

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

TREASURER

**TERRITORY INSURANCE OFFICE AMENDMENT BILL 2006**  
**SERIAL NO. 56**

**EXPLANATORY STATEMENT**

**GENERAL OUTLINE**

The proposed Bill establishes the *Motor Accidents (Compensation) Act* (MACA) scheme within a statutory fund and, sets out that the assets and liabilities of the MACA scheme must be held in a separate fund to the assets and liabilities of the Territory Insurance Office (TIO). The assets and liabilities would still be under the same legal ownership as TIO's commercial assets, but they would be quarantined in separate accounts and would be separately reported in the financial statements.

The proposed Bill also:

- provides a specific guarantee for the liabilities of the MACA scheme;
- amends the provisions relating to the Statement of Corporate Intent so that separate statements have to be prepared for the MACA scheme;
- provides for the appointment of an additional Board member to advocate the interests of the MACA scheme; and,
- requires the development of a conflict of interest policy to outline the potential conflicts between TIO and the MACA scheme and the processes for resolving them.

## **NOTES ON CLAUSES**

### **Clause 1. Short Title**

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Territory Insurance Office Amendment Act 2006*.

### **Clause 2. Commencement**

This clause provides that, except for sections 4(3) and 6 which will commence on the day on which the Administrator's assent is declared, the provisions of the Bill are taken to have commenced on 1 July 2006. The date of application is designed to ensure that the reporting provisions of the Bill operate for the entirety of the 2006-07 financial year.

Sections 4(3) and 6 relate to how the Board member appointed to oversight the *Motor Accidents (Compensation) Act* (MACA) scheme will operate in the Board setting.

### **Clause 3. Act amended**

This clause provides that the *Territory Insurance Office Act* is amended by this Bill.

### **Clause 4. Amendment of section 3 (Definitions)**

Replaces the 'Definitions' heading with the 'Interpretation' heading and inserts the following definitions that are used within the amending sections:

- "commercial business" means the part of the Office's business that is not the MAC business;
- "Determinations" means the Determinations made under section 33A;
- "Fund" means the Motor Accidents (Compensation) Fund established by section 22B;
- "MAC business" means the part of the Office's business that relates to the administration fo the MAC scheme;
- "MAC scheme" means the scheme of compensation established by the *Motor Accidents (Compensation) Act*;
- "statement of corporate intent", for a financial year, means a statement of corporate intent prepared for that year that is in force under section 8A
- "MAC member", see section 10(2) – section 10(2) states that "One member (other than the Chief Executive Officer) must be appointed solely for the MAC scheme (the "MAC member")."

**Clause 5. Repeal and substitution of section 8A**

This clause repeals section 8A and replaces it with the provisions of the Bill.

**Clause 8A. Statements of corporate intent – timetable and procedures**

This clause outlines the roles and responsibilities of the Board and the Minister in preparing and tabling (in the Legislative Assembly) written statements of corporate intent for the Office’s commercial business and for the MAC business.

**Clause 8B. Statements of corporate intent – contents**

This clause outlines the contents of the statements of corporate intent for the Office’s commercial business and for the MAC business.

**Clause 8C. Statements of corporate intent – reports**

This clause outlines the reporting requirements for the statements of corporate intent for the Office’s commercial business and for the MAC business.

**Clause 6. Amendment of section 10 (Composition of the Board)**

This clause outlines the MAC member's role and responsibilities and, how the MAC member is appointed to the Board. The Board must not deliberate or vote on a matter relating to the MAC business in a Board meeting unless the MAC member or nominee is present in the meeting. A decision of the Board on that matter made in a Board meeting is invalid if the MAC member or nominee is not present in the meeting.

In addition, a decision of the Board on that matter is invalid if: the matter involves a conflict between managing the Fund and other assets of the Office; and, the decision is not supported by the MAC member or nominee.

**Clause 7. Amendment of section 22 (Moneys of the Office)**

Replaces the 'Moneys of the Office' heading with 'Moneys of Office'.

This clause specifies that moneys of the Office includes the moneys of the Fund.

**Clause 8. New sections 22B to 22E**

**Clause 22B. Motor Accidents (Compensation) Fund**

This clause establishes the Motor Accidents (Compensation) Fund and allows that, on the commencement of this section, all the assets allocated for the MAC business under the Determinations immediately before that commencement becomes part of the Fund. This gives effect to the split in the assets and of the MAC Fund from the TIO commercial assets that was implemented in 2005.

In addition, the Fund includes amounts paid to the Office under section 46 of the Motor Vehicles Act; and, other amounts received by the Office for the MAC scheme; and, assets purchased with amounts in the Fund.

**Clause 22C: Application of the Fund**

This clause outlines the purposes for which the assets of the Fund may be applied. It also outlines that, except for the promotion of road safety, the assets of the Office that are not part of the Fund must not be applied for these purposes.

**Clause 22D: Fund not trust fund**

This clause is to avoid doubt that a trust is not created in relation to the Fund and that the Office and the members are not trustees in relation to the Fund.

**Clause 22E: Conflict of interest policy statement**

This clause outlines that the Board must prepare, for the Minister's approval, a written policy statement for resolving conflicts between managing the Fund and other assets of the Office. The statement must be reviewed before the end of each financial year and, if necessary, updated and given to the Minister for approval.

**Clause 9. Amendment to section 23 (Application of moneys)**

This clause states that, "Subject to section 22B, the moneys of the Office shall be applied only in payment or discharge of the expenses and other obligations of the Office ..."

Section 23(2) relating to the moneys of the motor accident compensation scheme administered by the Office is omitted. Section 23(5) is inserted so that an inter-account loan or equity contribution mentioned in section 23(4) that affects the Fund must not be made without the Minister's approval.

**Clause 10. Amendment to section 25A (Reimbursement of certain motor accidents scheme expenses)**

Replaces the 'Reimbursement of certain motor accidents scheme expenses' heading with 'Reimbursement of MAC expenses'.

This clause omits reference to the "motor accident scheme established by the *Motor Accidents*

*(Compensation) Act*” in section 25A(1) and substitutes reference to the “MAC scheme”. Any amount determined under section 25A(1) must be paid by the Office from the Fund to the Central Holding Authority.

**Clause 11.                    Amendment to section 26 (Payment of surplus moneys to the Territory)**

Replaces the ‘Payment of surplus moneys to the Territory’ heading with ‘Payment of surplus moneys to Territory’.

With respect to the Minister being able to direct how excess moneys can be distributed, this clause omits reference to ‘motor accident compensation scheme administered by the Office’ and substitutes a reference to ‘the Fund’.

**Clause 12.                    Amendment to section 26 (Audit and annual report)**

This clause states that the Office must produce a report for the Office as a whole; a separate report for the commercial business; and, a separate report for the MAC business.

**Clause 13.                    Amendment to section 28 (Office to pay taxes)**

This clause updates references to income tax equivalent payments the Office pays to the Central Holding Authority to remove references to the redundant Commonwealth wholesale sales tax regime.

**Clause 14.                    Amendment to section 30 (Territory to guarantee contracts of insurance and deposit, &c.)**

Replaces the ‘Territory to guarantee contracts of insurance and deposit, &c.’ heading with ‘Guarantee by Territory’.

This clause inserts a specific reference to the Territory guaranteeing the liabilities of the Office in relation to the MAC business.

**Clause 15. Amendment to section 30A (Fee for guarantee)**

This clause states that the fee for guarantee only relates to guarantee in sections 30(1)(a) and 30(1)(b), not the guarantee in respect of the Fund (that is section 30(1)(c)).

**Clause 16. Amendment to section 33A (Treasurer's Determination)**

This clause makes clear that Determinations may make specific provisions for the commercial business and the MAC business.

**Clause 17. Amendment to section 33B (Prudential supervision fee)**

This clause makes clear that the prudential supervision fee may relate to the commercial business; or the MAC business; or both the commercial business and the MAC business.

**Clause 18. New Part VII**

This clause inserts Part VII – Transitional Matters for *Territory Insurance Office Amendment Act 2006*.

**Clause 37. Application of amendments**

The application of provisions in this clause are designed such that:

- the reporting requirements apply for the entirety of the 2006-07 financial year; and,
- the appointment of the new MAC member can only be made prospectively.

**Clause 38. Period for preparation of documents**

The application of provisions in this clause are designed such that there are suitable transition periods for the development of the various documents and reports required to be provided by TIO under the amendments.