

NORTHERN TERRITORY OF AUSTRALIA

MOTOR ACCIDENTS (COMPENSATION) AMENDMENT ACT 1997

**No. 16 of 1997**

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# NORTHERN TERRITORY OF AUSTRALIA

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No. 16 of 1997

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## AN ACT

to amend the *Motor Accidents (Compensation) Act*

[Assented to 11 April 1997]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Motor Accidents (Compensation) Amendment Act 1997*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Motor Accidents (Compensation) Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4(1) of the Principal Act is amended -

- (a) by inserting after the definition of "accident" the following:

"'approved form' means a form approved by the Office in writing;"

- (b) by omitting from the definition of "average weekly earnings" the words "section 17" and substituting "sections 17, 18 and 18A";
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(c) by inserting after the definition of "dependent child" the following:

"'dependent parent', in relation to a person, includes an adoptive parent, a stepfather, a stepmother, a grandfather, a grandmother and a parent of the spouse of the person who, at the time of the accident, is primarily dependent on the person for financial support;";

(d) by inserting after the definition of "designated person" the following:

"'discounted present values' means the calculation at a 6% discount rate of the present value of future losses or payments by the use of an actuarial multiplier;"; and

(e) by omitting from the definition of "permanent impairment" the words "prescribed guides, or the guides as modified and adopted by the Regulations" and substituting "American Medical Association Guides to the Evaluation of Permanent Impairment as published from time to time".

5. REPEAL AND SUBSTITUTION

Section 5 of the Principal Act is repealed and the following substituted:

"5. ABOLITION OF CERTAIN COMMON LAW RIGHTS

"(1) An action for damages shall not lie in the Territory -

(a) in respect of the death of or injury to a person who at the time of the accident was a resident of the Territory; or

(b) in respect of an injury to a person who, at the time of the accident, was not a resident of the Territory -

(i) for non-economic loss in excess of the amount from time to time prescribed for the purposes of section 17; or

(ii) for future loss except at discounted present values,

in or as the result of an accident that occurred in the Territory.

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- "(2) In subsection (1)(b) -
- (a) 'non-economic loss' means -
- (i) pain and suffering;
  - (ii) loss of amenities of life;
  - (iii) loss of expectation of life; or
  - (iv) disfigurement; and
- (b) 'future loss' means -
- (i) future economic loss;
  - (ii) future loss of earning capacity; or
  - (iii) future expenditure on needs resulting from the injury,
- and includes -
- (iv) in the case of the person's death, future loss by a spouse, dependent child or dependent parent of income due to loss of earning capacity referred to in paragraph (ii); and
  - (v) a claim for damages under the *Compensation (Fatal Injuries) Act*."

6. EXCLUSION OF PERSONS COMMITTING OFFENCES FROM CERTAIN BENEFITS

Section 9 of the Principal Act is amended by omitting paragraph (d) and substituting the following:

- "(d) that occurred while he was driving a motor vehicle while not the holder of a licence to drive a motor vehicle of the class of motor vehicle in relation to which the accident occurred -
- (i) having never at any time held in any part of Australia a licence to drive a motor vehicle of the class of motor vehicle in relation to which the accident occurred; or
  - (ii) because his licence to drive a motor vehicle of the class of motor vehicle in relation to which the accident occurred had been suspended or cancelled,

except where, in the opinion of the Board, the vehicle was being driven in an emergency situation."

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7. RIGHTS TO BENEFITS TO BE DETERMINED BY BOARD

Section 12 of the Principal Act is amended -

- (a) by omitting from subsection (5) all words after "of the authority"; and
- (b) by adding at the end the following:

"(6) An authorization under subsection (5) is irrevocable."

8. COMPENSATION FOR LOSS OF EARNING CAPACITY

Section 13 of the Principal Act is amended by omitting subsection (5) and substituting the following:

"(5) A person who has attained the age of 65 years or who is qualified for an age pension under the *Social Security Act 1991* of the Commonwealth shall not be paid a benefit under this section."

9. MEDICAL AND REHABILITATION EXPENSES

Section 18(2A) of the Principal Act is amended -

- (a) by omitting "the prescribed amount per hour" and substituting "an amount per hour calculated at a rate of 2% of the average weekly earnings indexed annually,"; and
- (b) by omitting "the prescribed number" and substituting "28 hours".

10. REIMBURSEMENT OF ATTENDANT CARE EXPENSES FOR PERMANENTLY IMPAIRED PERSONS

Section 18A of the Principal Act is amended -

- (a) by omitting "the prescribed amount per hour" and substituting "an amount per hour calculated at a rate of 2% of average weekly earnings indexed annually,"; and
- (b) by omitting "the prescribed number" and substituting "28 hours".

11. DESIGNATED PERSON'S DECISION AND REFERRAL TO BOARD

Section 27 of the Principal Act is amended by inserting after subsection (1) the following:

"(1AA) For the purposes of subsection (1), 'prescribed information' means information that is relevant to, and reasonably required to enable the designated person to assess a claim, including -

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- (a) whether a person is or was entitled or qualified for benefits;
- (b) whether a benefit or variation of a benefit is or was payable to a person;
- (c) the rate of benefit that is or was applicable to a person; and
- (d) such information as is requested in approved forms."

12. TIME FOR MAKING CLAIMS

Section 31 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) A claim under this section shall be in an approved form containing the particulars and information requested in the form signed by or on behalf of the claimant."

13. FURTHER AMENDMENTS

The Principal Act is further amended as specified in the Schedule.

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SCHEDULE  
AMENDMENTS

Section 13

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Provision	Amendment	
	omit	substitute
Section 4(1) - definition of "parent"	the whole definition	
Section 15(1)	"at present values"	"at discounted present values"
Section 21	"the dependent spouse"	"the spouse"

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