

# Motor Accidents Compensation Regulation 2020

[2020-491]



New South Wales

## Status Information

### Currency of version

Current version for 20 October 2021 to date (accessed 14 November 2024 at 19:54)

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This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2025

### 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 13 September 2024

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New South Wales

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# Motor Accidents Compensation Regulation 2020



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Motor Accidents Compensation Regulation 2020*.

### 2 Commencement

This Regulation commences on 1 September 2020 and is required to be published on the NSW legislation website.

**Note—**

This Regulation replaces the *Motor Accidents Compensation Regulation 2015*, which is repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation—

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

- (a) the total amount paid by an insurer in finalising a claim for damages,
- (b) all deductions, including all legal costs and disbursements, in relation to the claim,
- (c) the final amount paid to the claimant.

**health practitioner** has the same meaning as in the *Health Practitioner Regulation National Law (NSW)*.

**monetary unit** or **MU**—see Schedule 3.

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

**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.

## **Part 2 Costs**

### **Division 1 Preliminary**

#### **4 Costs not regulated by 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 interpreter or translation services,
- (f) court fees,
- (g) travel costs and expenses of the claimant for attendance at the Commission or a court,
- (h) witness expenses at the Commission or a court.

### **Division 2 Maximum legal and other costs**

#### **5 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 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 149(2) of the Act 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 or for which a bill of costs was issued before that day.

**Note—**

Section 147(2) of the Act provides that expressions in Chapter 6 (Costs) of the Act (and consequently expressions used in this Part) have the same meaning as they have 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](#)).

## **6 Fixing of maximum costs recoverable by legal practitioners**

- (1) Except as otherwise provided by this Part, the costs set out in Schedule 1 are the maximum costs 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 the apportionment, either Australian legal practitioner concerned, or the client claimant or insurer concerned, may refer the dispute to the Commission for determination.
- (4) Subclause (3) does not apply if the dispute arose in a matter in which, under section 92 of the Act, the claim is exempt from assessment.
- (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.

## **7 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.

## **8 Contracting out—practitioner and client costs**

- (1) Schedule 1 does not apply to costs in a motor accidents matter to the extent that they 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 with that party as to those costs in

accordance with Division 4 of that Part, and

- (c) before entering into the costs agreement, the practitioner 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 the amount of the costs provided for in the costs agreement that exceeds the amount that would be payable under the Act in the absence of a costs agreement, and
- (d) where the party is a claimant—the practitioner provides to the Authority, at the time and in the way 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 \$50,000.

- (2) However, the maximum costs recoverable in the matter on a practitioner and client basis are fixed at the amount calculated by subtracting \$50,000 from the amount paid in resolution of the claim.
- (3) For the purposes of subclause (2), the amount paid in resolution of a claim includes the amount (if any) payable in connection with the claim on a party and party basis.
- (4) The maximum costs specified in subclause (2) include 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) A costs agreement referred to in subclause (1)(b) does not include a conditional costs agreement, within the meaning of Part 4.3 of the *Legal Profession Uniform Law (NSW)*, that provides for the payment of a premium on the successful outcome of the matter concerned.
- (6) Subclause (1)(e) and (2)–(4) do not apply if the party is an insurer.
- (7) This clause does not apply to costs involving a compensation matter application, as referred to in Schedule 1, clause 2A.

## **9 Maximum costs for claims made by children**

- (1) This clause applies to a claim if—
  - (a) a certificate has been issued under section 92 of the Act to the effect that the claim is exempt from assessment under Part 4.4 of the Act, and
  - (b) the exemption is solely on the ground that the claimant is under the age of 18 years on the date on which the certificate is issued, and
  - (c) the amount paid in resolution of the claim is not more than \$50,000.

- (2) The maximum costs for legal services provided to a claimant in connection with a claim to which this clause applies are as follows, unless otherwise ordered by the court—
- (a) except as provided by paragraph (b)—\$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 associated person has made a claim in respect of the motor accident concerned—\$10,000.
- (3) 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.
- (4) 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.
- (5) Any dispute as to the 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.
- (6) In this clause—
- associated person**, in relation to a claimant who has made a claim in respect of a motor accident, means any person who—
- (a) at the time of the accident, was an occupant of the same motor vehicle as the claimant, and
  - (b) 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.
- 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

### 10 Application of Division

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 Act 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.



## **11 Maximum fees recoverable by medical practitioner**

- (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 Accidents Medical 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 of Schedule 2 in respect of an initial report by an attending medical practitioner unless—
  - (a) the claimant has requested in writing that the insurer provide the report to the claimant, and
  - (b) the insurer has failed to do so within a reasonable time.
- (4) This clause does not affect fees recovered before 17 December 1999 or for which a bill was issued before that day.

## **12 Limit on costs for expert witnesses**

- (1) Costs are not to be included in an assessment or award of damages in respect of an 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 specialty, and
  - (b) 2 experts of any other kind.
- (2) Subclause (1) does not apply if the Commission or court concerned agrees that costs are payable in respect of a greater number of expert witnesses in the matter.
- (3) Despite subclause (1)(a), if there is a substantial issue as to a matter referred to in section 58(1)(d) of the Act, costs are payable in respect of 2 medical experts in any specialty relevant to the injury concerned.
- (4) This clause extends to costs incurred in connection with medical assessments.

## **Division 4 Assessment of claims**

### **12A Claims exempt from assessment**

- (1) For the purposes of section 92(1)(a) of the Act, the following kinds of claims are exempt from assessment under Part 4.4 of the Act—
  - (a) a claim in 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 against a person who is not a licensed insurer or a third-party insurer,
- (d) a claim in relation to which the insurer, by written notice to the claimant, alleges that the claim is fraudulent because the claimant—
  - (i) made a statement about the circumstances of the motor accident that gave rise to the claim, and
  - (ii) in making the statement, contravened section 117 of the Act,
- (e) a claim for which the insurer, by written notice to the claimant and to the owner or driver of the motor vehicle to which a third-party policy relates, declines to indemnify the owner or driver under the third-party policy,
- (f) a claim for which the insurer, by written notice to the claimant, denies liability because the insurer denies the fault of the owner or driver of the motor vehicle in the use or operation of the vehicle.

(2) In this clause—

***person under legal incapacity*** includes the following persons—

- (a) a child under the age of 18 years,
- (b) an involuntary patient or forensic patient within the meaning of the [Mental Health Act 2007](#),
- (c) a person under guardianship within the meaning of the [Guardianship Act 1987](#),
- (d) a protected person within the meaning of the [NSW Trustee and Guardian Act 2009](#),
- (e) an incommunicate person, being a person with a physical or mental disability that prevents the person from receiving communications, or expressing their will, in relation to the person's property or affairs.

### **13 Assessment of costs by Commission**

- (1) In making an assessment and specifying damages under section 94 of the Act in respect of a claim, the Commission may include in the assessment an assessment of the claimant's costs in the matter, including—
  - (a) costs for legal services referred to in Schedule 1, and
  - (b) fees for medico-legal services referred to in Schedule 2.
- (2) An assessment of those costs may also be made, whether or not an assessment has been made under subclause (1), if a court—

- (a) does not determine a matter after the issue of a certificate under section 94 of the Act, and
  - (b) remits the matter to the Commission for further assessment.
- (3) In making an assessment under this clause, the Commission—
- (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) clause 12 of this Regulation, and
  - (c) must have regard to the principles and matters referred to in section 200 of the *Legal Profession Uniform Law (NSW)*.
- (4) The amount of any assessment under this clause must not exceed the relevant amounts set out in Schedules 1 and 2.

#### **14 Assessment of costs to produce information**

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*.

#### **15 Appeals against assessment**

Each of the following persons has the same right of appeal against an assessment made under this Division as the claimant, insurer or legal practitioner would have under section 89 of the *Legal Profession Uniform Law Application Act 2014* if the assessment were a decision of a costs assessor under Part 7 of that Act in relation to a bill of costs—

- (a) a claimant,
- (b) an insurer,
- (c) a legal practitioner retained by a claimant or an insurer in respect of the relevant claim.

#### **16 Costs where insurer does not accept assessed amount of damages**

- (1) This clause applies if an assessment is made under Part 4.4 of the Act of the amount of damages for liability under a claim and the insurer does not accept that liability under the claim within 21 days after the certificate of assessment is issued.
- (2) In that case, and subject to any direction of a court as to costs—
  - (a) the insurer is liable to pay all the costs of the claimant incurred in the matter after

the certificate of assessment is issued, and

(b) the maximum costs set out in this Regulation do not apply in respect of those costs.

(3) 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 154 of the Act.

## **Division 5 Other costs matters**

### **17 Non-attendance or cancellation of appointment**

(1) This clause applies if the President 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.

(2) In that case, the Authority may recover from the claimant all or part of the costs reasonably incurred by the President as a consequence of the non-attendance or cancellation.

### **18 Private motor vehicle travel expenses incurred by injured persons**

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 any of the following purposes is to be calculated at the rate of \$0.55 per kilometre—

(a) attending a medical assessment under Part 3.4 of the Act,

(b) obtaining rehabilitation services under Part 4.3 of the Act,

(c) attending a medical examination or rehabilitation assessment under Part 4.3 of the Act.

### **19 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 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.

(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 3 Miscellaneous

### 20 Maximum amounts payable by insurer for certain treatment

- (1) This clause 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 clause does not apply in relation to treatment received by an injured person before 17 December 1999.
- (3) For the purposes of section 56(3) of the Act, the maximum amount for which an insurer is liable in respect of any claim for fees payable for treatment to which this clause applies is the amount listed, in respect of the treatment concerned, in the AMA List.

**Note—**

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

- (4) In this clause—

**AMA List** means the document called *List of Medical Services and Fees* published by the Australian Medical Association and dated 1 December 2019 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.

### 21 Motor vehicles subject to unregistered vehicle permits

- (1) For the purposes of section 10A(1)(c) of the Act, the following classes of motor vehicles are prescribed—
  - (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 (but only during the time that the motor vehicles are 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 Transport for NSW as an 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 a conditional registration under the *Road Transport Act 2013* on the basis that they are—
    - (i) classified by Transport for NSW 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 an hour,
  - (h) motor vehicles that are trackless trains,
  - (i) 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) registration charges within the meaning of the *Road Transport Act 2013* (under clause 10(2) of Schedule 4 to the *Road Transport (Vehicle Registration) Regulation 2017*).
- (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).

## **22 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 deductions are payable to more than 1 person, within 20 business days of the receipt of all advice from those persons 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.
- (4) The rate of interest is 75% of the rate prescribed for the purposes of section 101 of the *Civil Procedure Act 2005* for the period concerned.

## **23 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.

## **24 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 a legal practitioner who represents a claimant when a claim is finalised to ensure that the Authority is provided, at the time and in the way approved by the Authority, with a costs breakdown in relation to the claim.

- (3) The duty applies to all claims, regardless of whether—
  - (a) damages are to be paid to the claimant, or
  - (b) the claim is exempt from assessment under section 92 of the Act, or
  - (c) there has been contracting out under clause 8.
- (4) However, the duty does not apply to a claim in a motor accidents matter if the claimant incurs no legal fees in the matter.
- (5) If a barrister and a solicitor act for a claimant, the duty falls on the solicitor and not the barrister.
- (6) 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 the information.
- (7) The Authority may forward to the Legal Services Commissioner any information obtained under this clause.

## 25 Referral fees

- (1) A legal practitioner has a duty not to receive consideration for referring a claimant who is represented by the legal practitioner to a person for the purposes of a service being provided in respect of the claimant's claim.
- (2) A legal practitioner is taken to receive consideration if a close associate of the legal practitioner receives the consideration.
- (3) A legal practitioner has a duty not to give consideration for the referral of a person to the legal practitioner for the purposes of the legal practitioner representing the person in relation to a claim.
- (4) A legal practitioner is taken to give consideration if a close associate of the legal practitioner gives the consideration.
- (5) In this clause—

**close associate** of a legal practitioner means the following—

  - (a) an employer of the legal practitioner, including, if the employer is a corporation, a director of the corporation,
  - (b) a partner of the legal practitioner,
  - (c) an employee or agent of the legal practitioner or of a person referred to in paragraph (a) or (b),
  - (d) a family member of the legal practitioner.



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

## Schedule 1 Maximum costs for legal services

(Clause 6)

### 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 2 of Table A to this clause are—
  - (a) the costs set out in Column 3 opposite that stage, or
  - (b) 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.
- (2) However, if a legal practitioner was first retained in the matter after a certificate as to the claims assessment was issued under section 94 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—
  - (a) the costs set out in Column 3 opposite that stage, or
  - (b) 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) Each stage, other than stage 1, in the Tables to this clause 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 first occurring of—
  - (a) another specified event, or
  - (b) the resolution of the claim.

#### Table A

Column 1	Column 2	Column 3
Stage		Maximum costs
1	For assistance in completing an accident notification form (except, in respect of an Australian legal practitioner acting for a claimant, in so far as the assistance forms part of stage 2)	nil

2	<p>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)—</p> <p>(a) in the case of an Australian legal practitioner acting for a claimant</p> <p>(b) in the case of an Australian legal practitioner acting for an insurer</p>	<p>2.92 MU</p> <p>nil</p>
3	<p>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—</p> <p>(a) in the case of an Australian legal practitioner acting for a claimant</p> <p>(b) in the case of an Australian legal practitioner acting for an insurer</p>	<p>4.32 MU</p> <p>nil</p>
4	<p>If resolution of the claim 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 resolution of the claim (in addition to the 7.24 MU specified for stages 2 and 3 if chargeable)—</p> <p>(a) if the amount to be paid in resolution of the claim (the <b>resolution amount</b>) is not more than \$20,000 and the insurer wholly admitted liability for the claim</p> <p>(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</p> <p>(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—</p> <p style="padding-left: 20px;">(i) base amount, and</p> <p style="padding-left: 20px;">(ii) for each dollar of the resolution amount over \$20,000</p> <p>(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—</p> <p style="padding-left: 20px;">(i) base amount, and</p> <p style="padding-left: 20px;">(ii) for each dollar of the resolution amount over \$20,000</p> <p>(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—</p>	<p>7.24 MU</p> <p>10 cents</p> <p>7.24 MU</p> <p>12 cents</p> <p>25.92 MU</p> <p>12 cents</p>

	(i) base amount, and	51.84 MU
	(ii) for each dollar of the resolution amount over \$50,000	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 MU
	(ii) for each dollar of the resolution amount over \$50,000	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 MU
	(ii) for each dollar of the resolution amount over \$100,000	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 MU
	(ii) for each dollar of the resolution amount over \$100,000	2 cents
5	If resolution of the claim 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—	
	(a) an amount determined, in accordance with stage 4, by reference to the amount of the assessment as if that assessment were the resolution amount referred to in stage 4, and	as per stage 4
	(b) for each dollar of the assessment amount	2 cents
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—	
	(a) an amount determined in accordance with stage 5, and	as per stage 5

(b) for each dollar of the settlement or award amount 2 cents

**Table B**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Stage</b>		<b>\$</b>
1	Advice on the issue of the certificate under section 94 of the Act	3.56 MU
2	From the giving of the advice on the certificate issued under section 94 of the Act to finalisation of the matter by settlement or award of damages (in addition to the 3.56 MU specified for stage 1)—	
	(a) if the settlement amount or award is not more than \$20,000	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	10 cents
	(c) if the settlement amount or award is more than \$50,000 but not more than \$100,000—	
	(i) base amount, and	37.80 MU
	(ii) for each dollar of the settlement amount or award over \$50,000	8 cents
	(d) if the settlement amount or award is more than \$100,000—	
	(i) base amount, and	88.56 MU
	(ii) for each dollar of the settlement amount or award over \$100,000	2 cents

**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, 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, is not to be included unless the court so orders.

**Table**

<b>Nature of costs</b>	<b>Maximum costs</b>
------------------------	----------------------

Costs associated with a medical dispute about a medical assessment matter under Part 3.4 of the Act, as allowed by the Commission or court—

- |   |       |
|---|-------|
| (a) maximum amount per medical dispute referred to the Commission under section 60 of the Act   | 10 MU |
| (b) maximum amount per medical dispute referred to the President under section 62 of the Act (but only if further assessment occurs under that section) | 10 MU |
| (c) maximum amount per medical dispute referred to a review panel by the President under section 63 of the Act  | 10 MU |
| (d) maximum amount per claim  | 25 MU |

Costs associated with a dispute referred to in section 96 of the Act, as allowed by the Commission—

- |   |       |
|---|-------|
| (a) maximum amount per dispute  | 12 MU |
| (b) maximum amount per claim (not including any amount for a dispute referred to in section 96(1)(e)-(g)) | 25 MU |

Cost of representation at an assessment conference under section 104 of the Act—

- |   |         |
|---|---------|
| (a) maximum flat fee  | 12.5 MU |
| (b) maximum additional amount per hour for each hour in excess of 2 hours | 3 MU    |

Maximum costs for any interlocutory court proceedings

8 MU

Cost of representation in court—

- |  |         |
|--|---------|
| (a) maximum per day for advocate other than senior counsel | 25 MU   |
| (b) maximum per day for senior counsel                     | 35.5 MU |

Cost of conference directly related to an assessment of the claim or a court hearing, maximum per hour

3 MU

## **2A Compensation matter applications—claims for damages**

- (1) The maximum costs for legal services provided in a claim for damages in connection with a matter relating to a compensation matter application are the costs set out in

the Table to this clause.

- (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

**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.
- (2) 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.
- (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 in the Sydney Metropolitan area, to a loading for that town in accordance with the Table to this clause.
- (4) 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 town outside the Sydney Metropolitan area, to a loading for that other town in accordance with the Table to this clause.

- (5) 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.
- (6) 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.
- (7) 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 clause, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

**Table**

<b>Town</b>	<b>Maximum loading \$</b>
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 in another State or Territory, to a reasonable loading determined by the court or the Commission.
- (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 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 11)

		<b>Maximum fee</b>
<b>Appearances as witnesses</b>		
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 6 MU	3 MU
2	Health practitioners called to give expert evidence—	
	(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)	8 MU

	(b) for every full hour after the first one and a half hours (or proportionately if not for a full hour)	3 MU
	to a maximum of 24 MU	
3	Travelling allowance in connection with appearance as witness—per kilometre	55 cents
4	Accommodation and meals in connection with appearance as witness	reasonable costs
<b>Medical reports</b>		
5	Report made by an attending general practitioner—	
	(a) if a re-examination of the patient is not required	2.5 MU
	(b) if a re-examination of the patient is required	3.3 MU
6	Report made by an attending specialist—	
	(a) if a re-examination of the patient is not required	8 MU
	(b) if a re-examination of the patient is required	12 MU
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	8 MU
	(b) if an examination of the patient is required	12 MU
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	12 MU
	(b) if an examination of the patient is required	16 MU
9	Charges for copying medical reports—per page	\$1
<b>Cancellation fee</b>		
10	Fee if appearance or medical report is not required	Not more than 50% of the relevant amount specified in this Schedule

## 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** (or **MU**) is—

(a) in the adjustment year 2019–20—\$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 2019.

(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—

<b>Adjustment year</b>	<b>Monetary unit amount</b>
2020–21	\$100
2021–22	\$103.02
2022–23	\$108.46
2023–24	\$115.62
2024–25	\$120.02

### 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.

## Schedule 4 Savings, transitional and other provisions

### Part 1 Provisions consequent on enactment of this Regulation

#### 1 General savings

Any act, matter or thing that, immediately before the repeal of the *Motor Accidents Compensation Regulation 2015*, had effect under that Regulation continues to have effect under this Regulation.

**Note—**

Section 30 of the *Interpretation Act 1987* also provides that the repeal of a regulation does not affect the operation of any savings or transitional provision contained in the regulation (including, for example, those contained in Schedule 3 to the *Motor Accidents Compensation Regulation 2015*).

#### 2 Existing claims

- (1) Clause 8 of this Regulation applies to an existing claim only in respect of costs incurred after the commencement of this Regulation and clause 8 of the *Motor Accidents Compensation Regulation 2015* continues to apply to an existing claim in respect of costs incurred before that commencement as if that clause had not been repealed.

- (2) In this clause—

**existing claim** means a claim in a motor accidents matter that was lodged before the commencement of this Regulation and that has not been finalised.