

NORTHERN TERRITORY OF AUSTRALIA

MOTOR ACCIDENTS (COMPENSATION)
AMENDMENT BILL 1991

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Motor Accidents (Compensation) Act*

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 1991*.

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 Accident (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 "attendant care services" the following:

"'average weekly earnings', in section 17 and Part V, means the Average Weekly Earnings for Full Time Adult Persons, Weekly Ordinary Time Earnings for the Northern Territory last published by the Australian Statistician before 1 January before the date in respect of which they are required under this Act to be assessed;"; and

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- (b) by omitting the definition of "dependent child" and substituting the following:

"'dependent child', in relation to a person, means a child of the person, or a child in relation to whom the person stands or stood *in loco parentis*, who is not the spouse of another person and who -

- (a) has not attained the age of 16 years; or
(b) having attained that age but not having attained the age of 21 years, is a full-time student or is physically or mentally handicapped,

and is primarily dependant on the person for financial support;".

5. ABOLITION OF CERTAIN COMMON LAW RIGHTS

Section 5(1)(b) of the Principal Act is amended by omitting "double".

6. REPEAL

Section 11 of the Principal Act is repealed.

7. COMPENSATION FOR LOSS OF EARNING CAPACITY

Section 13(2) of the Principal Act is amended by inserting after "in respect of that period" the words "(excluding the day of the accident)".

8. COMPENSATION FOR LOSS OF LIMB OR OTHER PERMANENT IMPAIRMENT

Section 17 of the Principal Act is amended by adding at the end the following:

"(3) In this section 'prescribed amount', in relation to a payment, means 208 times average weekly earnings at the time the payment is made."

9. MEDICAL AND REHABILITATION EXPENSES

Section 18 of the Principal Act is amended by omitting subsection (5).

10. ALTERATIONS TO HOUSE, &c.

Section 19 of the Principal Act is amended by omitting all words after paragraph (b) and substituting the following:

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"(c) the reasonable cost of providing such special facilities and equipment as the Board considers necessary for his rehabilitation."

11. REPEAL AND SUBSTITUTION

Sections 22 of the Principal Act is repealed and the following substituted:

"22. LUMP-SUM COMPENSATION IN RESPECT OF DEATH

"(1) Subject to section 37, where the death of a qualifying person results from or is materially contributed to by an injury suffered in or as a result of an accident that occurred in the Territory or in or from a Territory motor vehicle, there is payable -

(a) to the person liable to meet the expense of the qualifying person's funeral, a funeral benefit equal to -

(i) the cost of the funeral; or

(ii) 10% of the annual equivalent of average weekly earnings,

whichever is the lesser amount; and

(b) for the benefit of the qualifying person's spouse or dependent child or dependent children, or a spouse and a dependent child or dependent children -

(i) the prescribed proportions; or

(ii) in the case of a dependent child or dependent children such proportions as the Board determines on an application under subsection (2), having regard to the relative needs and degrees of dependency of the dependant child or dependent children,

of an amount equal to 156 times average weekly earnings at the time the payment is made.

"(2) For the purposes of subsection (1)(b), a person claiming to be a spouse or a dependant child of the deceased qualifying person may apply to the Board for a determination under that subsection.

"(3) For the purposes of subsection (1)(b)(i), the prescribed proportions are those specified in column 2 of the Table in respect of the spouse or dependent child or dependant children specified opposite in Column 1 of the Table.

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TABLE

Column 1	Column 2
Dependants	Proportion
Spouse	100%
one child	100%
2 or more children	Equally between children
Spouse and one child	10% to child, balance to spouse
Spouse and not more than 5 children	5% to each child, balance to spouse
Spouse and more than 5 children	25% divided equally between children, balance to spouse

"23. DEPENDENT CHILDREN'S BENEFITS

"(1) In addition to an amount payable under section 22(1)(b) to or for the benefit of a dependent child but subject to subsection (2), there shall be paid to or for the benefit of each dependent child of a deceased qualifying person an amount per week equal to 10% of average weekly earnings at the time the payment is made.

"(2) The aggregate of all amounts paid or payable per week under subsection (1) shall not exceed average weekly earnings and where there are more than 10 dependent children entitled to compensation under that subsection they shall be entitled in equal shares to an amount equal to average weekly earnings at the time the payment is made."

12. REPEAL AND SUBSTITUTION

Section 24 of the Principal Act is repealed and the following substituted:

"24. DEPENDENT PARENTS' BENEFIT

"Where a qualifying person dies in or as a result of an accident leaving him surviving neither a spouse nor a dependent child but a dependent parent or parents who normally resides or reside with him, that parent or those parents shall be paid an amount equal to 156 times average weekly earnings and, if more than one, in equal shares."

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13. REPEAL

Sections 25 and 26 of the Principal Act are repealed.

14. BOARD MAY EXTEND TIME LIMITS

Section 33 of the Principal Act is amended -

- (a) by omitting from subsection (1) "Subject to subsection (2), in the exercising" and substituting "In the exercising";
- (b) by omitting from subsection (1) all words after "determine that" and substituting "the time limits imposed by this Act on the payment of benefits under Part III, IV (other than section 18(2A) or 18A) or V may be extended, and the benefits may be paid accordingly"; and
- (c) by omitting subsection (2).

15. APPLICATION

(1) The amendments made by sections 8 and 14 apply only in relation to accidents occurring after the commencement of this Act.

(2) The amendments made by sections 11 and 12 apply only in relation to accidents occurring on or after 1 January 1991.
