



NORTHERN TERRITORY OF AUSTRALIA

No. 3 of 1984

AN ACT

To amend the *Motor Accidents (Compensation) Act*

[Assented to 3 April 1984]

BE 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 1984*.

2. COMMENCEMENT

(1) Subject to sub-sections (2) and (3), this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

(2) Section 4 shall be deemed to have come into operation on 1 January 1984.

(3) Sections 5 and 6 shall be deemed to have come into operation on 1 July 1979.

3. PRINCIPAL ACT

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

4. EXCLUSION OF PERSONS COMMITTING OFFENCES FROM CERTAIN BENEFITS

Section 9 of the Principal Act is amended by omitting from paragraph (b) "or culpable," and substituting ", an offence against section 154 of the *Criminal Code* or".

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5. REPEAL AND SUBSTITUTION

Sections 22 and 23 of the Principal Act are repealed and the following substituted:

"22. DEATH BENEFITS

"Subject to section 37, where a qualifying person who is the head of a household dies in an accident, or as a result of an accident within 2 years of that accident, leaving a dependent spouse who survives him for a period of 30 days, his spouse shall be paid an amount equal to 3 times the average income of the deceased qualifying person or \$45,000, whichever is the lesser amount (but, in any case, not less than \$6,000) plus \$15 per week in respect of each dependent child of the deceased qualifying person in her custody.

"23. DEATH OF DEPENDENT SPOUSE

"Subject to section 37, where a qualifying person who is the dependent spouse of the head of a household dies in an accident, or as a result of an accident within 2 years of that accident, there shall be payable to the head of the household in respect of that death \$6,000 or, where the average income of the deceased qualifying person exceeds 25% of the head of the household's income for the 12 months ending on the date of the accident, 3 times the average income of the deceased qualifying person or \$45,000, whichever is the lesser amount, but, in any case, not less than \$6,000."

6. DEPENDENT CHILDREN'S BENEFIT

Section 25 of the Principal Act is amended by omitting from paragraph (b) "section 22(b)" and substituting "section 22".

7. REPEAL AND SUBSTITUTION

Section 27 of the Principal Act is repealed and the following substituted:

"27. GENERAL MANAGER'S DECISION AND REFERRAL TO BOARD

"(1) The General Manager shall, within 30 business days of the Office, after being requested in writing so to do by a person who claims to be entitled to a benefit or the variation of a benefit under this Act -

- (a) make a decision on the person's claim; or
- (b) refer the matter to the Board for its determination,

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and advise the person of his decision, or of the fact and date of the referral of the matter to the Board, by notice in writing served on the person personally or by post addressed to him at his address stated in the request or his last known address.

"(2) Where the General Manager exercises a discretion under this Act, whether as a delegate of or with the authority of the Board, or, within the 30 days referred to in sub-section (1), refuses or fails to make a decision or refer the matter to the Board, a person aggrieved by his decision in the exercise of that discretion or by that refusal or failure may, within 28 days after receiving written notice of that decision or the expiration of that period, as the case may be, request in writing that the General Manager refer the matter to the Board for its determination and the General Manager shall, as soon as practicable, refer the matter accordingly.

"(3) The Board shall, within 60 days after a matter is referred to it under this section, consider and determine it by confirming the decision of the General Manager or substituting its decision for that of the General Manager.

"(4) A determination referred to in sub-section (3) shall be in writing and a copy shall be served on the aggrieved person in the same manner as a decision under sub-section (1) of the General Manager.

"(5) The General Manager or the Board may determine any matter before him or it without giving any person the right to be heard but shall consider all written submissions to him or it by or on behalf of the person concerned and may take into account such other material as he or it, as the case may be, thinks fit.

"(6) Neither the General Manager nor the Board is required to give reasons for his or its decisions under this Act.

"(7) Subject to section 29, no matter shall be referred to the Tribunal unless it has been considered by the Board."

8. MOTOR ACCIDENTS (COMPENSATION) APPEAL TRIBUNAL

Section 28 of the Principal Act is amended by inserting at the end "appointed by the Chief Justice".

9. APPEALS TO TRIBUNAL

Section 29 of the Principal Act is amended -

- (a) by omitting from sub-section (1) paragraph (b) and all words after paragraph (b) and substituting the following:

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- "(b) by the failure of the Board to make a determination within the 60 days referred to in section 27(3),

may, within 28 days after being served under section 27(4) with a copy of the determination of the Board or the expiration of that time, as the case may be, refer the matter to the Tribunal.";

- (b) by omitting from sub-section (3) all words before "make" and substituting "Where a matter is referred to the Tribunal, it shall conduct such hearings into the matter as it thinks fit and may"; and

- (c) by omitting sub-sections (4) and (5) and substituting the following:

"(4) A hearing conducted under this Part by the Tribunal shall be a hearing *de novo*."

10. NEW SECTION

The Principal Act is amended by inserting after section 29 the following:

"29A. RULES AND PROCEDURE OF TRIBUNAL

"(1) The Judges appointed under section 32(1) of the *Supreme Court Act* who are not additional Judges, or a majority of them, may make rules, not inconsistent with this Act -

- (a) regulating the practice and procedures of the Tribunal;
- (b) providing for the awarding of costs in matters before the Tribunal;
- (c) regulating the referral of matters to the Tribunal; and
- (d) conferring on the Tribunal additional powers which are necessary or convenient for carrying out its functions, including powers to impose and enforce penalties for a contravention of or failure to comply with the rules.

"(2) The rules made under sub-section (1) may confer on the Master of the Supreme Court powers and functions in relation to the Tribunal and matters referred to the Tribunal, and the Master may exercise those powers and shall perform those functions accordingly.

"(3) Subject to sub-section (1), the practice and procedures of the Tribunal in relation to a matter referred to it are as determined by it."

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11. BOARD MAY EXCEED LIMITS IN CERTAIN CIRCUMSTANCES

Section 33 of the Principal Act is amended -

- (a) by omitting "In the exercising of its powers" and substituting "(1) Subject to sub-section (2), in the exercising of its powers";
- (b) by inserting after "payment of benefits" the words "under Part III, IV or V"; and
- (c) by adding at the end the following:

"(2) The Board shall not make a determination under sub-section (1) which has the effect of allowing a payment which is more than twice the amount that, but for that sub-section, would be the maximum amount payable."

12. TRANSITIONAL

(1) Where, before the date fixed under section 2(1) by the Administrator, a determination was made that a person was entitled to receive a payment under section 22 or 23 of the Principal Act in excess of the amount that would be payable under that section as amended by section 5 of this Act, that person shall continue to be entitled to that payment and, as the case requires, that payment shall be made, as if section 5 of this Act had never commenced.

(2) The amendments effected by sections 7, 9, 10 and 11 (including any rules subsequently made under the Principal Act as amended by section 10, unless they are expressed not so to apply) apply to and in relation to all claims, proceedings and other actions under the Principal Act that, at the commencement of those sections, were not fully disposed of or dealt with, notwithstanding that the accident to which they relate occurred before that commencement.
