### Division 1 Preliminary

#### 8 Interpretation

- (1) Words and expressions used in this Part have the same meaning as in Division 3.2 of the Act.
- (2) To avoid doubt, this Part does not limit the application of the enabling legislation to substituted proceedings unless otherwise modified by this Part.

### Division 2 Modifications in connection with substituted proceedings

#### 9 Application of Division

For the purposes of sections 28(1)(e) and 29 of the Act, this Division sets out the fees and costs payable and other modifications in connection with substituted proceedings.

**Note—**

The enabling legislation, including regulations made under the enabling legislation, further provides for fees and costs in connection with substituted proceedings.

#### 10 Modification of certain pre-conditions before commencement of proceedings

Section 108 of the *Motor Accidents Compensation Act 1999* and section 6.31 of the *Motor Accident Injuries Act 2017* do not apply to compensation matter applications or substituted proceedings.

#### 11 Costs payable in relation to claims for statutory benefits

- (1) Part 8 of the *Motor Accident Injuries Act 2017*, including regulations made under that Part, applies to substituted proceedings involving a claim for statutory benefits to which the *Motor Accident Injuries Act 2017* applies, except as otherwise modified by this clause.

**Note—**

Part 8 of the *Motor Accident Injuries Act 2017*, among other things, provides that an insurer is not entitled to recover from a claimant for statutory benefits any costs of the insurer in relation to the claim.

- (2) The maximum costs set out in Schedule 1 of the *Motor Accident Injuries Regulation 2017* do not apply in relation to substituted proceedings to which this clause applies.
- (3) Despite section 8.3(4) of the *Motor Accident Injuries Act 2017*, an Australian legal practitioner is entitled to be paid or recover legal costs for legal services provided to a claimant in connection with claim for statutory benefits only if—
  - (a) the costs are payable on a party and party basis, and
  - (b) the District Court orders payment of the costs.

## **12 Costs payable in relation to motor accidents claims for damages**

- (1) Part 8 of the *Motor Accident Injuries Act 2017*, including regulations made under that Part, applies to substituted proceedings involving a claim for damages to which the *Motor Accident Injuries Act 2017* applies, except as otherwise modified by this clause.
- (2) The maximum costs set out in Schedule 1 of the *Motor Accident Injuries Regulation 2017* do not apply in relation to substituted proceedings to which this clause applies.

## **13 Costs payable in relation to claims for other motor accidents claims for damages**

- (1) Chapter 6 of the *Motor Accidents Compensation Act 1999*, including regulations made under that Chapter, applies to substituted proceedings involving a claim for damages to which that Act applies, except as otherwise modified by this clause.
- (2) The maximum costs set out in Schedule 1 of the *Motor Accidents Compensation Regulation 2020* do not apply in relation to substituted proceedings to which this clause applies.

## **Part 4 Miscellaneous**

### **14 Definition of “relevant Commission officer”**

For the purposes of paragraph (e) of the definition of **relevant Commission officer** in section 5(1) of the Act, a member of staff of the Commission who, at the direction of the President, exercises a function of the Commission under Schedule 3, clause 9 of the Act is prescribed.

### **15 Repeal of Schedule**

Schedule 1 to this Regulation is repealed on the day after the establishment day.

## **Schedule 1 (Repealed)**