

## No. 90 of 1984

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SCHEDULE 1

AMENDMENT CONSEQUENTIAL  
UPON THE ENACTMENT OF THE  
TASMANIAN STATE SERVICE ACT  
1984

SCHEDULE 2

AMENDMENT CONSEQUENTIAL  
UPON THE ENACTMENT OF THE  
TASMANIAN STATE SERVICE ACT  
1984





## No. 90 of 1984

**[Royal Assent 30 November 1984]**

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:—

**1**—This Act may be cited as the *Motor Accidents (Liabilities and Compensation) Amendment Act 1984*. Short title.

**2**—(1) Except as provided by subsections (2) and (3), this Act shall commence on the day on which it receives the royal assent.

(2) Where this Act receives the royal assent before the day fixed under section 2 (2) of the *Tasmanian State Service (Miscellaneous Amendments) Act* 1984, section 17 (2) and Schedule 2 shall be repealed on the day that this Act receives the royal assent.

(3) Where this Act receives the royal assent on or after the day fixed under section 2 (2) of the *Tasmanian State Service (Miscellaneous Amendments) Act* 1984, sections 9 and 17 (1) and Schedule 1 shall be repealed on the day that this Act receives the royal assent.

Principal Act.

**3**—In this Act, the *Motor Accidents (Liabilities and Compensation) Act* 1973\* is referred to as the Principal Act.

Application of this Act.

**4**—The amendments made by sections 10 and 16 apply only to claims arising from accidents which occurred on or after the day on which this Act receives the royal assent.

Amendment of section 2 of Principal Act (Interpretation).

**5**—Section 2 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “ medical benefit ”:—

“ motor registry ” means any place appointed under the *Traffic Act* 1925 for the registration of motor vehicles and the licensing of drivers of motor vehicles by the *Traffic Act* 1925;

(b) by omitting the definition of “ Premiums Board ”.

Insertion in Principal Act of new section 7B.

**6**—The Principal Act is amended by inserting the following section before section 8:—

Disclosure of information.

7B—(1) Subject to this section, a person who is or has been a member of the Board or an employee of the Board shall not, directly or indirectly, disclose to any other person information obtained by him in the exercise of any powers conferred, or duties imposed, on him by this Act, or by virtue of his employment under, or for the purposes of, this Act.

Penalty: \$1 000.

(2) Subsection (1) does not operate to prevent the disclosure of information where that disclosure—

(a) was made in connection with the administration or execution of this Act;

\* No. 71 of 1973. For this Act, as amended to 1st January 1980, see the continuing Reprint of Statutes. Subsequently amended by Nos. 32 and 96 of 1980, No. 10 of 1982, and No. 29 of 1984.

(b) was ordered by a court, or by any other body or person authorized by law to examine witnesses, in the course of, and for the purpose of, the hearing or determination by that court, body, or person of any matter or thing; or

(c) relates to a person, and was made with the approval in writing of that person.

(3) A person who, having as a member of the Board or an employee of the Board obtained or received any information in the course of, or for the purpose of, a claim under this Act, takes advantage of knowledge obtained from that information to benefit himself or any other person is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 6 months, or both.

(4) In this section—

(a) a reference to information includes a reference to the contents of a record; and

(b) a reference to the disclosure of information includes a reference to the delivery or giving to a person of that record or a copy of it or any part of it.

**7**—The heading to Division II of Part II of the Principal Act is amended by omitting “*The Premiums Board*” and substituting “*Calculation of premiums*”. Amendment of heading to Division II of Part II.

**8**—Section 11 of the Principal Act is repealed and the following section is substituted:— Substitution of section 11 of Principal Act.

11—(1) The Board shall, not later than—

(a) 30th September 1985; and

(b) 30th September in each period of 12 months thereafter,

submit a report to the Minister on the adequacy and suitability of the premiums prescribed under Part V and the payments referred to in section 10 (3), together with such recommendations in relation to the amounts of those premiums as it considers appropriate. Calculation of premiums.

(2) In the discharge of its duties under subsection (1), the Board shall make such recommendations as it considers necessary after obtaining independent actuarial advice to ensure that, as far as is practicable, taking one year with another, the income of the Board is sufficient, but no more than sufficient, to meet its liabilities.

(3) The Board may inquire into any matter in which it considers it necessary to inquire for the purpose of the proper exercise of its functions under this Division and Division 2 of Part II of the *Evidence Act* 1910 applies in respect of any such inquiry as if the Board were a board of inquiry referred to in section 14 of that Act appointed by its instrument of appointment to inquire into that matter.

Amendment of  
section 13 of  
Principal Act  
(Supplementary  
provisions as  
to Tribunal).

**9**—Section 13 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “ of the Premiums Board or ”;
- (b) by omitting subsection (2) and substituting the following subsection:—

(2) The Minister may make arrangements for the appointment of a secretary of the Tribunal and for the provision for the Tribunal of such accommodation and assistance as it may require.

Amendment of  
section 18 of  
Principal Act  
(Recovery by  
Board from  
owner or  
driver in  
certain cases).

**10**—Section 18 of the Principal Act is amended by inserting the following subsection after subsection (3):—

(3A) Where the Board has made payments in or towards the discharge of its obligations under this Part in respect of the death of, or bodily injury to, a person, and the death or bodily injury resulted from an accident which would, but for this Act, have given rise to a liability in some other person but was not attributable to, and did not arise out of the use of, a motor vehicle by that person, the Board may recover the amount of those payments from that person.

**11**—Section 21 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 21 of Principal Act (Duties of registered owner, &c.).

(2) In any proceedings for an offence under subsection (1), a certificate purporting to be signed by an employee of the Board authorized by it to sign that document certifying that, in respect of a specified accident, no participating insurer, the Board, nor its agent, was given notice of the matters referred to in subsection (1) by a specified date by the person in respect of whom the proceedings were commenced is admissible under this Act and shall, until the contrary is established, be evidence of the matters so specified.

**12**—Section 24 of the Principal Act is amended by inserting the following subsections after subsection (3):—

Amendment of section 24 of Principal Act (Exclusions from scheduled benefits).

(4) Except as provided by section 16 (2), a claim for the payment of scheduled benefits under Part II of Schedule 1 for bodily injury suffered as a result of an accident shall not, subject to subsection (5), be brought after the expiration of a period of 3 years from the date on which the accident occurred.

(5) Notwithstanding subsection (4), on application being made by the person making the claim, the Tribunal, after hearing such of the persons likely to be affected by the claim as it thinks fit, may, if it thinks that in all the circumstances it is just and reasonable to do so, extend the period limited for the making of the claim for such period as it thinks necessary, but so that the period within which the claim may be made does not exceed a period of 6 years from the date of the accident.

(6) The powers conferred on the Tribunal by subsection (5) may be exercised notwithstanding that the period limited by subsection (4) for the making of the claim may have expired.

**13**—The Principal Act is amended by inserting the following section after section 28 in Part IV:—

Insertion in Principal Act of new section 28A.

28A—(1) Where scheduled benefits have been paid by way of periodical allowance to a person by the Board under this Act for a period of not less than 12 months, the liability of the Board to continue the payment of those benefits may be redeemed by the payment of—

Redemption of periodical payments.

- (a) where the payments have been made in respect of an infant, such lump sum as may be determined by the Supreme Court upon application by the Board or the person to whom the benefits have been paid; or
- (b) where the payments have been to a person who has attained full age, such lump sum as may be determined by agreement or by the Supreme Court upon application by the Board and the person to whom the benefits have been paid.

(2) Where the Supreme Court makes a determination under subsection (1), it may order that the lump sum be invested or otherwise applied for the benefit of the person in respect of whom the benefits have been paid.

Amendment of section 29 of Principal Act (Prohibition on use of motor vehicle without premium cover, &c.).

**14**—Section 29 of the Principal Act is amended by inserting the following subsection after subsection (1B):—

(1C) A person is not guilty of an offence under subsection (1) if he proves to the satisfaction of the court before which he is prosecuted for the offence that at the time the motor vehicle was being used—

- (a) it was being taken by the most direct route to a motor registry, weighbridge, or such other place as may be required for the purposes of registration of the motor vehicle; and
- (b) it was necessary that the motor vehicle be driven to a place referred to in paragraph (a) for the purposes of registration.

Amendment of section 30 of Principal Act (Premiums for compulsory cover).

**15**—Section 30 (3) of the Principal Act is amended by omitting “Where, within a period of 12 months referred to in subsection (2) of section 11, a report is submitted to the Minister under that subsection by the Premiums Board in accordance with that subsection” and substituting “Where a report is submitted to the Minister by the Board in accordance with section 11 (1)”.

Amendment of Schedule 1 to Principal Act.

**16**—(1) Part I of Schedule 1 to the Principal Act is amended as follows:—

- (a) by inserting in paragraph 3 (1) “and the parties to the marriage are cohabiting,” after “subsisting”;



- (b) by omitting from paragraph 3 (1) (b) “both or either of”, where twice occurring;
- (c) by inserting the following subparagraphs after paragraph 5 (1):—

(1A) Notwithstanding subparagraph (1) (a) (i), where a marriage has subsisted for more than 12 months and—

- (a) the spouse who is the head of household dies as the result of an accident;
  - (b) the spouses have not cohabited for a continuous period of 12 months immediately before the date on which the accident occurred; and
  - (c) during that period the other spouse was not dependent on the head of household for financial support,
- the other spouse shall be deemed not to be a dependant of the head of household.

(1B) For the purposes of subparagraph (1A), where cohabitation has been interrupted by temporary periods of living separately and apart because of circumstances not related to their cohabitation as spouses, those interruptions shall be disregarded.

(2) Part II of Schedule 1 to the Principal Act is amended by inserting in paragraph 1 (1) “ within the Commonwealth ” after “ required by him ”.

(3) Part IV of Schedule 1 to the Principal Act is amended as follows:—

- (a) by inserting in paragraph 2 (2) (b) “ in equal shares ”  
after “ household ”;
- (b) by omitting paragraph 4.

(4) Part V of Schedule 1 to the Principal Act is amended as follows:—

- (4) by inserting in paragraph 2 (3) (b) “, falling within the prescribed period,” after “such other periods”;

(b) by inserting the following subparagraph in paragraph 2 after subparagraph (7):—

(8) For the purposes of this paragraph, “the prescribed period” is a period of 156 weeks beginning at the expiration of the period referred to in paragraph 2 (3) (a) or such greater period as may be prescribed in the regulations.

(c) by inserting in paragraph 2A (2) (b) “, falling within the prescribed period,” after “such other periods”;

(d) by omitting subparagraph (4) of paragraph 2A and substituting the following paragraph:—

(4) For the purposes of this paragraph—

“business” includes any profession, trade, employment, vocation, or calling, but does not include occupation as an employee;

“the prescribed period” is a period of 156 weeks beginning at the expiration of the period referred to in paragraph 2A (2) (a) or such greater period as may be prescribed in the regulations.

(e) by omitting subparagraph (1) of paragraph 4 and substituting the following subparagraph:—

(1) No disability allowance is payable for—

(a) the period of 7 days beginning on the day of the accident; and

(b) any period while the injured person is outside the Commonwealth.

**17—**(1) Schedule 1 has effect.

(2) Schedule 2 has effect.

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## Section 17 (1)

Schedule 1 to the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* is amended by omitting item 5 relating to the *Motor Accidents (Liabilities and Compensation) Act 1973* and substituting the following item:—

(2) The Minister may, with the approval of the Head of an Agency, within the meaning of the *Tasmanian State Service Act* 1984, appoint an employee employed in that Agency to be secretary of the Tribunal, and an employee appointed secretary of the Tribunal may hold that office in conjunction with his position in the State Service.

(2A) The Minister may make arrangements to render available to the Tribunal such accommodation and assistance as it may require.

## SCHEDULE 2

Section 17 (2)

AMENDMENT CONSEQUENTIAL UPON THE ENACTMENT OF THE TASMANIAN  
STATE SERVICE ACT 1984

Amendment of  
section 13 of  
Principal Act  
(Supplementary  
provisions as  
to Tribunal).

Section 13 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “ of the Premiums Board or ”;
- (b) by omitting subsections (2) and (2A) and substituting the following subsections:—

(2) The Minister may, with the approval of the Head of an Agency, within the meaning of the *Tasmanian State Service Act* 1984, appoint an employee employed in that Agency to be secretary of the Tribunal, and an employee appointed secretary of the Tribunal may hold that office in conjunction with his position in the State Service.

(2A) The Minister may make arrangements to render available to the Tribunal such accommodation and assistance as it may require.