

THE NORTHERN TERRITORY OF AUSTRALIA
MOTOR ACCIDENTS (COMPENSATION) ACT 1979
No. 75 of 1979
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SCHEDULE

THE NORTHERN TERRITORY OF AUSTRALIA

No. 75 of 1979

AN ACT

To establish a No Fault Compensation Scheme in respect of Death or Injury in or as a result of Motor Vehicle Accidents, to prescribe the Rates of Benefit to be paid under the Scheme, to abolish certain Common Law Rights in relation to Motor Vehicle Accidents, and for related purposes

[Assented to 29 June 1979]

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:

PART I - PRELIMINARY

- | | |
|--|---------------------|
| 1. This Act may be cited as the <u>Motor Accidents (Compensation) Act 1979</u> . | Short title |
| 2. This Act shall come into operation on 1 July 1979. | Commencement |
| 3. This Act binds the Crown. | Act binds the Crown |
| 4. In this Act, unless the contrary intention appears - | Interpretation |
| "accident" means - | |

(a) in relation to the Territory - an occurrence on a public street, as defined in the Motor Vehicles Act; and

(b) in relation to a place outside the Territory - an occurrence on any road or place the driving of a motor vehicle of the relevant kind on which requires the registration of that vehicle in accordance with the law relating to the registration of motor vehicles applicable in that place,

occurring on or after 1 July 1979, caused by or arising out of the use of a motor vehicle and that results in the death of or bodily injury to a person;

"Board" means the Board of the Office;

"dependent child", in relation to a person, means a child, adopted child, grandchild or stepchild of that person, who is unmarried, and who -

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- (a) has not attained the age of 16 years; or
- (b) has attained the age of 16 years but has not attained the age of 21 years and is receiving full-time education at a school, college or university,

and is primarily dependent on that person for financial support;

"General Manager" means the General Manager of the Office;

"head of a household" means the person upon whom the members of that household (being the spouse, children or parents of that person) are primarily dependent for financial support;

"motor vehicle" means any motor car, motor carriage, motor cycle, motor lorry, motor omnibus, motor tractor or other vehicle propelled wholly or partly by any volatile spirit or by steam, gas, oil or electricity or by any means other than human or animal power, and includes a trailer at any time attached to a motor vehicle, but does not include a vehicle used on a railway;

"Office" means the Territory Insurance Office established by the Territory Insurance Office Act;

"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 that person;

"resident of the Territory" means -

- (a) in relation to an accident occurring in the Territory - a person who has resided in the Territory for a continuous period of 6 months or who has entered the Territory with the intention of so residing; and
- (b) in relation to an accident occurring outside the Territory - a person referred to in paragraph (a) -
 - (i) who has not, since so residing, resided outside the Territory for a continuous period of 6 months; or

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- (ii) who has retained in the Territory his primary dwelling-house or employment,

but does not include a person who has left the Territory with the intention of no longer residing in the Territory;

"spouse", in relation to a person, means -

- (a) a person who is legally married to the person and who was, at the relevant time, living with the person on a permanent and bona fide domestic basis;
- (b) a person who is legally married to the person but who was not living with the person on a permanent and bona fide domestic basis at the relevant time, and who, in the opinion of the Board, was wholly or substantially dependent upon the person at that time;
- (c) a person who is not legally married to the person but who, for a continuous period of not less than 3 years immediately preceding the relevant time, had ordinarily lived with the person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis;
- (d) a person who was not legally married to the person but who, for a continuous period of less than 3 years immediately preceding the relevant time, had ordinarily lived with the person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis, and who, in the opinion of the Board, was wholly or substantially dependent upon the person at the time; and
- (e) where that person is an aboriginal native of Australia - a person referred to in paragraphs (a), (b), (c) or (d) or who is, according to the customs of the group or tribe of aboriginal natives of Australia to which he belongs, married to him;

"Territory motor vehicle" means -

- (a) in relation to an accident occurring outside the Territory - a motor vehicle currently registered in the Territory under the Motor Vehicles Act and which was not, at the time of the accident, a non-registered

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vehicle within the meaning of the law relating to the registration of motor vehicles applicable in the place where the accident occurred; and

(b) in relation to an accident occurring in the Territory - a motor vehicle -

(i) owned or driven by a resident of the Territory;

(ii) owned by a company or corporation incorporated in the Territory; or

(iii) owned jointly by a resident of the Territory and another person,

and not currently registered outside the Territory;

"Tribunal" means the Motor Accidents (Compensation) Appeal Tribunal established by section 28.

PART II - LIABILITY

Abolition of certain common law rights

5.(1) Subject to sub-section (2), no action for damages shall lie in the Territory in respect of the death of or injury to a resident of the Territory in or as a result of an accident that occurred in the Territory.

(2) Subject to sub-section (3), nothing in sub-section (1) deprives a person of the right to bring an action for damages for pain and suffering or loss of amenities of life.

(3) A person who has received or has elected to receive a benefit under section 17 shall not commence or continue an action referred to in sub-section (2).

Office to indemnify certain persons

6.(1) Subject to sub-section (2), where a person is liable to pay damages in respect of the death of or injury to any person in or as a result of an accident, and at the time of that accident the first-mentioned person was -

(a) the owner of a Territory motor vehicle involved in the accident and in respect of which he was so liable; or

(b) in control of a Territory motor vehicle,

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the Office shall indemnify him or his personal representatives to the extent of his liability.

(2) The Office is not bound to indemnify a person under sub-section (1) where that person is already indemnified under any contract of insurance or under the law applicable in the place where the accident occurred.

PART III - ENTITLEMENT TO BENEFITS

7. Subject to this Part, where a resident of the Territory dies in or suffers injuries as a result of an accident that occurred in the Territory or in or from a Territory motor vehicle, there is payable -

Benefits in respect of injuries

- (a) to or on behalf of that person, in the case where he is injured; or
- (b) to his spouse, dependent child or dependent parent, in the case of his death,

such benefits as are provided for in this Act.

8.(1) Where a person would have been entitled to a benefit under this Act had he or some other person been a resident of the Territory at the date of an accident, and it appears to the Board that the person or that other person was, on that date, likely to reside or to have resided in the Territory for a period of not less than 6 months after that date, it may, at the request in writing signed by the first-mentioned person, treat that person or that other person as a resident of the Territory for the purposes of this Act, and the first-mentioned person shall be entitled to such benefits as are provided for in this Act for or in respect of a resident of the Territory in the same circumstances.

Payments to non-residents

(2) A person treated by the Board as a resident of the Territory in pursuance of sub-section (1) shall, for the purposes of section 5, be deemed to be a resident of the Territory.

9. A person is not entitled to a benefit referred to in section 13 or 17 in respect of an injury received in or as a result of an accident -

Exclusion of persons committing offences from certain benefits

- (a) that occurred while the person was driving a motor vehicle while under the influence of alcohol or of a drug or while he had a concentration of alcohol in his blood equal to 80 milligrams or more of alcohol per 100 millilitres of blood, and he is convicted accordingly; or

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- (b) in respect of which he is convicted of manslaughter or culpable, dangerous or reckless driving,

where, in the opinion of the Board, the influence or quantity of alcohol, the influence of drugs or the manner of driving, as the case may be, giving rise to the conviction, substantially contributed to the accident;

- (c) that occurred while he was in a motor vehicle and taking part in a race or other competition or trial, or testing the motor vehicle in preparation for a race, competition or trial; or
- (d) that occurred while he was driving a motor vehicle while not the holder of a licence to drive a motor vehicle -
 - (i) having never at any time held in any part of Australia a licence to drive a motor vehicle; or
 - (ii) because his licence to drive had been suspended or cancelled,

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

Non-entitlement 10. A person is not entitled to a benefit under this Act -

- (a) in respect of an injury received in or as a result of an accident that occurred while he was using a motor vehicle without the consent of the owner or the person in lawful charge thereof or for or in connection with, or in the commission of, an indictable offence, resisting or preventing the lawful apprehension or detention of himself or any other person or inflicting or attempting to inflict injury on himself or another person; or
- (b) where he is entitled to compensation in respect of that accident under the Workmen's Compensation Act or other Act providing for compensation for death of or injury to employees in the Territory, the Compensation (Commonwealth Government Employees) Act 1971 of the Commonwealth or under a law of a State or another Territory that is, in relation to the Workmen's Compensation Act, a corresponding law.

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11. A person is not entitled to a benefit under section 13 in respect of the first 7 days after an accident. Time for payment

12.(1) The right of any person to, and the amount of, a benefit under this Act shall be determined by the Board, and regulations under this Act may prescribe the manner in which any such determination is to be made. Rights to benefits to be determined by Board

(2) Where, in any case, the right to, or the amount, variation or continuation of a benefit depends on a determination with respect to a disability or infirmity of a person, the Board may require that person to undergo an examination by a medical practitioner nominated by the Board, and, if the Board makes a requirement to that effect, it is not required to make any payment of that benefit or may discontinue any such payment if that person, without good reason, refuses or fails to comply with that requirement.

PART IV - PAYMENTS IN RESPECT OF INJURIES

13.(1) A resident of the Territory who suffers an injury in or as a result of an accident that occurred in the Territory or in or from a Territory motor vehicle and whose capacity to earn income from personal exertion (either physical or mental) is, in the opinion of the Board, reduced as a result of that injury, shall be paid such compensation for that loss of earning capacity as provided in this section. Compensation for loss of earning capacity

(2) Subject to sub-sections (4) and (5) and section 14, there shall be payable by the Office to a person referred to in sub-section (1), in respect of the period during which he suffers a loss of earning capacity as determined by the Board, the amount by which the amount that the Board determines he is reasonably capable of earning in employment in each period of 6 months during that period if he were to engage in the most profitable employment (if any) available to him is less than 85 per cent of the average earnings for that 6 months of wage earners in the Territory of the same sex as the person calculated on the basis of what, in the opinion of the Board, are the best statistics available to it, both amounts calculated net of income tax as if paid to the person.

(3) For the purposes of sub-section (2) a reference to an amount that a person is capable of earning in employment includes any amount of benefit payable to the person under any other law in force in the Territory in respect of his inability to find employment.

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(4) Where a person referred to in sub-section (1) is admitted as a full-time patient in a hospital or rehabilitation institution for any period which, in the opinion of the Board, is likely to exceed 6 months, the Board may suspend payment of the whole or part of the amounts otherwise payable under this section to that person for all or such part of that period as it thinks fit and, where that person has dependants, may make payments otherwise payable to that person to or for the benefit of such dependants, and in such amounts, as it thinks fit.

(5) No person who has attained the age of 65 years shall be paid a benefit under this section.

(6) An amount of benefit payable under this section may be paid in such instalments and at such times as the Board, from time to time, determines, and the Office may make any such payment in advance pending the calculation of a person's actual entitlement under this section.

Benefits
payable to
young
persons

14.(1) Subject to sub-section (3), a person who would have been entitled to a benefit under section 13 had he suffered a reduction in earning capacity but who, at the time of the relevant accident, had not attained the age of 16 years or who had attained that age but was a full-time student at a school, college or university, shall not receive a benefit under that section except in respect of a period commencing on the date on which he attains the age of 16 years or ceases to be a full-time student, whichever is the later, and on so attaining that age or ceasing to be a full-time student, as the case may be, he shall be deemed to have suffered a reduction in earning capacity.

(2) Subject to sub-section (3), the amount of benefit payable under section 13 to a person entitled to receive such a benefit but who has not attained the age of 25 years and is not married is, in respect of the year of his life indicated in Column 1 of the following Table the relevant percentage, indicated in Column 2 of the Table and set out opposite the year in Column 1, of the amount that would otherwise be payable to him under section 13:

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TABLE

Column 1 Year	Column 2 Percentage
17	55%
18	60
19	65
20	70
21	75
22	80
23	85
24	90
25	95

(3) Where a person referred to in sub-section (2) marries or establishes a relationship which, in the opinion of the Board, is in the nature of a marriage, he 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 his marriage or his establishing that relationship, as the case may be.

15.(1) Where, in the opinion of the Board, because of the small amount of a benefit payable under section 13 to a person the administrative costs in calculating and paying that benefit place an unnecessary burden on the administration of the compensation scheme established by this Act, it may commute those payments at present values and pay the commuted amount to the person and, subject to sub-section (2), the payment of that amount is a full discharge of the obligations under section 13 of the Office and the Board.

Small benefits may be commuted by Board

(2) Where at any time after an amount has been paid under sub-section (1) the circumstances in relation to a person to or in respect of whom it was paid change to such an extent as, in the opinion of the Board, to warrant further payments under section 13 being made, the Board may determine that such payments shall be made but, notwithstanding anything in that section, may reduce the amounts otherwise payable under that section by such amounts as it determines have already been paid in respect of the relevant period in the commuted amount paid under sub-section (1) of this section.

16.(1) A person receiving a benefit under section 13 may, at any time, apply in writing to the Board for a lump-sum payment of that benefit.

Benefits may be commuted at request of beneficiary

(2) On receiving an application under sub-section (1) the Board may, at its discretion, commute at

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present values the benefit payable to the applicant and pay the commuted amount to him.

(3) The payment of an amount under sub-section (2) is a full discharge of the obligation under section 13 of the Office and the Board in respect of the injury in respect of which the benefit was payable.

Compensation
for loss of
limb, &c.

17.(1) Subject to this section, and in addition to any amount payable to him under section 13, a resident of the Territory who suffers an injury in or as a result of an accident that occurred in the Territory or in or from a Territory motor vehicle and who survives that accident for a period of 3 months shall, where he has suffered an injury specified in Column 1 of the Schedule, be paid the amount of compensation equal to the percentage of \$25,000 specified in Column 2 of the Schedule opposite the specification of the injury in Column 1.

(2) Where a person referred to in sub-section (1) suffers in or as a result of the accident referred to in that sub-section or in or from a Territory motor vehicle, an injury which causes partial and permanent loss of the sight of one eye, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of the sight of one eye as is equal to the percentage of the diminution of sight.

(3) Where a person referred to in sub-section (1) suffers in or as a result of the accident referred to in that sub-section or in or from a Territory motor vehicle, an injury which causes partial and permanent loss of the efficient use of a part of the body specified in the Schedule, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of that part as is equal to the percentage of the diminution of the efficient use of that part.

(4) The compensation payable under this section in respect of an injury resulting in an impairment of speech of a person entitled to a benefit under this section is such percentage of the amount of compensation that would be payable under this section in respect of an injury resulting in total loss of power of speech by the person as is reasonable having regard to the extent to which the speech of the person immediately before the injury was impaired by the injury.

Motor Accidents (Compensation)

(5) For the purposes of this section and of the Schedule, facial disfigurement shall not be taken to be severe where -

- (a) if the person underwent suitable medical treatment, the disfigurement would not be severe; and
- (b) if the person underwent suitable medical treatment, the disfigurement would be removed.

(6) A person shall not be paid compensation under this section -

- (a) if he has commenced an action against any person to recover damages in respect of the injury; or
- (b) unless, within 3 months after the accident in or as a result of which the injury occurred, or such additional time as the Board allows, he has given to the Office a written election, signed by him or with his authority, to be paid compensation under this section.

(7) The amount of compensation payable under this section to a person shall not, in respect of any one accident, exceed \$25,000.

18.(1) There is payable to or on behalf of a person entitled to a benefit under this Act in respect of an injury received by him in or as a result of an accident all the expenses reasonably incurred by him or on his behalf for the provision of the treatment required by him in respect of that injury, to a maximum of \$15,000 in respect of any one accident.

Medical and
rehabilitation
expenses

(2) The treatment referred to in sub-section (1) includes -

- (a) medical, surgical or dental treatment or nursing or other care provided (subject to sub-section (3)), otherwise than in a hospital, in the Territory;
- (b) training, education or care required for the rehabilitation of that person; and
- (c) the conveyance of that person to any place for the purpose of his receiving any treatment referred to in this sub-section or to a hospital.

Motor Accidents (Compensation)

(3) Where a person referred to in sub-section (1) who is admitted to a hospital in the Territory requests the Board to approve the provision to him of treatment or care of a particular kind or by a particular medical practitioner, and the Board is of the opinion that the request is reasonable in the circumstances, the reasonable expenses incurred in providing that treatment or care, as the case may be, shall be payable to or on behalf of that person.

Alterations
to house,
&c.

19. In addition to the benefits provided under section 18, a person referred to in that section shall be entitled to -

- (a) the cost of providing appliances required for his use as a consequence of the injury; and
- (b) the reasonable cost of necessary alterations to -
 - (i) the building in which he resides or proposes to reside;
 - (ii) a motor vehicle used by him; and
 - (iii) such other articles of personal use as, in the opinion of the Board, require modification; and
- (c) the reasonable cost of providing such special facilities and equipment as the Board considers necessary for his rehabilitation,

to a maximum amount of \$20,000.

PART V - PAYMENTS IN RESPECT OF DEATH

Interpret-
ation

20. In this Part, unless the contrary intention appears -

"average income" means the yearly average of -

- (a) remuneration received in employment; and
- (b) profits received in respect of the carrying on, either alone or in conjunction with any other person, of any business or undertaking,

calculated over such number of years as, in the opinion of the Board, would give a fair assessment of what would have been the person's income for the 12 months ending on the date of the accident in or as a result of which that person died, weighted as the Board considers necessary to take

Motor Accidents (Compensation)

into account rates of inflation and periods of unemployment or under-employment;

"qualifying person" in relation to an accident means -

- (a) where the accident occurred in the Territory - a resident of the Territory; and
- (b) where the accident occurred outside the Territory - a resident of the Territory who dies in or as a result of injuries received in or from a Territory motor vehicle.

21. Where a person who, if he had died in or as a result of the accident would have been a qualifying person is a full-time patient in a hospital or other institution because of his injuries received in or as a result of an accident and, in the opinion of the Board, he is likely permanently to remain a full-time patient in a hospital or institution, the Board may, at the written request of the dependent spouse of the person, determine that this Part shall apply to and in relation to that person, and on that determination being made the person shall, for the purposes of this Part, be deemed to have died on the date of the determination and to have been a qualifying person on that date.

Death benefits may be paid in respect of certain injured persons

22.(1) Subject to section 36, 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 dependant spouse who survives him for a period of 30 days, his spouse shall be paid -

Death benefits

(a) subject to sub-section (2), a lump sum calculated by the application of the formula

$$A \times \frac{B}{C} \times \frac{B}{D} \text{ where -}$$

A is -

- (i) in the case of a deceased who was at the date of his death under the age of 60 years - \$40,000;
- (ii) in the case of a deceased who was not at the date of his death under the age of 60 years but was under the age of 65 years - \$20,000;

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(iii) in the case of a deceased who was not at the date of his death under the age of 65 years but was under the age of 70 years - \$10,000; and

(iv) in the case of a deceased who was at the date of his death 70 years of age or older - \$5,000.

B is that part of the average income of the deceased that, in the opinion of the Board, would not have been payable to or for the benefit of his spouse or dependent children had the deceased died at the beginning of the period used in calculating the average income;

C is the total of the average incomes of both the deceased and his spouse calculated to the date of the accident; and

D is the average earnings of wage earners in the Territory of the same sex as the deceased in respect of the 12 months to the date of the accident, calculated on the basis of what, in the opinion of the Board, are the best statistics available to it, net of income tax as if paid to the deceased,

but not less than \$5,000; and

(b) \$15 per week in respect of each dependent child of the deceased in her custody.

(2) If, in making the calculation required by sub-section (1)(a), B is a greater amount than D, the fraction $\frac{B}{D}$ shall be omitted from the formula.

Death of
dependent
spouse

23. 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 \$5,000 or, where the average income of the dependent spouse exceeds 25 per cent of his income, the sum determined by the application to the dependent spouse of the formula in section 22(a) (with the necessary changes), whichever is the greater.

Dependent
parents'
benefit

24. Where a qualifying person dies in an accident, or as a result of an accident within 2 years of that accident, leaving him surviving a dependent parent or parents who normally resides or reside with him, that parent or those parents, as the case may be, shall be paid \$25 per week for as long as they

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remain so dependent and, if more than one, in equal shares.

25. Where -

Dependent
children's
benefit

- (a) a qualifying person dies in an accident, or as a result of an accident within 2 years of that accident, leaving him surviving no spouse but a dependent child or dependent children; or
- (b) the spouse of a qualifying person dies and immediately before his death he was receiving a weekly payment under section 22(b) in respect of the dependent child or dependent children of a qualifying person,

there shall be payable in respect and for the benefit of each such dependent child \$25 per week.

26. There shall be payable in respect of the funeral of a qualifying person who died in or as a result of an accident such reasonable amount as the Board determines, not exceeding \$650.

Funeral
benefits

PART VI - REVIEW AND APPEALS

27.(1) Where the General Manager exercises a discretion under this Act whether as a delegate of or with the authority of the Board, a person aggrieved by the decision of the General Manager in the exercise of that discretion may request that the matter be referred to the Board for consideration, and the General Manager shall, as soon as possible, refer that matter accordingly.

General
Manager's
decision may
be deferred
to the Board

(2) No matter shall be referred to the Tribunal under this Part unless it has first been considered by the Board.

28. There is hereby established a Motor Accidents (Compensation) Appeal Tribunal which shall be constituted by a judge of the Supreme Court.

Motor Accidents
(Compensation)
Appeal
Tribunal

29.(1) Any person who is aggrieved -

Appeals to the
Tribunal

- (a) by a determination of the Board under this Act; or
- (b) by the refusal or failure of the Board to make a payment by way of benefit under this Act,

may refer the matter to the Tribunal.

Motor Accidents (Compensation)

(2) The Board may, at any time, refer to the Tribunal any matter affecting the right of any person to a benefit, or the amount of a benefit, under this Act.

(3) Where a matter is referred to the Tribunal it shall make such determination as the Board could have made thereon as the Tribunal considers proper in the circumstances having regard to the intention of the Act, and such determination is binding on the Board.

(4) A matter referred to the Tribunal under this section shall be so referred in such manner and within such time as may be prescribed and the reference shall be heard and determined as prescribed.

(5) Regulations made for the purpose of this section may make provision with respect to the exercise of the rights of infants in relation to references to the Tribunal and determinations thereon.

Tribunal's
decision is
final

30. A decision of the Tribunal is final and shall not be capable of being reviewed in any court of law by prerogative writ or otherwise.

PART VII - MISCELLANEOUS

Time for
making
claims

31.(1) A claim -

(a) for a benefit; or

(b) for the variation of a benefit,

under this Act shall be made as soon as practicable after the accident in or as a result of which the death or injury giving rise to the claim for a benefit, or the change in circumstances giving rise to the claim for variation of the benefit, occurred.

(2) The Board may refuse to consider -

(a) a claim in respect of an accident; or

(b) a claim for the variation of a benefit,

made later than 6 months after the date of the accident or the occurrence giving rise to the claim for variation, as the case may be.

Board not
subject to
directions

32. In the performance of its function and the exercising of its powers under this Act the Board is not subject to the directions of any person.

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33. In the exercising of its powers under this Act the Board may, where it considers that the circumstances of a particular case warrant such action because of special hardship that is likely to be suffered by any person, determine that the monetary or time limits imposed by this Act on the payment of benefits may be exceeded, and the benefits may be paid accordingly.

Board may exceed limits in certain circumstances

34. In considering any matter before it, the Board may take such medical and other advice, and from such sources, as it considers necessary.

Board may take advice

35.(1) Where under this Act a payment is required to be made to a person who has not attained the age of majority or is under some other legal disability, that payment may be made on behalf of that person to the Public Trustee or to the guardian or other person who, from time to time, has the responsibility for the immediate care and welfare of that person.

Payments to minors

(2) A payment made in pursuance of sub-section (1) is a full discharge of the Board's obligations in respect of that payment and it is not bound to see to the application of the money so paid.

36.(1) The Board may, by writing under its seal, delegate to the General Manager, either generally or otherwise as provided by the instrument of delegation, any of its powers or functions under this Act, other than this power of delegation, and a power or function so delegated may be exercised or performed by the General Manager in accordance with the instrument of delegation.

Delegation of the Board

(2) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Board.

(3) The Board may review the exercise of any delegated power under this section and substitute for the decision of the delegate in respect of any matter its own decision.

37.(1) Notwithstanding any other provision of this Act, where, in respect of a resident of the Territory who is an aboriginal native of Australia married to more than one person according to the custom of the group or tribe of aboriginal natives of Australia to which he belongs (whether or not one of those marriages is a marriage in accordance with the law in force in the Territory) a benefit would, but for the operation of this section, be payable to or in respect

Multiple spouses of Aborigines

Motor Accidents (Compensation)

of each of those persons, the amount of such benefit that is payable is the amount that would be so payable if the resident of the Territory had contracted only one such marriage and, in the case of a benefit payable under this Act to a spouse, it shall be payable to such spouses in equal shares.

(2) Where under section 23 there is payable a benefit to the head of a household in respect of the death of a spouse and that head of the household is an aboriginal native of Australia having more than one spouse, the amount of benefit payable to that head of the household shall be \$5,000, or other amount provided in that section, as the case may be, divided by the number of his spouses at the date of death of the spouse.

Office may
recover
certain
payments

38. The Office may, from time to time, sue and recover as a debt from -

- (a) a manufacturer or repairer of a motor vehicle;
- (b) the owner, or driver (other than a resident of the Territory), of a motor vehicle that was not, at the time of the accident, a Territory motor vehicle; or
- (c) a person who has intentionally or culpably caused the death of or injury to another person; or
- (d) the Commonwealth,

and who is, or but for section 5 would be, liable to pay damages in respect of the death or injury of a person in or as a result of an accident, the amount that the Office has paid in respect of that death or injury.

Limit on
amount
recoverable
under
section 5

39.(1) In an action referred to in section 5(2), an award of damages shall not exceed \$100,000.

(2) In an action referred to in section 5(2), the court shall not make an award that compensates the plaintiff in respect of any treatment, facility or equipment the cost of which, under section 18 or 19, the Board is empowered to meet.

Office may
conduct
certain legal,
&c., pro-
ceedings

40.(1) The Office -

- (a) may undertake the settlement of any claim against a person referred to in section 6(1) in respect of his liability referred to in that section;

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- (b) may take over during such period as it thinks fit the conduct on behalf of that person of any proceedings taken or had to enforce the claim or for the settlement of any question arising with reference to the claim;
- (c) may defend or conduct those proceedings in the name and on behalf of that person; and
- (d) shall indemnify that person against all costs and expenses of or incidental to any of those proceedings while the Office retains the defence or conduct of the proceedings.

(2) The person referred to in sub-section (1) shall sign all such warrants and authorities as the Office requires for the purpose of enabling it to have the defence or conduct of any proceedings referred to in that sub-section and, in default of his so doing, the court in which the proceedings are pending may order that the warrants and authorities be signed by the Office on behalf of that person.

(3) Nothing said or done by or on behalf of the Office in connection with the settlement of any such claim or the defence or conduct of any such proceedings shall be regarded as an admission of liability in respect of, or shall in any way prejudice, any other claim, action or proceeding arising out of the same occurrence.

41.(1) In this section "authorized insurer" and "third-party policy" have the same meaning as they respectively have in Part V of the Motor Vehicles Act as in force immediately before the commencement of this Act.

Savings and enforcement of certain rights

(2) Notwithstanding anything in this Act, where an action in respect of the death or injury of a person in or as a result of an accident would have lain under the law applicable immediately before the commencement of this Act had the accident then occurred, nothing in this Act shall apply so as to prevent a person pursuing such action against a person who, at the time of the accident, was the holder of a current third-party policy.

(3) Notwithstanding anything in this Act, the Board may, as a condition of paying or continuing to pay a benefit under this Act -

- (a) in a case referred to in sub-section (2); or

Motor Accidents (Compensation)

- (b) in a case where a person entitled to a benefit under this Act has a right of action against any other person as a result of the accident in respect of which that entitlement arose,

require the person to commence or continue an action against the person holding a current third-party policy or that other person, as the case may be.

(4) Where a person recovers damages as a result of an action commenced or continued in pursuance of a requirement under sub-section (3) -

- (a) the payment of benefits under this Act to that person shall cease; and

- (b) there shall be reimbursed to the Office from any amount so recovered the amount of benefits under this Act paid by the Office to or on behalf of that person, and that amount shall be paid to the Office by the authorized insurer concerned, in a case referred to in sub-section (2), or the person against whom judgment is given in any other case, before any amount of the judgment (other than the costs in the action) are paid to the person.

(5) Where a person commences or continues an action in pursuance of a requirement under sub-section (3), and that action is unsuccessful or the amount recovered is not sufficient to reimburse the person for the costs in bringing the action, the Office shall pay to the person the reasonable amount of those costs or the amount by which the amount recovered falls short of the amount of those costs, as the case may be.

Regulations

42. The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Motor Accidents (Compensation)

THE SCHEDULE

Section 17(1)

Injuries in respect of which special compensation
is payable

Column 1 Injury	Column 2 Percentage
Loss of, or total loss of sight of both eyes	100
Loss of, or total loss of sight of, a useful eye, the other being blind or absent	100
Loss of both hands	100
Loss of hand and foot	100
Loss of both feet	100
Loss of, or total loss of sight of, one eye with serious diminution of the sight of the other	75
Loss of, or total loss of sight of, one eye	40
Total loss of hearing	70
Loss of arm at or above the elbow	80
Loss of arm below the elbow, loss of hand or loss of thumb and 4 fingers on the one hand	70
Loss of leg at or above the knee	75
Loss of leg below the knee	65
Loss of foot	60
Total loss of power of speech	70
Loss of genitals or total and permanent loss of capacity to engage in sexual intercourse	50
Severe and permanent facial disfigurement	50

