

Transport Accident Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY (Clauses 1–9)

This Part contains provisions relating to the purpose and commencement of the Bill, the interpretations and the objects of the Bill.

PART 2—THE TRANSPORT ACCIDENT COMMISSION (Clauses 10–33)

This Part provides for the establishment of the Transport Accident Commission giving the constitution of the Board of Management of the Commission and the functions, powers and certain administrative procedures of the Commission.

The Part also provides for the appointment of officers and employees of the Commission and empowers the Commission to appoint fund management agents to carry out certain functions on behalf of the Commission.

Finally the Part establishes the Transport Accident Fund and contains the financial and accounting provisions concerning the Commission.

PART 3—COMPENSATION

Division 1—Application of Part (Clause 34)

This Division provides that Part 3 will apply in respect of transport accidents occurring on or after the day on which this Division comes into operation.

Division 2—Entitlement to Compensation (Clauses 35–43)

This Division establishes the basis for entitlement to compensation under the Bill.

The Division excludes certain persons who have committed nominated offences from entitlement to certain compensation. Motor sport accidents are also excluded from compensation.

Finally the Division provides that the injured person will not be compensated for the first five days loss of earnings and the first \$250 of medical expenses in relation to any claim.

Division 3—Benefits (Clauses 44–62)

This Division establishes the compensation payable under the Bill to persons injured as a result of a transport accident, to a surviving spouse and to children who are orphaned as a result of a transport accident.

During the first eighteen months after the accident, accident compensation is payable to earners in respect of their loss of earnings. After this period the Bill provides for compensation to be payable according to the degree of impairment suffered and the injured person's loss of earning capacity. Compensation is also payable for hospital, medical and like expenses incurred.

The Division also provides specific provisions in relation to compensation for minors, a surviving spouse and orphaned children.

Finally this Division provides for indexation of benefits.

PART 4—CLAIMS PROCEDURE

Division 1—Application of Part (Clause 63)

This Division provides for the application of Part 4 in respect of claims for compensation.

Division 2—Claims under this Act (Clauses 64–76)

This Division sets out the procedure for making and processing claims for compensation.

Division 3—Appeals (Clauses 77–92)

This Division sets out the procedure for the making of appeals from decisions of the Commission.

The Division provides for the appointment of Hearings Officers who will be independent of the Commission. Hearings Officers, on application will review decisions of the Commission. A person aggrieved by the decision of a Hearings Officer may have the matter referred to the Administrative Appeals Tribunal.

PART 5—LEGAL RIGHTS OUTSIDE THIS ACT (Clauses 93–98)

This Part prevents the recovery of damages in proceedings in respect of an injury or death as a result of a transport accident occurring after Part 3 commences.

The Division also provides indemnity in respect of common law liability that may arise outside of Victoria. Certain recovery provisions enabling the Commission to recover from third parties are also provided.

PART 6—TRANSPORT ACCIDENT CHARGES (Clauses 99–106)

This Part provides for the payment of transport accident charges.

PART 7—OFFENCES AND PROCEEDINGS (Clauses 107–111)

This Part contains the general offences and penalty provisions.

PART 8—GENERAL (Clauses 112–123)

This Part contains general provisions which apply to the whole of the Bill. It contains provisions concerning the payment of a proportion of penalties for certain driving offences to be paid to the Commission.

It also contains provisions concerning reciprocal agreements with other States, access to Police records, secrecy which forbids disclosure of personal records without consent in prescribed circumstances and other general provisions including the ability to make regulations.

PART 9—ACCIDENTS BEFORE COMMENCEMENT OF PART 3

Division 1—Motor Accident Benefits (Clauses 124–141)

This Division contains relevant provisions of the *Motor Accidents Act* 1973 which will have continued application after this Bill commences.

Division 2—Third Party Insurance (Clauses 142–162)

This Division contains relevant provisions of Part V. of the *Motor Car Act 1958* which will continue to have application after the commencement of this Bill.

Division 3—Awarding of Damages (Clauses 163–166)

This Division applies to the award of damages made after the date of Royal Assent of the Bill. It provides specific provisions concerning the discount rate applicable to certain awards of damages, the award of damages in respect of services of a domestic nature or relating to nursing and attendance and the payment of interest.

PART 10—TRANSITIONAL (Clauses 167–168)

This Part provides that certain monies are to form part of the Transport Accident Fund. It also provides that the Bill will not affect or limit certain existing rights.

PART 11—CONSEQUENTIAL AMENDMENTS (Clauses 169–171)

This Part repeals the *Motor Accidents Act 1973* and Part V. of the *Motor Car Act 1958* and makes consequential amendments to the *Transport Act 1983*, the *Accident Compensation Act 1985*, the *Motor Car Act 1958* and the *Crimes Act 1958*.

