

NORTHERN TERRITORY OF AUSTRALIA  
MOTOR ACCIDENTS (COMPENSATION) AMENDMENT  
ACT (No. 2) 1989

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No. 61 of 1989

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# NORTHERN TERRITORY OF AUSTRALIA

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## AN ACT

to amend the Motor Accidents (Compensation) Act

[Assented to 26 October 1989]

**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 (No. 2) 1989.

2. COMMENCEMENT

This Act shall come into operation on a date to be 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 of the Principal Act is amended -

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

"'attendant care services', in relation to a person, means services of a standard satisfactory to the Board (other than household services, medical or surgical services or nursing care) that are required for the essential and regular personal care of the person;"

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- (b) by inserting after the definition of "parent" the following:

"'permanent impairment' means an impairment or impairments assessed by the Board, in accordance with the prescribed guides, or the guides as modified and adopted by the Regulations, as being an impairment, or combination of impairments -

(a) for the purposes of section 17 - of not less than 5% of the whole person; and

(b) for the purposes of sections 18 and 18A - of not less than 85% of the whole person;" and

- (c) by omitting from the definition of "Territory motor vehicle" paragraph (a) and substituting the following:

"(a) in relation to an accident occurring outside the Territory - a motor vehicle in respect of which a current compensation contribution, within the meaning of the Motor Vehicles Act, has been paid, and includes a motor vehicle currently registered in the Territory under the Interstate Road Transport Act 1985 of the Commonwealth where that motor vehicle was registered or re-registered within the Territory under that Act; and".

5. REPEAL AND SUBSTITUTION

Section 5 of the Principal Act is repealed and the following substituted:

"5. ABOLITION OF CERTAIN COMMON LAW RIGHTS

"(1) No action for damages shall 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) for non-economic loss in excess of double the amount from time to time prescribed for the purposes of section 17, in respect of an injury to a person who, at the time of the accident, was not a resident of the Territory,

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

"(2) In subsection (1) non-economic loss means -

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- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life; or
- (d) disfigurement."

6. PAYMENTS TO NON-RESIDENTS

Section 8(1) of the Principal Act is amended by omitting "not less than 6 months" and substituting "not less than 3 months".

7. RIGHTS TO BENEFITS TO BE DETERMINED BY BOARD

Section 12 of the Principal Act is amended -

- (a) by omitting from subsection (2) all words after "nominated by the Board"; and
- (b) by adding at the end the following:

"(3) Where after considering any medical advice available to it the Board is of the opinion that the condition of a person to or in respect of whom a benefit is payable under this Act would improve from undertaking a reasonable rehabilitation programme nominated by the Board so that any such benefit or the period during which such a benefit is to be paid is likely to be reduced as a result of the person so doing, the Board may require the person to submit to the rehabilitation programme.

"(4) If the Board makes a requirement under subsection (2) or (3), it is not required to make any payment of the benefit referred to in that subsection or may discontinue any such payment if the person, without good reason, refuses or fails to comply with the requirement, or it may suspend such payment (without the need to make up any suspended amount if the person subsequently complies with the requirement) while the refusal continues.

"(5) To assist in determining the disability or infirmity of a person for the purposes of this section, the Board may require a medical practitioner or other person who has examined or treated the person to provide it with any results of that examination or details of the treatment which the medical practitioner or that other person is authorized by the person to give, and for that purpose a document purporting to be a copy of a signed authority to provide the information, certified as a true copy by the designated officer, is sufficient authority for the medical practitioner or other person so to do, notwithstanding the date of the authority, unless the medical practitioner or that other person has been advised by or on behalf of the person that the authority has been revoked."

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8. COMPENSATION FOR LOSS OF EARNING CAPACITY

Section 13(5) of the Principal Act is amended by omitting all words after "65 years" and substituting "or is receiving or is entitled to receive an age pension under Division 2 of Part IV of the Social Security Act 1947 of the Commonwealth, shall be paid a benefit under this section".

9. BENEFITS PAYABLE TO YOUNG PERSONS

Section 14 of the Principal Act is amended -

- (a) by omitting from subsection (1)(a) and (c) "16 years" and substituting "15 years";
- (b) by omitting from subsection (1)(b)(iii) "of the same sex as the person";
- (c) by omitting from subsection (2) "25 years", "the year of his life" and "opposite the year" and substituting "21 years", "that period while he remains of the age" and "opposite the age", respectively;
- (d) by omitting from subsection (2) the table and substituting the following:

"TABLE

Column 1 Age	Column 2 Percentage
15	40
16	55
17	60
18	70
19	80
20	90

";

and

- (e) by omitting subsection (3) and substituting the following:

"(3) A person referred to in subsection (2) who -

- (a) marries;
- (b) establishes a relationship which, in the opinion of the Board, is in the nature of marriage; or
- (c) has a child or other person primarily dependant on him for financial support,

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shall be entitled to the full amount of benefit calculated in accordance with section 13 in respect of the period commencing on the date of the marriage, establishment of the relationship or commencement of the dependence, as the case may be."

10. REPEAL AND SUBSTITUTION

(1) Section 17 of the Principal Act is repealed and the following substituted:

"17. COMPENSATION FOR LOSS OF LIMB OR OTHER PERMANENT IMPAIRMENT

"(1) In addition to any other benefit payable under this Act, a resident of the Territory -

- (a) who suffers permanent impairment in or as a result of an accident that occurred in the Territory or in or from a Territory motor vehicle;
- (b) who survives that accident for a period of 3 months; and
- (c) whose permanent impairment is assessed by the Board at a percentage of the whole person equal to not less than 5%,

shall, subject to subsection (2), be paid compensation equal to that assessed percentage of the prescribed amount.

"(2) Where the percentage of permanent impairment of a person is assessed by the Board as a percentage of 5% or more but less than 15% as shown in Column 1 of the following Table, the percentage of the prescribed amount payable as compensation shall be that shown in Column 2 of the Table opposite to the relevant percentage in Column 1:

"TABLE

Column 1 Degree of impairment	Column 2 Percentage of prescribed amount payable
not less than 5% but less than 10%	2
10%	3
11%	4
12%	6
13%	8
14%	12

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(2) The amendment effected by subsection (1) applies only in relation to accidents occurring after the commencement of this Act and the Principal Act shall continue to apply in relation to accidents occurring before that commencement as if this Act had never come into operation.

11. MEDICAL AND REHABILITATION EXPENSES

Section 18 of the Principal Act is amended -

(a) by omitting from subsection (1) "Subject to subsection (3)" and substituting "Subject to subsections (2A) and (3) and sections 18A and 18B";

(b) by inserting after subsection (2) the following:

"(2A) Any payment made under subsection (1) to or on behalf of a person who is not permanently impaired in respect of attendant care services shall be limited to the prescribed amount per hour in respect of those services provided to the person for the number of hours, not exceeding the prescribed number, in any one week."; and

(c) by omitting subsection (4) and substituting the following:

"(4) In addition to any payment the Office may make under subsection (1), where standard rate hospital charges are raised in respect of a person referred to in that subsection who is not indemnified, by any means, against the cost of the hospital accommodation and treatment in respect of which the charges are raised, the Office may pay to the hospital an amount equivalent to the charges.".

12. NEW SECTION

The Principal Act is amended by inserting after section 18 the following:

"18A. REIMBURSEMENT OF ATTENDANT CARE EXPENSES FOR PERMANENTLY IMPAIRED PERSONS

Subject to section 18B, in addition to any amount payable under section 18, there is payable to or on behalf of a person referred to in that section -

- (a) who has suffered a permanent impairment for not less than 2 years; or
- (b) who has suffered a permanent impairment that, in the opinion of the Board, is likely to endure for more than 2 years,



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in the absolute discretion of the Board, the prescribed amount per hour in respect of attendant care services of a standard acceptable to the Board provided or to be provided after the commencement of this section to the person for the number of hours, not exceeding the prescribed number, in any one week.

"18B. ATTENDANT CARE PAYMENTS NOT TO BE MADE WHILE PERSON HOSPITALIZED OR AFTER ATTAINING AGE OF 65 YEARS

"No payment in respect of attendant care services shall be made in respect of any period during which the person to whom or for whose benefit they would otherwise be payable is an inpatient in a hospital, nursing home or other care or treatment institution or after the person has attained the age of 65 years."

13. ALTERATION TO HOUSE, &c.

Section 19 of the Principal Act is amended by omitting "to a maximum amount of \$20,000" and substituting "to an amount not exceeding the prescribed maximum amount".

14. INTERPRETATION

Section 20 of the Principal Act is amended by omitting the definition of "average income".

15. BOARD MAY EXCEED LIMITS IN CERTAIN CIRCUMSTANCES

Section 33 of the Principal Act is amended by omitting "IV or V" and substituting "IV (other than section 18(2A) or 18A) or V".

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