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**MOTOR ACCIDENTS (LIABILITIES AND  
COMPENSATION) ACT 1974**

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**MOTOR ACCIDENTS (LIABILITIES AND  
COMPENSATION)**

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**No. 40 of 1974**

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**AN ACT to amend the Motor Accidents (Liabilities and Compensation) Act 1973 and the Motor Accidents (Liabilities and Compensation) (Temporary Provisions) Act 1974.**

**[14 October 1974]**

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**PART I**

**PRELIMINARY**

**1** This Act may be cited as the *Motor Accidents (Liabilities and Compensation) Act 1974*. Short title.

Interpretation.

**2** In this Act the *Motor Accidents (Liabilities and Compensation) Act 1973* is referred to as the Principal Act, and the *Motor Accidents (Liabilities and Compensation) (Temporary Provisions) Act 1974* is referred to as the Temporary Act.

## PART II

## AMENDMENTS OF PRINCIPAL ACT

Interpretation  
of Principal  
Act.

**3** Section 2 of the Principal Act is amended—

(a) by omitting from subsection (1) the definition of “appointed day” and substituting therefor the following definition:—

“ ‘appointed day’ means 1st December 1974;”;

(b) by inserting in subsection (1) after that definition the following definition:—

“ ‘appropriate participating insurer’, when used in relation to a motor vehicle, means the participating insurer in respect of that motor vehicle pursuant to section 33A;”;

(c) by omitting from that subsection the definition of “nominated insurer”.

Finances of the  
Board.

**4** Section 8 of the Principal Act is amended by omitting from subsection (9) the words “one hundred thousand dollars” and substituting therefor “\$200 000”.

Participating  
insurers.

**5** Section 10 of the Principal Act is amended—

(a) by omitting from subsection (1) the words “in accordance with regulations made for the purposes of this section”; and

(b) by omitting subsections (3) and (4) and substituting therefor the following subsections:—

“(3) Without prejudice to the generality of the provisions of subsection (1) any agreement made thereunder may authorize the participating insurer the party thereto to exercise on behalf of the Board any of its functions and may provide for the making of payments by the Board to that insurer in consideration of its so exercising those functions.

“(4) Where in pursuance of an agreement entered into under this section a participating insurer exercises any of the functions of the Board, anything done by the insurer in the exercise of those functions has, subject to the terms of the agreement, the like effect as if it were done by the Board.

“(5) Regulations may be made under this Act with respect to the exercise by the Board of its powers under this section.”

**6** Section 11 of the Principal Act is amended by inserting in subsection (2), after the words “Part V”, the words “and the payments referred to in section 10 (3),”.

The Premiums Board.

**7** Section 14 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

General liability of Board in respect of motor accidents.

“(4A) Where the Board is under this section bound to indemnify a person in respect of a liability, it has, to the exclusion of that person, the like rights of contribution or indemnity in respect of that liability as were vested in that person.”

**8** Section 15 of the Principal Act is amended by omitting from subsection (4) the words “pending appeal” and substituting therefor the words “by order of a court”.

Discharge of obligations by the Board.

**9** Section 16 of the Principal Act is amended by omitting from subsection (2) the word “six” and substituting therefor the word “three”.

Special provisions as to unidentified vehicles, &c.

**10** Section 17 of the Principal Act is amended by inserting at the end thereof the following subsection:—

Negotiations and settlements affecting liability of the Board.

“(4) In exercising its powers under this section in respect of any liability the Board shall be deemed to be acting with the consent and authority of the person whom it is bound to indemnify in respect of that liability, and neither the Board nor any of its servants or agents are liable in defamation in respect of any admission or statement made in good faith in the exercise of those powers.”

**11** Section 18 of the Principal Act is amended—

Recovery by Board from owner or driver in certain cases.

(a) by omitting from subsection (1) the words “no cover was afforded under Part V to the use of the vehicle at the time of the accident giving rise to the liability” and substituting

therefor the words “ no premium had been paid for the use of the motor vehicle at the time of the accident giving rise to the liability, or a premium had not been paid for its use in the circumstances or under the conditions in which it was being used at that time,”; and

- (b) by omitting subsection (5) and substituting therefor the following subsection:—

“(5) Notwithstanding anything in the foregoing provisions of this section, where, in respect of any liability to which this section applies, the Board has recovered any sum by way of contribution or indemnity the amount otherwise recoverable by the Board under this section from the person by whom the liability was incurred is reduced by the amount so recovered by way of contribution or indemnity, and the rights of contribution or indemnity referred to in subsection (4) shall be deemed to have been discharged to the extent that they have been discharged by payments to the Board pursuant to section 14 (4A).”.

Duties of registered owner, &c.

**12** Section 21 of the Principal Act is amended—

- (a) by omitting from subsection (1) the word “ registered ”;
- (b) by omitting from that subsection the word “ nominated ” and substituting therefor the words “ appropriate participating ”;
- (c) by omitting subsection (2);
- (d) by omitting from subsection (3) the word “ nominated ” and substituting therefor the words “ appropriate participating ”; and
- (e) by omitting from subsection (4) the word “nominated” and substituting therefor the word “ participating ”.

Actions for damages in respect of third party liabilities.

**13** Section 22 of the Principal Act is amended by omitting from subsection (2) the word “ proportion ” (wherever occurring) and substituting therefor, in each case, the word “ portion ”.

Exclusion from scheduled benefits.

**14** Section 24 of the Principal Act is amended by omitting paragraph (e) of subsection (1).

**15** Section 25 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

Payment of scheduled benefits to infants.

“(1A) For the purposes of subsection (1) an order of the Supreme Court may be sought by an informal application on affidavit, and any such application may be heard in chambers.”.

**16** Section 29 of the Principal Act is amended by omitting subsection (1) and substituting therefor the following subsection:—

Prohibition on use of motor vehicle without payment of premium, &c.

“(1) No person shall use, or cause or allow any other person to use, a motor vehicle in a public street unless a premium has been paid for its use at the time, and in the circumstances and under the conditions, in which it was so used.

Penalty: \$500 or 6 months’ imprisonment, or both.”.

**17** Section 30 of the Principal Act is amended—

Premiums for use of motor vehicles.

(a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) In accordance with this Part premiums are payable for the use of vehicles, and, subject to this Act, those premiums shall be paid over to the Board.”; and

(b) by omitting subsections (4), (5), (6), and (7) and substituting therefor the following subsections:—

“(4) The amount of the premium required to be paid for the use of a motor vehicle shall be prescribed under this section with reference to the period of its use and in any particular case may be so prescribed by reference to all or any of the following matters, that is to say:—

- (a) The type or class of the motor vehicle; or
- (b) The conditions to be complied with in relation to its use.

“(5) The conditions referred to in subsection (4) (b) may relate to all or any of the following matters, that is to say:—

- (a) The purposes for which, or the circumstances in which, the motor vehicle is used; or
- (b) Any other circumstances pertaining to, or affecting, the motor vehicle, or the registered owner thereof, or the person by whom it is used.”.

**18** Sections 32 and 33 of the Principal Act are repealed and the following sections are substituted therefor:—

Effect of  
payment of  
premiums.

“32—(1) Where a premium is paid in respect of a motor vehicle that premium is paid for the use of that vehicle during a specified period, and may be so paid for its use only so long as specified conditions are complied with.

“(2) Where a premium has been paid for the use of a vehicle during a period a portion of that premium may, as prescribed, be refunded, and, if that portion is so refunded, a premium shall be deemed not to have been paid for the use of that vehicle for the remainder of that period.

“(3) Where a premium has been paid for the use of a vehicle during a period an additional premium may, as prescribed, be paid, or a portion of the premium may, as prescribed, be refunded, in respect of a variation during the remainder of the period of the conditions in relation to which the premium was originally paid; and, if an additional premium is so paid, or a portion of the premium is so refunded, the premium paid for the use of that vehicle shall, as respects the remainder of that period, be deemed to have been paid for the use of the motor vehicle so long as the conditions as so varied are complied with.

“(4) Where a premium is paid for the use of a motor vehicle as a motor vehicle of a particular type or class that premium shall be deemed to have been paid for the use of that motor vehicle only so long as it remains a vehicle of that type or class; and that condition shall be deemed to be a condition that is referred to in the foregoing provisions of this section.

“(5) Without prejudice to the provisions of subsection (4), the conditions that may be specified for the purposes of this section are those prescribed for the purposes of section 30 in relation to which the amount of a premium is determined.

“(6) References in this section to the variation of a condition shall be construed as including references to the removal or addition of a condition, and the substitution of one condition for another.

Payment, &c.,  
of premiums.

“33—(1) Subject to this section, premiums shall be paid as prescribed.

“(2) Regulations under this Act may—

(a) prescribe the persons to whom, and the manner in which, premiums may be or are to be paid;



- (b) prescribe the persons by whom, and the manner in which, any refunds of portions of premiums are to be or may be made; and
- (c) impose duties on any person accepting a premium in relation to his acceptance of the premium.

“(3) Regulations under this section may impose powers and duties on the Transport Commission or any person having power to administer any of the provisions of the *Traffic Act* 1925 or any person authorized by the Commission to act on its behalf for the purposes of this Act.

“(4) There shall be recorded as prescribed—

- (a) the payment of any premiums and the refund of the portions of any premiums;
- (b) the motor vehicle in respect of which any such payment or refund is made;
- (c) the period for which any such premium is paid and the conditions attaching pursuant to section 32 to the use of the motor vehicle for which the premium is paid;
- (d) the participating insurer in respect of any motor vehicle for the use of which a premium is paid; and
- (e) such other particulars with respect to the matters referred to in the foregoing provisions of this section as may be prescribed.

“(5) Regulations under this Act may prescribe the extent to which any records referred to in subsection (4) or any copies thereof are evidence of the matters appearing therein.

“(6) Regulations under this Act may provide for the inspection of, and the obtaining of copies of, any of the records made or kept for the purposes of subsection (4), and for the payment of fees in respect thereof.

“33A—(1) Except as otherwise prescribed, where a premium is under this Act paid to a participating insurer or to some person receiving the premium on his behalf, that participating insurer is the participating insurer in respect of the motor vehicle for the use of which the premium is paid; and, in any other case, the participating insurer in respect of a motor vehicle is such participating insurer as may be prescribed or as may be determined as prescribed.

Determination  
of insurers  
in respect of  
motor vehicles.

“(2) Where, by reason of any person ceasing to be a participating insurer or otherwise, there would, apart from this subsection, be no participating insurer in respect of that motor vehicle at any time

during the period for which a premium has been paid for its use, the participating insurer in respect of that motor vehicle shall be such participating insurer as may be prescribed or as may be determined as prescribed.”.

Consequential amendments.

**19** Section 35 of the Principal Act is amended by adding at the end thereof the following subsection:—

“(3) Nothing in this section prejudices or affects any rights or liabilities that have arisen or may arise from an accident occurring before the appointed day, and in relation to any such accident the Acts referred to in subsection (1) shall continue to have effect as if this section had not been enacted.”.

Correction to Third Schedule.

**20** The Third Schedule to the Principal Act is amended by omitting from paragraph 1 of the amendments to the *Traffic Act* 1925 the symbol “(7)” and substituting therefor the symbol “(8)”.

### PART III

#### AMENDMENTS OF TEMPORARY ACT

**21** Section 2 of the Temporary Act is repealed and the following sections are substituted therefor:—

Construction of Principal Act.

“ 2 This Act shall be construed as one with the Principal Act.

Board as insurer under the *Traffic Act* 1925.

“ 2A On and after 1st October 1974 the Board shall be an insurer for the purposes of Part VII of the *Traffic Act* 1925; and shall, accordingly, be deemed to have power to enter into all such contracts, incur all such liabilities, and do all such other things as may be necessary for it to exercise the functions of an insurer under that Part of that Act.”.

Relief of third party insurers.

**22** Section 3 of the Temporary Act is amended—

(a) by omitting from subsection (1) the words “ those Acts ” and substituting therefor the words “ that Act ”; and

(b) by adding at the end of subsection (2) the words “, and any sum paid to the Board under this section in respect of a policy of insurance shall be deemed to be a premium paid to the Board under that policy.”.

**23** After section 3 of the Temporary Act the following section is inserted:—

“ 3A—(1) The expenses incurred, and the sums received, by the Board pursuant to sections 2A and 3 shall be disregarded for the purposes of section 11 (3) of the Principal Act.

Supplementary provisions as to liabilities of Board under *Traffic Act* 1925.

“(2) Any sum required by subsection (4) of section 31 of the Principal Act to be defrayed in or towards the reimbursement of the losses incurred by the Board by reason of its being an insurer under Part VII of the *Traffic Act* 1925 shall be paid out of the separate account referred to in that section and dealt with by the Board as if it were such a sum as is referred to in section 8 (1) (b) of the Principal Act.”.