

NORTHERN TERRITORY OF AUSTRALIA

MOTOR ACCIDENT (COMPENSATION) RATES OF BENEFIT
AMENDMENT REGULATIONS 2007

Subordinate Legislation No. 13 of 2007

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Motor Accident (Compensation) Rates of Benefit Amendment Regulations 2007

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Motor Accident (Compensation) Act*.

Dated 16 May 2007.

E. J. EGAN
Administrator

By His Honour's Command

P. R. HENDERSON
Minister for Employment, Education and Training
acting for the
Treasurer

* Notified in the *Northern Territory Government Gazette* on 23 May 2007.

1. Citation

These Regulations may be cited as the *Motor Accident (Compensation) Rates of Benefit Amendment Regulations 2007*.

2. Regulations amended

These Regulations amend the *Motor Accident (Compensation) Rates of Benefit Regulations*.

3. Repeal and substitution of regulations 1, 2, 3A and 4A

Regulations 1, 2, 3A and 4A

repeal, substitute

1. Citation

These regulations may be cited as the *Motor Accident (Compensation) Regulations*.

2. Commencement

These regulations come into operation on 1 July 2007.

3. Definitions

In these regulations:

"CPI" means the All Groups Consumer Price Index, being the weighted average of the 8 capital cities, published by the Australian Statistician;

"(indexed)" indicates that the sum of money to which it relates is to be adjusted to reflect changes in the CPI between 1 July 2007 and 1 July in the financial year in which the relevant motor accident occurred.

4. Guides to the evaluation of permanent impairment

The most recent edition of the American Medical Association Guides to the Evaluation of Permanent Impairment must be available for inspection (in the form of a physical copy or on computer), during ordinary business hours, at the Board's office in Darwin.

5. Commutation of compensation for loss of earning capacity

(1) The Board may commute a liability to pay compensation for loss of earning capacity.

- (2) A commutation may be made under this regulation:
 - (a) on the application of the eligible person; or
 - (b) if the amount of the compensation to which the eligible person is entitled does not justify, in the Board's opinion, the administrative cost of making periodic payments.

(3) In determining the amount for which an entitlement to future benefits should be commuted, a discount rate of 6% will be applied.

(4) The payment of the amount assessed on commutation discharges the Office from further liability to pay benefits of the kind to which the commutation relates.

(5) However, the Board has a discretion to re-open a commutation under this regulation if:

- (a) the commutation was made without the eligible person's consent; and
- (b) there has been a substantial deterioration of the eligible person's medical condition since the date of the commutation.

6. Commutation of benefits where eligible person resides or is about to reside outside Australia

- (1) This regulation applies to statutory benefits of the following kinds:
 - (a) compensation for loss of earning capacity under section 13 of the Act;
 - (b) compensation for the reasonable cost of medical and rehabilitation services under section 18 of the Act;
 - (c) long-term benefits for attendant care services under section 18B of the Act.

(2) The Board may, on application by an eligible person, commute a liability to pay statutory benefits to which this regulation applies if satisfied that:

- (a) the eligible person is ordinarily resident outside Australia or is about to leave Australia to take up residence, for a substantial period, outside Australia; and
- (b) the eligible person is entitled to benefits of the kind for which commutation is sought; and

- (c) the eligible person has suffered a permanent impairment as a result of the injury received in, or as a result of, the relevant motor accident and the degree of the permanent impairment (as assessed by the Board) is 15% or more; and
 - (d) the eligible person's medical condition has stabilised to a point where it is possible to predict the future course of the condition (i.e. the nature and extent of future amelioration or deterioration of the condition) with reasonable certainty.
- (3) For determining the amount for which an entitlement to future benefits should be commuted:
- (a) the amount of the future benefits will be assessed on the assumption that the eligible person will remain in Australia; and
 - (b) the probable future amelioration or deterioration of the eligible person's medical condition will be taken into account (and, for this purpose, it will be assumed that the eligible person will receive the benefit of rehabilitative services equivalent to the best that would have been available to the eligible person if he or she had remained in Australia); and
 - (c) a discount rate of 6% will be applied.
- (4) The total amount for which statutory benefits are commuted under this regulation cannot exceed \$1million (indexed) and the component of such an amount representing compensation for the reasonable cost of medical and rehabilitation services cannot exceed \$300 000 (indexed).
- (5) The payment of the amount assessed on commutation discharges the Office from further liability to pay benefits of the kind to which the commutation relates.