

Queensland



Personal Injuries Proceedings Act 2002

PERSONAL INJURIES PROCEEDINGS REGULATION 2002

**Reprinted as in force on 9 April 2003
(includes commenced amendments up to 2003 Act No. 16)**

Reprint No. 1C

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This regulation is reprinted as at 9 April 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Queensland



PERSONAL INJURIES PROCEEDINGS REGULATION 2002

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PERSONAL INJURIES PROCEEDINGS REGULATION 2002

[as amended by all amendments that commenced on or before 9 April 2003]

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Personal Injuries Proceedings Regulation 2002*.

2 Commencement

This regulation commences on 1 August 2002.

PART 2—CLAIMS

3 Notice of claim—information required for Act, s 9(2)(a)

(1) This section states the information required for section 9(2)(a) of the Act.

(2) The following particulars about the injured person are required—

- (a) the injured person's full name, address and telephone number;
- (b) any other name by which the injured person is, or has been, known;
- (c) the injured person's date of birth;
- (d) the injured person's gender;
- (e) the name of any educational institution attended by the injured person;

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- (f) details of the injured person's consumption of alcohol or drugs during the 12 hours before the incident.

(3) The following particulars about the incident alleged to have caused the personal injury to which the claim relates are required—

- (a) the date, time and place of the incident;
- (b) details of how the incident happened;
- (c) if appropriate, a diagram showing, to the best of the claimant's knowledge, the scene of the incident;
- (d) the names, addresses and, if known, telephone numbers of any witnesses to the incident;
- (e) the names and addresses and, if known, telephone numbers of any other persons able to provide relevant particulars about the incident;
- (f) if an emergency response entity or an investigative entity attended the incident—
 - (i) the name of the entity that attended the incident; and
 - (ii) if known, the name of the person who attended the incident on behalf of the entity; and
 - (iii) the entity's and, if known, the person's contact details; and
 - (iv) if known, any reference number assigned to the incident by the entity;
- (g) the name, address and, if known, telephone number of the person or persons who were, in the claimant's opinion, responsible for causing the incident;
- (h) the reasons the claimant attributes responsibility to the person or persons;
- (i) if a protective device was available for use, the nature of the device and whether the injured person was using the device when the incident happened.

(4) The following particulars about the nature and treatment of the injured person's personal injury are required—

- (a) a description of the personal injury suffered, including how the personal injury affects the injured person at the date of the notice of claim;

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- (b) if the injured person was or is hospitalised for treatment of the personal injury, details of the hospitalisation;
 - (c) if the injured person received or is receiving medical treatment for the personal injury, details of the treatment and the name and address of the treatment provider;
 - (d) if the injured person received or is receiving rehabilitation for the personal injury, details of the rehabilitation and the name and address of the rehabilitation provider;
 - (e) details of any disability suffered by the injured person from the personal injury if—
 - (i) the disability is relevant to the assessment of the extent of the personal injury; or
 - (ii) the disability or its symptoms lasted for 4 weeks or more;
 - (f) if the personal injury caused by the incident exacerbated a pre-existing injury or medical condition, details of how the personal injury exacerbated the pre-existing injury or condition.
- (5)** The following particulars relevant to economic loss are required—
- (a) the injured person's usual occupation and, if the injured person is currently employed, the name and address of the person's employer;
 - (b) details of the injured person's employment during the 3 year period immediately before the incident, and between the date of the incident and the date of the notice of claim, including details of the injured person's income, the names of employers, the duration of employment and positions held;
 - (c) the injured person's gross income per week when the incident happened;
 - (d) full details of the nature and extent of the injured person's economic loss, as far as it can be assessed at the date of the notice of a claim;
 - (e) details of all claims made by the injured person for damages, compensation or social security benefits for a disability mentioned in subsection (4)(e);
 - (f) details of all amounts received by the injured person by way of damages, compensation or social security benefits for a disability mentioned in subsection (4)(e);

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- (g) details of all claims made by the injured person for damages, compensation or social security benefits for any personal injury, illness or disability mentioned in subsection (6)(d);
- (h) details of all amounts received by the injured person for damages, compensation or social security benefits for any personal injury, illness or disability mentioned in subsection (6)(d);
- (i) whether the injured person planned, before the incident, to change occupation, work duties, hours or earnings and if so, details of the change and the steps the injured person took to implement the change;
- (j) details of any accountant used to prepare the injured person's tax or business records during the 3 year period immediately before the incident, and between the date of the incident and the date of the notice of claim.

(6) The following particulars of a general nature are required for a claim—

- (a) if the injured person was examined by a doctor in relation to the personal injury to which the claim relates, the date of the first examination;
- (b) the date the claimant first consulted a lawyer about the possibility of making a claim;
- (c) the name, address and, if known, telephone number of any person to whom the claimant has delivered, or intends to deliver, a notice of claim in relation to the personal injury to which the claim relates;
- (d) details of any personal injury, illness or disability, in existence or sustained before the incident, that may affect the extent of the disabilities resulting from the personal injury to which the claim relates;
- (e) when the injured person returned to work or expects to return to work.

(7) If the claim is a dependency claim, the following particulars about the claimant and any dependants are required—

- (a) for the claimant—
 - (i) the claimant's full name and address; and

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- (ii) the claimant's relationship to the injured person; and
 - (iii) if the claimant was the spouse of the injured person, the date and place of their marriage or, if not married, the date on which the claimant and injured person started living together in a de facto relationship; and
 - (iv) if the claimant suffers from any serious medical condition or disability, the nature of the condition or disability; and
 - (v) the date the claimant first consulted a lawyer about the possibility of making a claim;
- (b) for each dependant, including the claimant if a dependant—
- (i) the dependant's full name and residential address; and
 - (ii) the dependant's marital status; and
 - (iii) the dependant's date of birth; and
 - (iv) the dependant's gender; and
 - (v) the dependant's relationship to the injured person; and
 - (vi) whether the dependant is a full time student; and
 - (vii) if the dependant has an independent income, the amount and source of the income; and
 - (viii) if the dependant received any financial payments or other benefits from the injured person before the incident, the average amount of the payments and how often they were received; and
 - (ix) if the dependant has applied for or received any financial payments or other benefits in relation to the incident, the source and amount of the payment and how often they were received; and
 - (x) if the dependant suffers from any serious medical condition or disability, the nature of the condition or disability.
- (8)** If the claim is a health care claim, the following particulars are also required—
- (a) a description of the medical condition for which the injured person sought treatment;

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- (b) the aspect of the treatment alleged to have given rise to the personal injury or to have exacerbated a pre-existing injury or condition;
- (c) the nature, type and severity of symptoms alleged to have arisen from the treatment;
- (d) if applicable, the names, addresses and, if known, telephone numbers of all health care providers who treated the injured person in relation to the medical condition for which treatment was sought during the three years before receiving the treatment alleged to have given rise to the personal injury;
- (e) if the injured person made a complaint to the Health Rights Commission about a person alleged to have caused the personal injury—
 - (i) the date the complaint was made to the commission; and
 - (ii) if the complaint was finalised under the *Health Rights Commission Act 1991*, brief details of how the complaint was dealt with under that Act and the date the complaint was finalised;
- (f) if the claim relates to or includes an alleged failure of the health care provider to inform or adequately inform the injured person of the risks involved in the treatment sought—
 - (i) the date, time and place of each consultation with the health care provider at which information of the risks should have been given; and
 - (ii) if written or oral information or a warning was given to the injured person by the health care provider about the treatment—
 - (A) the date and place the information or warning was given; and
 - (B) details of the information or warning including what the injured person was informed or warned about; and
 - (iii) the risks about which the injured person should have been informed or adequately informed by the health care provider;
- (g) if written or oral consent was given by the injured person to the health care provider about the treatment alleged to have given

rise to the personal injury, the date and place the consent was given;

- (h) the names, addresses and, if known, telephone numbers of all health care providers who provided the injured person with information or explanations about the personal injury or an exacerbation of a pre-existing injury alleged to have arisen from the treatment.

4 Notice of claim—authority for Act, s 9(2)(b)

For section 9(2)(b) of the Act, the records and sources of information relevant to the claim to which the person or the person's insurer is authorised to have access are—

- (a) if the personal injury exacerbated a pre-existing injury or condition—
 - (i) any records in the possession of any insurer involved in the claim for the pre-existing injury or condition relevant to the pre-existing injury or condition; and
 - (ii) any reports or clinical notes in the possession of a health care provider who treated or assessed the injured person for the pre-existing injury or condition; and
- (b) records in the possession of a department, agency or instrumentality of the Commonwealth, the State or another State administering police, transport, taxation or social welfare law relevant to an investigation of the incident alleged to have given rise to the personal injury to which the claim relates or to assessing economic loss; and
- (c) reports and clinical notes in the possession of a hospital, including a private hospital, at which the injured person received treatment relevant to the personal injury to which the claim relates; and
- (d) records in the possession of an ambulance or other emergency service that treated or assisted the injured person relevant to the personal injury to which the claim relates; and
- (e) reports or clinical notes in the possession of a health care provider who treated or assessed the injured person relevant to the personal injury to which the claim relates; and

- (f) wage, leave and work history records in the possession of an employer (or previous employer) of the injured person, and if the claim is a dependency claim, of each dependant if applicable; and
- (g) academic records in the possession of any educational institution attended by the injured person and, if the claim is a dependency claim, of each dependant.

5 Notice of claim—documents for Act, s 9(2)(c)

(1) For section 9(2)(c) of the Act, part 1 of the notice of a claim must be accompanied by the following documents—

- (a) for a claim, other than a health care claim, a copy of any certificate signed by a doctor relevant to the personal injury to which the claim relates that is in the claimant's possession;
- (b) for a dependency claim, a copy of the injured person's death certificate;
- (c) for a health care claim, a copy of any advice or warnings provided to the injured person by a health care provider about the treatment alleged to have given rise to the personal injury that is in the claimant's possession;
- (d) for a health care claim, a copy of any consent provided to the health care provider by the injured person about the treatment alleged to have given rise to the personal injury that is in the claimant's possession.

(2) For section 9(2)(c) of the Act, part 2 of the notice of a claim must be accompanied by a copy of any other document relevant to the personal injury, economic loss, treatment or rehabilitation that is in the claimant's possession.

PART 3—MISCELLANEOUS

6 Notice of claim—Act, s 9

For section 9(7) of the Act, the period prescribed is the period ending on the later of the following days—

- (a) the day 1 month after the person receives part 1 of the notice of claim; or
- (b) the day 7 days after the person identifies another person against whom a proceeding might be started by the claimant based on the claim.

7 Claimant may add other respondents—Act, s 14

(1) For section 14(1) of the Act, the time prescribed within which a claimant may add other respondents is the later of the following days—

- (a) the day by which part 1 of a notice of a claim must be given by the claimant under section 9(3) of the Act;
- (b) the day 1 month after the claimant receives information under section 10(1)(c)(ii) of the Act;
- (c) the day 1 month after the claimant receives a copy of a contribution notice given to the claimant under section 16(3) of the Act.

(2) For section 14(3) of the Act, the time prescribed is 7 days.

8 Respondent may add another person as contributor—Act, s 16

(1) For section 16(1) of the Act, the time prescribed is the later of the following—

- (a) 3 months after the respondent receives part 1 of the notice of a claim under section 9 of the Act;
- (b) 7 days after the respondent identifies someone else as a contributor.

(2) For section 16(3) of the Act, the time prescribed is 7 days.

9 Contributor's response—Act, s 17(1)(a)

For section 17(1)(a) of the Act, the contributor's response must state the following—

- (a) the contributor's full name;
- (b) the contributor's business address;
- (c) the contributor's postal address;

- (d) the name and contact details of the contributor's legal representatives, if appointed;
- (e) the contributor's ABN, if any;
- (f) if the contributor is a corporation—
 - (i) the corporation's ACN; and
 - (ii) the corporation's registered office.

10 Offers of settlement

(1) An offer of settlement made by a respondent to a claimant must, if the claimant is not represented by a lawyer, be accompanied by an explanatory statement.

(2) The explanatory statement must include the following statement—

‘Your acceptance of this offer of settlement will finalise this claim and you will not be able to make any further claim or receive any further payment from (name of the respondent) for personal injury you received arising out of this incident.

If you have a concern about accepting this offer of settlement, you should seek legal advice.’.

11 Costs when mandatory final offer is accepted—Act, s 40

(1) For section 40 of the Act, if a mandatory final offer for more than \$30 000 but not more than \$50 000 is accepted, the claimant is entitled to payment of costs on the following bases—

- (a) 100% of item 1 costs;
- (b) 50% of item 5 costs on the basis that preparations for trial and a directions conference have been undertaken;
- (c) the claimant's cost of legal representation at the compulsory conference (if applicable) at the rate of \$175 for the first hour and \$150 for each hour after the first, and, for a period of less than 1 hour, the relevant proportion of the appropriate hourly rate;
- (d) the claimant's costs of an application to the court up to a maximum of \$400 for each application;
- (e) reasonable disbursements if documentary evidence supporting the disbursements is available.

(2) However, if the amount calculated under subsection (1) is more than \$2 500, the claimant's entitlement is limited to \$2 500.

(3) In this section—

“**item 1 costs**” means costs allowable under the *Uniform Civil Procedure Rules 1999*, schedule 3, part 2, item 1.

“**item 5 costs**” means costs allowable under the *Uniform Civil Procedure Rules 1999*, schedule 3, part 2, item 5.

12 Entities providing services to enhance public safety—Act, s 71

For section 71(1)(a) of the Act, the following entities providing services to enhance public safety are prescribed—

- (a) the department administering the *State Counter-Disaster Organisation Act 1975*;

Example of a person to whom liability may not attach while performing duties to enhance public safety for the department—

An authorised officer appointed under the *Dangerous Goods Safety Management Act 2001*.

- (b) Queensland Ambulance Service established under the *Ambulance Service Act 1991*;
- (c) Queensland Fire and Rescue Service established under the *Fire and Rescue Service Act 1990*;
- (d) a rural fire brigade registered under the *Fire and Rescue Service Act 1990*;
- (e) State Emergency Service established under the *State Counter-Disaster Organisation Act 1975*;
- (f) Volunteer Marine Rescue Association Queensland Inc. and affiliated bodies;
- (g) Royal Life Saving Society Queensland Incorporated and affiliated bodies providing services at or near the following places—
- (i) Bulcock Beach, Caloundra;
 - (ii) Tallebudgera Creek, Gold Coast;
 - (iii) public swimming pools;

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- (h) Surf Life Saving Queensland (ABN 27 360 485 381) and affiliated bodies;
- (i) St John Ambulance Australia—Queensland;
- (j) the Queensland flotillas of The Australian Volunteer Coast Guard Association Inc. (ABN 99 392 980 313);
- (k) Sunshine Coast Helicopter Rescue Service Ltd (ABN 34 010 104 560);
- (l) Central Queensland Helicopter Rescue Service Ltd (ABN 73 415 515 751);
- (m) Capricorn Helicopter Rescue Service Limited (ABN 35 071 728 295);
- (n) CareFlight Queensland Ltd (ABN 45 010 316 462);
- (o) CareFlight Medical Services Limited (ABN 83 101 511 719);
- (p) Reef Helicopters Pty Ltd (ABN 50 011 075 460) when providing aeromedical, air rescue and other emergency helicopter services under an agreement with the State.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 April 2003. Future amendments of the Personal Injuries Proceedings Regulation 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Notes
0A	none	1 August 2002	
1	none	1 August 2002	
1A	to 2002 SL No. 370	20 December 2002	
1B	to 2003 SL No. 54	1 April 2003	
1C	to 2003 Act No. 16	9 April 2003	

5 List of legislation

Personal Injuries Proceedings Regulation 2002 SL No. 192

made by the Governor in Council on 1 August 2002
notfd gaz 1 August 2002 pp 1221–2
ss 1–2 commenced on date of notification
remaining provisions commenced 1 August 2002 (see s 2)
exp 1 September 2012 (see SIA s 54)

amending legislation—

Personal Injuries Proceedings Amendment Regulation (No. 1) 2002 SL No. 370

notfd gaz 20 December 2002 pp 1359–63
commenced on date of notification

Discrimination Law (Marital Status) Amendment Regulation (No. 1) 2003 SL No. 54 ss 1–3 sch

notfd gaz 28 March 2003 pp 1125–9
ss 1–2 commenced on date of notification
remaining provisions commenced 1 April 2003 (see s 2)

Civil Liability Act 2003 No. 16 ss 1, 2(2), 111 sch 1

date of assent 9 April 2003
ss 1–2 commenced on date of assent
remaining provisions commenced on date of assent (see s 2(2))

6 List of annotations**Notice of claim—information required for Act, s 9(2)(a)**

s 3 amd 2002 SL No. 370 s 3; 2003 SL No. 54 s 3 sch

Notice of claim—authority for Act, s 9(2)(b)

s 4 amd 2002 SL No. 370 s 4

Notice of claim—documents for Act, s 9(2)(c)

s 5 sub 2003 Act No. 16 s 111 sch 1

Notice of claim—Act, s 9s 6 ins 2002 SL No. 370 s 6
amd 2003 Act No. 16 s 111 sch 1**Claimant may add other respondents—Act, s 14**s 7 (prev s 8) renum 2002 SL No. 370 s 5(1)
amd 2003 Act No. 16 s 111 sch 1**Respondent may add another person as contributor—Act, s 16**s 8 (prev s 9) renum 2002 SL No. 370 s 5(1)
amd 2002 SL No. 370 s 7; amd 2003 Act No. 16 s 111 sch 1**Contributor's response—Act, s 17(1)(a)**

s 9 (prev s 10) renum 2002 SL No. 370 s 5(1)

Offers of settlement

s 10 (prev s 6) renum and reloc 2002 SL No. 370 s 5

Costs when mandatory final offer is accepted—Act, s 40

s 11 (prev s 7) renum and reloc 2002 SL No. 370 s 5

Entities providing services to enhance public safety—Act, s 71

s 12 ins 2002 SL No. 370 s 8