

Serial 221
Motor Accidents (Compensation) Amendment Bill 2000
Mr Manzie

**A BILL
for
AN ACT**

to amend the *Motor Accidents (Compensation) Act*



NORTHERN TERRITORY OF AUSTRALIA
MOTOR ACCIDENTS (COMPENSATION) AMENDMENT ACT 2000

No. of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2000

AN ACT

to amend the *Motor Accidents (Compensation) Act*

[Assented to 2000]
[Second reading 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Motor Accidents (Compensation) Amendment Act 2000*.

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. Abolition of certain common law rights

Section 5 of the Principal Act is amended –

- (a) by omitting from subsection (1)(b)(i) "section 17; or" and substituting "section 17;";

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(b) by omitting from subsection (1)(b)(ii) "values," and substituting "values; or";

(c) by inserting after subsection (1)(b)(ii) the following:

"(iii) for future economic loss or future loss of earning capacity calculated on a weekly basis for any sum in excess of the amount from time to time prescribed for the purposes of section 13,"; and

(d) by adding at the end the following:

"(3) An action for damages in respect of the death of or injury to a person in or as a result of an accident that occurred in the Territory cannot be commenced unless notice of an intention to make the claim is given to the Office.

"(4) Notice under subsection (3) must be –

(a) in writing and in the approved form; and

(b) given to the Office –

(i) within 3 months of the relevant date; or

(ii) within any other period that a court, on sufficient cause being shown, allows.

"(5) For the purposes of subsection (4), the relevant date is –

(a) the date of the accident; or

(b) if the action is for damages in respect of the death of a person – the date the person died.

"(6) In an action for damages in respect of the death of or injury to a person in or as a result of an accident that occurred in the Territory, if the person was not being restrained by a seat belt at the time of the accident and the person was required to wear a seat belt under the *Traffic Act*, any damages that are awarded are to be reduced by 25% on account of the person's failure to use a seat belt.

"(7) Subsection (6) does not apply if the person had not attained the age of 16 years at the date of the accident."

5. Office to indemnify certain persons

Section 6 of the Principal Act is amended –

(a) by omitting from subsection (1) "subsection (2)" and substituting "subsections (2) and (3)"; and

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(b) by adding at the end the following:

"(3) The indemnity provided under subsection (1) does not include any liability to pay punitive or exemplary damages (however described).

"(4) A person who is entitled to be indemnified under subsection (1) must co-operate with the Office in respect of any action for damages in respect of the accident.

"(5) Without limiting subsection (4), the person must provide any information that the Office may reasonably require and attend to any matter that is reasonably incidental to the defence of any action for damages in respect of the accident."

6. Exclusion of persons committing offences from certain benefits

Section 9 of the Principal Act is amended—

- (a) by omitting "A person" and substituting "(1) A person";
- (b) by omitting from paragraph (b) "substantially contributed to the accident; or" and substituting "materially contributed to the accident;";
- (c) by omitting from paragraph (c) "trial; or" and substituting "trial;";
- (d) by omitting from paragraph (d) "situation." and substituting "situation; or"; and
- (e) by inserting after paragraph (d) the following:

"(e) that occurred while the person was using a motor vehicle in a manner that created a substantial risk of injury to the person and the person consciously and unjustifiably disregarded the risk or was recklessly indifferent to it."

"(2) If the concentration of alcohol in the blood of a person was at the time of the accident equal to 80 milligrams or more of alcohol per 100 millilitres of blood, the quantity of alcohol is to be taken to have materially contributed to the accident, unless the contrary is proved."

7. Office may recover certain payments

Section 38 of the Principal Act is amended—

- (a) by omitting from subsection (1)(b) "(other than a resident of the Territory)"; and
- (b) by adding at the end the following:

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"(4) If a person referred to in section 6(1) is indemnified under that section by the Office and the person has, to the prejudice of the Office, failed to co-operate with the Office as required by section 6(4), the Office may sue and recover as a debt from the person so much of the money paid or costs incurred by the Office in indemnifying the person as the court before which the recovery action is brought thinks just and equitable in the circumstances."

8. Application

(1) The amendments made by sections 4(d) and 6 apply only in relation to accidents occurring after the commencement of this Act.

(2) The remaining amendments made by this Act apply in relation to accidents whenever occurring.