

Queensland



Subordinate Legislation 1994 No. 298

*Motor Accident Insurance Act 1994*

**MOTOR ACCIDENT INSURANCE  
REGULATION 1994**

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## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Motor Accident Insurance Regulation 1994*.

### Commencement

2. This regulation commences on 1 September 1994.

### Definitions

3. In this regulation—

“**gross premium**” means the CTP premium fixed by Schedule 1 (which includes the administration fee, levies and stamp duty).

“**net premium**” means the gross premium less the administration fee, levies and stamp duty.

“**premium income**” see section 8(2).

“**primary production**” means—

(a) the production of raw material for clothing or food from—

- (i) agriculture; or
- (ii) viticulture; or
- (iii) dairying; or
- (iv) livestock production; or
- (v) fishing; or

(b) the growing of tobacco.

“**quarter**” means a period of 3 months beginning on 1 January, 1 April, 1 July, or 1 October.

“**registered owner**” of a motor vehicle means a person in whose name the motor vehicle is registered.

**“traffic incident number”** means the identifying number allocated by the police department to a motor vehicle accident.

### **Classification of motor vehicles**

4. Motor vehicles are divided into classes for the purposes of this regulation as specified in Schedule 1.

## **PART 2—CTP INSURANCE POLICIES**

### **Insurance premiums—Act, s 15**

5.(1) The annual insurance premiums for motor vehicles are fixed by Schedule 1.

(2) If a particular motor vehicle falls within 2 or more of the classes specified in Schedule 1, the annual insurance premium is the highest fixed for any class within which the motor vehicle falls.

(3) However, if the annual insurance premium for a motor vehicle used only for primary production would, apart from this subsection, be more than \$76, the premium is \$76.

(4) If a motor vehicle (other than a vehicle of class 18<sup>1</sup> or class 25<sup>2</sup>) is registered for less than or more than 1 year, the insurance premium is the higher of the following amounts—

- (a) the proportion of the annual premium that the number of months in the period of registration (counting a period or remainder of less than 1 month as a full month) bears to 12;
- (b) \$10.

(5) If a proposed change to a registered motor vehicle or its use would alter the vehicle’s class to a class for which a higher insurance premium is

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<sup>1</sup> Motorised wheelchairs.

<sup>2</sup> Trailers.

required, the registered owner must, before the change is made—

- (a) give the insurer of the motor vehicle written notice of the change and when it is to be made; and
- (b) pay the insurer the higher of the following amounts—
  - (i) a proportion of the difference between the annual premiums for the relevant classes equal to the proportion the number of months in the period of registration remaining after the change (counting a period or remainder of less than 1 month as a full month) bears to 12;
  - (ii) \$10.

(6) As soon as practicable (and in any case not more than 1 month) after giving notice under subsection (5), the registered owner must give transport administration a written notice—

- (a) identifying the vehicle and the registered owner; and
- (b) stating the nature of the change to the vehicle or its use and when it was, or is to be, made; and
- (c) containing or accompanied by a receipt or other evidence of payment under subsection (5).

(7) If the registration of a motor vehicle is cancelled before the end of the period for which it was granted or last renewed (the “**registration period**”), the insurer of the vehicle must, at the request of—

- (a) the person registered as the owner of the vehicle immediately before the cancellation (the “**former registered owner**”); or
- (b) transport administration;

refund to the former registered owner, within 1 month after the request, the proportion of the net premium that the remainder of the registration period (expressed in months and, if not exactly divisible into whole months, ignoring any remainder) bears to the entire registration period.

(8) A request for a refund under subsection (7) must be supported by a written statement from transport administration confirming the cancellation of the registration and the date of cancellation.

(9) Transport administration may, by arrangement with an insurer, make a refund under subsection (7) on the insurer’s behalf.

(10) If a motor vehicle is to be used for racing, pacemaking, or in reliability, speed or other trials, the premium is increased by a surcharge of \$10 for each day of the registration period on which the motor vehicle is to be used for the purpose.

### **Insurance levies—Act, s 15**

6.(1) The insurance levies are as follows—

- (a) the statutory insurance scheme levy is 0.75% of the insurance premium; and
- (b) the hospital and ambulance levy is 2.1% of the insurance premium; and
- (c) the Nominal Defendant levy is 3.0% of the insurance premium.

(2) The levies are payable on the gross premiums (other than increments because of change of class and surcharges).

(3) No right to the refund of a levy arises on cancellation of the registration of a motor vehicle unless the registration is cancelled on dishonour of a cheque for an amount consisting of, or including, the CTP premium for the motor vehicle.

### **Certificate of insurance—Act, s 21**

7. A certificate of insurance must contain the following information—

- (a) the name of the CTP insurer;
- (b) the name and address of the registered owner, or prospective registered owner, of the vehicle;
- (c) the make, model, type and (if known) the year of manufacture of the vehicle;
- (d) the vehicle identification number or, if there is no vehicle identification number, the chassis number or, if there is neither a vehicle identification number nor a chassis number, the vehicle's engine number;
- (e) if the vehicle is registered in Queensland—the registered number assigned to the vehicle;

- (f) the class of the vehicle for the purposes of premium determination under this regulation;
- (g) the period for which the premium has been paid;
- (h) the amount of the premium paid;
- (i) other information required by the form approved by the Commission.

**Transactions between transport administration and insurers—Act,  
s 21**

**8.(1)** Transport administration must, in each week—

- (a) notify each licensed insurer of—
  - (i) the gross premium collected by transport administration in the previous week for each motor vehicle for which the insurer was selected as the CTP insurer; and
  - (ii) the gross premium for each motor vehicle for which registration was granted or renewed in the previous week and for which the insurer was selected as the CTP insurer by certificate of insurance lodged with the application for registration or renewal of registration; and
- (b) pay the amount of the premiums collected by transport administration, less an administration fee of 1.85%, to the licensed insurer.

**(2)** For the purpose of calculating the levies payable by a licensed insurer, the total amount of the gross premiums notified under subsection (1)(a) for a particular week is taken to be the insurer's premium income for the week.

**Returns and payment of levies and administration fee—Act, s 27**

**9.(1)** Within 14 days after the end of each month, each licensed insurer must—

- (a) give the Commission a statement of the insurer's premium income for each week that ended during the month and the aggregate of the amounts (the insurer's "**aggregate premium income**" for the relevant month); and



- (b) pay to the Commission the statutory insurance scheme levy and the hospital and ambulance levy on the insurer's aggregate premium income for the month; and
- (c) pay to the Nominal Defendant the Nominal Defendant levy on the insurer's aggregate premium income for the month; and
- (d) pay to transport administration an administration fee of 1.85% of an amount calculated by subtracting from the insurer's aggregate premium income for the month the amount of the premiums collected by transport administration from which transport administration has kept the administration fee.

(2) However, the insurer's liability to pay the administration fee to transport administration, and transport administration's liability to pay insurance premiums to the insurer, may be set off against each other under an arrangement between transport administration and the insurer.

(3) If an insurer fails to pay an amount as required under subsection (1), the amount increases by interest at the appropriate rate under subsection (4) calculated on a daily basis from the date by which payment should have been made until the date of payment.

(4) The appropriate rate of interest is the rate fixed by the Treasurer as the maximum rate of interest payable by semi-government and local government authorities for private treaty loans as at the beginning of the quarter in which the payment should have been made.

## **PART 3—CLAIMS**

### **Claims—Act, s 37**

**10.(1)** A notice under section 37 of the Act must include particulars (so far as the claimant knows or can reasonably find out the particulars) of—

- (a) the claimant including—
  - (i) the claimant's full name and address; and
  - (ii) the claimant's date of birth; and

- (iii) the claimant's gender; and
  - (iv) the claimant's usual occupation and, if the claimant is currently employed, the nature of the claimant's employment and the name and address of the employer; and
- (b) the circumstances of the accident, including—
  - (i) the date, time and place of the accident; and
  - (ii) the traffic incident number; and
  - (iii) whether the claimant came to be involved in the accident as driver, passenger or in some other capacity (which must be stated) and the circumstances of the claimant's involvement; and
  - (iv) weather and road conditions at the time of the accident; and
  - (v) whether the claimant was using a protective device (such as a seat belt or safety helmet) at the time of the accident and, if so, the nature of the safety device; and
  - (vi) details of the claimant's consumption of alcohol or drugs in the period of 12 hours immediately before the accident and, if the claimant was an occupant, but not the driver, of a motor vehicle involved in the accident, details of the driver's consumption of alcohol or drugs in the period of 12 hours immediately before the accident; and
  - (vii) details of damage to the motor vehicles involved in the accident; and
  - (viii) details of charges laid because of the accident; and
  - (ix) details of negligence on which the claim is based; and
- (c) the make, model, type, year of manufacture, and registration number of each vehicle involved in the accident, and the name of the insurer under the statutory insurance scheme; and
- (d) the name and address of the owner and of the driver of each motor vehicle involved in the accident and, if the claimant was the driver of a motor vehicle, the claimant's licence number; and
- (e) if the identity of a motor vehicle or its driver is unknown—each circumstance that might provide a way of tracing the identity of

- the vehicle or its driver; and
- (f) the nature and extent of—
    - (i) the personal injury arising from the accident; and
    - (ii) the disabilities and financial loss (including costs incurred) resulting from the personal injury; and
  - (g) the name and address of each hospital at which the claimant has been treated for the injury, and the name and address of each doctor by whom the claimant has been treated for the injury; and
  - (h) the name and address of each professional provider of rehabilitation services who has made an assessment of, or provided rehabilitation services for, disabilities arising from the personal injury; and
  - (i) all personal injuries, illnesses and disabilities suffered by the claimant either before or after the motor vehicle accident, but before the date of the notice, that may affect the extent of the disabilities resulting from the personal injury to which the claim relates or may affect the amount of damages in another way; and
  - (j) all personal injuries, illnesses and disabilities that may be relevant to the claim suffered by the claimant either before or after the motor vehicle accident, but before the date of the notice, for which the claimant has claimed damages, compensation or social security benefits, the name and address of any person against whom a claim for damages or compensation was made and, if an insurer was involved, the name and address of the insurer and details of the claim; and
  - (k) the names and addresses of the witnesses of the accident and—
    - (i) the name of the police officer who attended at the scene of the accident, or to whom the accident was reported, and the police station where the police officer was stationed; and
    - (ii) the name of any ambulance officer who attended at the scene of the accident and the place where the officer was stationed; and
  - (l) if loss of income is relevant to the claim—particulars of the claimant's employment during the 3 years immediately before the

accident and since the accident (the “**relevant period**”), including—

- (i) the name and address of each of the claimant’s employers; and
- (ii) the period of employment by each employer; and
- (iii) the capacity in which the claimant was employed by each employer; and
- (iv) the claimant’s earnings for each period of employment;

and, if the claimant was self employed for the relevant period or part of the relevant period, particulars of the self employment and of the claimant’s gross and net earnings for each year of the self employment.

(2) The notice must contain an offer of settlement or a statement of the reasons why an offer of settlement cannot yet be made.

(3) The notice must be in a form approved by the Commission and the statements of fact contained in the notice must be sworn by the claimant.

(4) The notice must be accompanied by—

- (a) a diagram showing (to the best of the claimant’s knowledge) the scene of the accident; and
- (b) written permission allowing the insurer access to records about the claimant and relevant to the claim in the possession of any of the following—
  - (i) other licensed insurers;
  - (ii) insurers that carry on the business of providing CTP insurance, workers’ compensation insurance, personal accident or illness insurance, or insurance against loss of income through disability;
  - (iii) a department, agency or instrumentality of the Commonwealth, the State or another State<sup>3</sup> administering police, transport, taxation or social welfare laws;
  - (iv) a hospital;

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<sup>3</sup> “State” includes Territory—see *Acts Interpretation Act 1954*, section 33A.

- (v) the ambulance service of the State or another State;
- (vi) a doctor, professional provider of rehabilitation services or person professionally qualified to assess cognitive, functional or vocational capacity;
- (vii) an employer (or previous employer) of the claimant.

(5) If an insurer obtains information about the claimant through access to records under subsection (4)(b), the insurer must pass the information on to the claimant within 1 month after obtaining the information.

(6) However, an insurer may withhold information from a claimant if the insurer has reasonable grounds to suspect the claimant of fraud.

(7) If an insurer withholds information from a claimant, the insurer must inform the Commission of the decision, and of the grounds on which it was made, within 1 month after deciding to withhold the information.

### **Offers of settlement**

**11.(1)** An offer of settlement made by an insurer to a claimant must, if the claimant is not represented by a lawyer, be accompanied by an explanatory statement in a form approved by the Commission.

(2) If a claimant is not an adult of full capacity, an offer (or counteroffer) of settlement cannot be made or accepted by or for the claimant unless the court or the Public Trustee is satisfied that settlement of the claim on the terms proposed would be in the claimant's best interests and approves the terms of the offer (or counteroffer).

(3) An insurer is entitled to assume that an adult claimant is of full capacity unless—

- (a) the claimant's mental incapacity is obvious and should be apparent to the insurer; or
- (b) the claimant is subject to a protection order under the *Public Trustee Act 1978*; or
- (c) the court makes a declaration under subsection (4).

(4) On application by an interested person, the court may declare a claimant to be under the court's protection in negotiating settlement of the claim if—

- (a) the claimant is permanently or intermittently unable to manage the claimant's affairs or to resist undue influence, because of physical or mental illness or infirmity, or the influence of drugs; or
- (b) the claimant is in need of the court's protection for other reasons.

### **Verification and payment of expenses—Act, ss 42 and 51**

**12.(1)** A request for payment or reimbursement of private hospital, medical and pharmaceutical expenses under section 42, or rehabilitation expenses under section 51 of the Act—

- (a) must be for a total amount of at least \$200; and
- (b) must be accompanied by receipts, unpaid accounts or other appropriate evidence of the expenses.

**(2)** However, if the claimant expects to make no further request for payment or reimbursement of expenses, the request may be for the outstanding total of the expenses even though the amount is less than \$200.

**(3)** If the insurer reasonably requires, the claimant must provide a certificate from the doctor responsible for treating the personal injury certifying that the expenses were reasonably incurred in view of the nature and extent of the injury.

## **PART 4—LICENSED INSURERS**

### **Application to be licensed to issue CTP policies**

**13.** An application for a licence under Part 5 of the Act must be accompanied by—

- (a) a description of the applicant, the nature of its business and its experience in general insurance business in the State; and
- (b) a copy of the Act, charter, deed of settlement, memorandum and articles of association or other document by which the applicant is established; and
- (c) if the applicant is a body corporate limited by shares—

- (i) particulars of the applicant's capital structure, the classes of its shares and its paid-up share capital; and
- (ii) particulars of the applicant's shareholders; and
- (d) particulars of the applicant's directors, or the members of its governing body; and
- (e) particulars of the managers and staff who are to be involved in the applicant's CTP insurance business; and
- (f) particulars of entities with which the applicant is associated in its insurance business; and
- (g) if the applicant is subject to the Corporations Law—copies of the returns and accounts of the applicant for the last 3 years under the Corporations Law; and
- (h) if the applicant is subject to the *Insurance Act 1973* (Cwlth)—copies of the returns for the last 3 years under that Act; and
- (i) full particulars of reinsurance arrangements or proposed reinsurance arrangements for CTP insurance business; and
- (j) a business plan describing how the insurer's CTP business is to be conducted (including marketing, claims handling, the provision of rehabilitation services, the keeping of records, systems management and control of costs).

### **Condition about market share—Act, s 64**

**14.(1)** A licence is subject to the condition that the Commission must withdraw the licence if the licensed insurer—

- (a) does not, at the end of the financial year in which the fifth anniversary of the grant of the licence falls, have a share of the market for CTP insurance equal to or greater than 5%; or
- (b) does not at the end of a later financial year, keep a share of the market for CTP insurance equal to or greater than 5%.

**(2)** However, the Commission need not withdraw the licence if—

- (a) at the end of the financial year in which the sixth or a later anniversary of the grant of the licence falls, the licensed insurer

has a share of the market for CTP insurance equal to or greater than 4.5%; and

- (b) the licensed insurer's share of the market for CTP insurance was equal to or greater than 5% at the end of the previous financial year.

(3) An insurer's share of the market for CTP insurance business is worked out by adding the insurance premiums received by the insurer during the relevant financial year for all classes of CTP insurance business (as shown in transport administration's records) and expressing the total amount as a percentage of the total insurance premiums received by all licensed insurers during the same financial year for the insurance of Class 1, Class 6 and Class 7 motor vehicles.

#### **Accounts and returns—Act, s 70**

**15.(1)** On filing or giving accounts, returns or other information under the Corporations Law or the *Insurance Act 1973* (Cwlth), a licensed insurer must file a copy with the Commission.

(2) If a licensed insurer receives a request for information or explanation from the Insurance and Superannuation Commission (Cwlth), the insurer must, within 1 month after responding to the request, file a copy of the request, and its response to the request, with the Commission.

(3) If asked for an actuarial report by the Commission, a licensed insurer must file an actuarial report on the insurer's financial position with the Commission within 3 months after receiving the request.

(4) Within 1 month after a transaction happens that may affect control of a licensed insurer, the insurer must file full particulars of the transaction with the Commission.

(5) Within 1 month after a change of the manager responsible for managing a licensed insurer's CTP business, the insurer must file with the Commission full particulars of the change.

#### **Information to be provided by return—Act, s 88**

**16.(1)** Within 7 days after the end of each month, a licensed insurer must provide the Commission with a return for the month under section 88 of the



Act stating—

- (a) the number of motor vehicle accident claims of which notice was given to the insurer in the month under section 37 of the Act; and
- (b) for each motor vehicle accident—
  - (i) an identifying accident number assigned by the insurer; and
  - (ii) an identifying claim number; and
  - (iii) the relevant traffic incident number; and
  - (iv) the date, time, place and circumstances of the accident; and
  - (v) the make, model, type, year of manufacture, vehicle identification (or chassis or engine) number, registration number, CTP classification and CTP insurer of each motor vehicle involved in the accident and an estimate of the extent liability may be attributed to each vehicle; and
  - (vi) the names and addresses of the owner and driver of each motor vehicle involved in the accident; and
  - (vii) the name and address of each witness to the accident known to the insurer; and
  - (viii) for each claimant a statement of—
    - (A) the claimant's name and address; and
    - (B) the claimant's date of birth; and
    - (C) the claimant's gender; and
    - (D) the claimant's usual occupation and, if the claimant is employed, the name of the employer; and
    - (E) how the claimant came to be involved in the accident; and
    - (F) the nature of the personal injury to the claimant; and
  - (ix) the date the notice of claim was received by the insurer; and
  - (x) the date of the claimant's compliance or presumed compliance with the notice requirements of Part 4,

Division 3 of the Act; and<sup>4</sup>

- (c) the claims on which the insurer admitted or denied liability during the month, the date of the admission or denial, and, if liability was admitted, the extent the liability was admitted; and
- (d) the claims on which the court decided liability or quantum of damages (or both) during the month, the date of the decision, and the terms of the decision; and
- (e) the claims of which notice has been given as required by Part 4, Division 3 of the Act but on which liability has not yet, as at the end of the month, been admitted or denied, or decided by the court; and
- (f) the claims on which the insurer made a decision about rehabilitation of a claimant during the month, and the effect of each decision; and
- (g) the claims finalised by the insurer during the month and the basis on which they were finalised.

(2) Within 15 days after the end of each quarter, a licensed insurer must provide the Commission with a return for the quarter under section 88 of the Act—

- (a) stating the insurer's costs on each claim for the quarter, including details of—
  - (i) professional legal costs and disbursements; and
  - (ii) investigative costs; and
  - (iii) private hospital, medical and pharmaceutical expenses; and
  - (iv) the cost of rehabilitation; and
  - (v) other costs the Commission, by notice to the licensed insurers, requires to be separately itemised; and

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<sup>4</sup> If the notice complied with the requirements under Part 4, Division 3 when it was given, the date to be given here is the date the notice was given to the insurer. If the notice, as it was originally given, did not comply with the relevant requirements, the date to be given is the date when the insurer was satisfied the claimant had remedied the deficiency or waived compliance or the court gave leave to bring a proceeding based on the claim despite the deficiency.

(b) stating the amount recovered under Part 4, Division 7 (Insurer's rights of recourse) of the Act on each claim.

(3) The return must include particulars updating information supplied in previous returns about motor vehicle accidents, claims, estimates and costs.

(4) If a claim involves 2 or more insurers, the claim manager must provide the information required by this section about the claim, and the information is not required from the other insurer or insurers.

(5) If a claim is made under the former Act, or was made but not settled or otherwise finalised before the commencement of the Act, the insurer must provide details of the claim reasonably available from its records.

(6) The information required under subsection (5) must be provided in accordance with a timetable advised by the Commission.

(7) The Commission may, by notice given to an insurer that is not licensed under the Act, but held a licence under the former Act, extend requirements of this section to the insurer.

(8) An insurer must not contravene a requirement that applies to the insurer because of a notice under subsection (7).

(9) In this section—

**“licensed insurer”** includes an insurer formerly licensed under the Act.

## **PART 5—MISCELLANEOUS**

### **Fees for attending examination—Act, s 78**

17. A person required to attend for examination under Part 5, Division 3 (Special investigations) of the Act is entitled to allowances and expenses on the same basis as a witness in a proceeding before a District Court.

### **Exchange of information—Act, s 92(2)**

18.(1) The following are authorised to provide information to each other, and to receive information from each other, under section 92(2) of the Act—

- (a) licensed or other insurers providing CTP insurance (in the State or elsewhere);
- (b) the Commission;
- (c) the Nominal Defendant.

(2) The following are authorised to provide information to, and to receive information from, licensed or other insurers providing CTP insurance (in the State or elsewhere), the Commission or the Nominal Defendant under section 92(2) of the Act—

- (a) an insurer carrying on the business of providing workers' compensation insurance, personal accident or illness insurance, or insurance against loss of income through disability;
- (b) a department, agency or instrumentality of the Commonwealth, the State or another State, administering police, transport, taxation or social welfare laws;
- (c) a hospital;
- (d) the ambulance service of the State or another State;
- (e) a doctor, professional provider of rehabilitation services or person professionally qualified to assess cognitive, functional or vocational capacity;
- (f) an employer (or previous employer) of a claimant.

### **Form and execution of industry deed—Act, s 65**

**19.(1)** The approved form of the industry deed is the form set out in Schedule 2.

(2) A party executes the industry deed by executing a counterpart of the deed provided by the Commission.

(3) The executed counterpart must be lodged in the office of the Commission.

### **Transitional application of industry deed**

**20.** The industry deed applies to an unlicensed insurer for a motor vehicle accident claim as if the insurer were a party to the deed if—

- (a) the insurer was licensed under the former Act; and
- (b) the motor vehicle accident happened after the commencement of the Act.

## SCHEDULE 1

### TABLE OF VEHICLE CLASSES AND CTP INSURANCE PREMIUMS

section 4

<b>Class</b>	<b>Description of class<sup>a</sup></b>	<b>Annual CTP premium<sup>b</sup></b>
Class 1	Cars and station wagons.	\$169
Class 2	Motorised homes (but not if the part of the motor vehicle designed for residence is detachable from the part that provides the motive power).	\$169
Class 3	Taxis or other hire vehicles (other than motorcycles) for which the driver is, or is provided by, the person who hires out the vehicle.	\$574

**a Vehicles in 2 or more classes**

If a particular motor vehicle falls within 2 or more classes specified in the table of vehicle classes, the annual insurance premium is the highest fixed for any of the classes (see section 5(2)). However, if a vehicle is used only for primary production, the annual premium is subject to an upper limit of \$76 (see footnote d).

**b CTP premiums**

The CTP premium includes 10c stamp duty.

If the registration period is less than 1 year, the premium is a proportion of the annual premium. However, the premium cannot be less than \$10 (see section 5(4)).

If a motor vehicle is to be used for racing, pacemaking, or in reliability, speed or other trials, the premium is increased by a surcharge of \$10 for each day of the registration period on which the motor vehicle is to be used for the purpose (see section 5(10)).

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 SCHEDULE 1 (continued)

Class 4	Hire vehicles (other than motorcycles) that are hired out on the basis that the driver is to be, or is to be provided by, the person who takes the vehicle on hire.	\$574
Class 5	Motor vehicles (including cycles) for use only as vintage, veteran, historic or street rod motor vehicles.	\$15
Class 6	Trucks, utilities and vans (including panel vans) with a gross vehicle mass of 4.5 t or less.	\$169
Class 7	Trucks, prime movers and vans with a gross vehicle mass of more than 4.5 t.	\$508
Class 8	Buses used only for private purposes.	\$169
Class 9	<p>Buses used substantially for transporting—</p> <p>(a) children, mature age students, teachers, other school employees, and parents to or from school or school events; or</p> <p>(b) persons of any age to or from centres for therapy, rehabilitation, or remedial or other special education;</p> <p>(but a bus is not to be regarded as used substantially for transporting passengers of these classes if it carries a number of passengers of some other class or classes that is more than 10% of its adult passenger seating capacity).</p>	\$169

## SCHEDULE 1 (continued)

Class 10	Buses that are not within class 8 or class 9, but are to be used within 150 km of a base nominated in the application for registration.	\$184 + [\$14 x (APSC - 7) <sup>c</sup> ]
Class 11	Buses that are not within class 8, 9 or 10.	\$184 + [\$33 x (APSC - 7) <sup>c</sup> ]
Class 12	Motorcycles (bicycles or tricycles), including motorcycles for hire with seating only for the driver.	\$41
Class 13	Motorcycles (bicycles or tricycles), including motorcycles for hire with seating for a pillion passenger or with a sidecar (or both).	\$169
Class 14	Tractors (with or without attachment).	\$48
Class 15	Self-propelled machinery or equipment, fire engines, bush fire brigade vehicles, and other emergency vehicles (other than ambulances).	\$48
Class 16	Ambulances.	\$169
Class 17	Motor vehicles used only for primary production (other than motor vehicles for which a lower premium is prescribed). <sup>d</sup>	\$76
Class 18	Motorised wheelchairs.	Nil
Class 19	Motor vehicles with a gross vehicle mass of 1 t or less, for which limited use plates have been, or are	\$15

<sup>c</sup> **Buses**

APSC is a number representing the adult passenger seating capacity of a bus.

<sup>d</sup> **Vehicles used only for primary production**

If the annual insurance premium fixed by the table for a vehicle used only for primary production is more than \$76, the insurance premium is \$76 (see section 5(3)). “**Primary production**” means the production of raw material for clothing or food from agriculture, viticulture, dairying, livestock production, or fishing, or the growing of tobacco (see section 3).



## SCHEDULE 1 (continued)

	to be, issued.	
Class 20	Motor vehicles with a gross vehicle mass of more than 1 t, for which limited use plates have been, or are to be, issued.	\$15
Class 21	Recreation vehicles registered under the <i>Motor Vehicles Control Act 1975</i> .	\$85
Class 22	Motor vehicles (other than trailers) for which permits have been, or are to be, issued allowing the vehicles to be driven on roads while unregistered.	\$15 plus \$1 for each day of the term of the permit
Class 23	Motor vehicles to be driven with a dealer's plate attached in the course of a business for which the dealer's plate is issued.	\$169
Class 24	Trailers registered under the <i>Interstate Road Transport Act 1985</i> (Cwlth). <sup>e</sup>	\$169
Class 25	Other trailers. <sup>e</sup>	Nil

<sup>e</sup> **Trailers**

If a person is required to register a trailer under the *Interstate Road Transport Act 1985* (Cwlth), CTP insurance must be obtained under class 24. The *Motor Accident Insurance Act 1994* establishes a scheme under which the insurer of a motor vehicle is the insurer of a trailer (other than a trailer for which CTP insurance is required under class 24) if personal injury is caused by, through or in connection with the trailer while it is attached to the vehicle or when it becomes accidentally detached from the vehicle. In other cases, the Nominal Defendant is the insurer if the motor vehicle accident happens in Queensland. A person who may take a trailer outside Queensland should consider obtaining insurance cover for personal injury caused by, through or in connection with the trailer.

**SCHEDULE 2****MOTOR ACCIDENT INSURANCE ACT 1994  
INDUSTRY DEED**

section 19

**Recitals**

The *Motor Accident Insurance Act 1994* establishes a statutory insurance scheme under which powers and responsibilities are to be exercised by the Commission, transport administration, the Nominal Defendant and licensed insurers.

The purposes of this Deed are—

- (a) to deal with obligations of licensed insurers under the statutory insurance scheme; and
- (b) to deal with the mutual obligation of insurers in the statutory insurance scheme and with certain aspects of their relationship; and
- (c) to regulate certain aspects of the insurance business conducted under the statutory insurance scheme; and
- (d) to deal with the obligation of transport administration to keep records, provide information, and take proceedings for contravention of certain provisions of the Act.

**PART 1—PRELIMINARY****Parties**

**1.(1)** The parties to this Deed are—

- (a) the Commission; and

## SCHEDULE 2 (continued)

- (b) the Nominal Defendant; and
- (c) all licensed insurers; and
- (d) transport administration.

(2) A licensed insurer is a party to this Deed while the licence remains in force and, after ceasing to be a licensed insurer, remains subject to the obligations of a licensed insurer under this Deed until the Commission is satisfied that the licensed insurer has discharged all outstanding liabilities under the statutory insurance scheme and releases the insurer from this Deed.

**Definitions**

2.(1) In this Deed—

“**Act**” means the *Motor Accident Insurance Act 1994*;

“**claim costs**” means costs of an insurer on a claim;

“**class**” of a motor vehicle means its class under Schedule 1 of the *Motor Accident Insurance Regulation 1994*;

“**referee**” means a person, or 1 or a panel of persons, approved by the Commission to arbitrate disputes under this Deed.

(2) In this Deed, words and expressions defined in the Act have, unless the contrary intention appears, the meaning given in the Act.

## **PART 2—CLAIMS MANAGEMENT AND REHABILITATION**

**Claims procedures generally**

3.(1) An insurer must deal expeditiously with claims.

(2) An insurer must ensure that its procedures for dealing with claims are efficient and cost effective.

## SCHEDULE 2 (continued)

**(3) An insurer must—**

- (a) have an office in the State for dealing with motor vehicle accident claims with a staff who are competent and authorised to deal with claims on the insurer's behalf; and
- (b) process all motor vehicle accident claims in the State (other than claims arising out of motor vehicle accidents happening outside the State or in which a person who is not resident in the State is injured); and
- (c) keep a record of—
  - (i) each notice of accident the insurer receives under section 34 of the Act (Duty to notify accidents) and the date when the insurer received it; and
  - (ii) each notice of claim the insurer receives under section 37 of the Act (Notice to be given by claimant) and the date when the insurer received it; and
  - (iii) each waiver or order affecting a claim under section 39 of the Act (Response to the notice of claim), the terms and conditions of the waiver or order, and the date when it was given or made; and
  - (iv) each offer or counteroffer of settlement made by or on behalf of a claimant, the terms and conditions of the offer or counteroffer, and the date when the insurer received it; and
- (d) keep all other records necessary to enable the Commission to monitor the insurer's compliance with obligations under Part 4 of the Act (Claims).

**Rehabilitation**

**4.** The Commission may issue rehabilitation standards and guidelines for insurers to—

- (a) provide for the assessment of the nature and extent of an injured claimant's need for rehabilitation; and
- (b) ensure that injured claimants are properly informed about their

## SCHEDULE 2 (continued)

- obligations to undertake appropriate medical treatment and rehabilitation programs; and
- (c) facilitate access to appropriate rehabilitation services for injured claimants and others; and
  - (d) provide guidance to help insurers decide what rehabilitation costs are reasonable and necessary; and
  - (e) ensure the rehabilitation process for an injured claimant is appropriately managed; and
  - (f) monitor the effectiveness of rehabilitation services and the providers of rehabilitation services.

### **PART 3—CLAIMS INVOLVING MULTIPLE INSURERS**

#### **Obligation to resolve questions**

**5.(1)** If 2 or more insurers are liable or potentially liable on a claim (other than a claim involving an unidentified vehicle), the insurers must resolve questions about which insurer is to be the claim manager and the basis on which claim costs are to be shared between them as soon as practicable after notice of the claim is given under Part 4, Division 3 of the Act (Claims procedures).

**(2)** If a question about which insurer is to be claim manager, or about the basis on which claim costs are to be shared, has not been resolved within 2 months after the notice of claim is given, the question is taken to be in dispute between the insurers, and they must immediately give notice of dispute to the Commission.

**(3)** The Commission may refer a dispute of which notice is given under subsection (2) to a referee.

**(4)** However, a question about the basis on which claim costs are to be shared between the insurers is not to be referred to a referee if this Deed

## SCHEDULE 2 (continued)

prescribes the basis on which claim costs are to be shared in the absence of agreement between the insurers.<sup>1</sup>

(5) Before the Commission refers a disputed question to a referee under this section, the Commission must obtain an assurance from the referee that the referee will, in the absence of unforeseen difficulties, be able to resolve the question within a reasonable period fixed by the Commission.

**Cost sharing**

6.(1) The basis on which claim costs are to be shared between licensed insurers that are liable, or potentially liable, on the claim is to be decided by agreement between them.

(2) However, if—

- (a) a person makes a claim for personal injury arising out of a motor vehicle accident in which 2 or more motor vehicles were involved (other than an accident involving an unidentified motor vehicle for which the Nominal Defendant is the insurer); and
- (b) the motor vehicles are all of the same class and all registered in the State; and
- (c) the claimant is not the driver of a motor vehicle involved in the accident; and
- (d) no insurer has a right of recourse against an insured person; and
- (e) the insurers have not decided the basis on which claim costs are to be shared between them within 2 months after the notice of claim is given;

the claim costs are to be shared between the licensed insurers in the proportions that the number of motor vehicles insured by each insurer bears to the total number of vehicles involved in the accident.

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<sup>1</sup> See section 6(2).

## SCHEDULE 2 (continued)

**Resolution of disputed questions**

7.(1) If the Commission refers a disputed question to a referee under this Deed, each party to the dispute must give the referee—

- (a) copies of documents in the party's possession relevant to the claim and the question in dispute; and
- (b) a written submission on how the question should, in the party's opinion, be resolved.

(2) If the referee asks for further information or assistance from a party to the dispute, the party must provide the information or assistance within the time fixed by the referee.

(3) The referee is taken to be an arbitrator appointed under the *Commercial Arbitration Act 1990*, and has all the powers of an arbitrator under that Act.

(4) After considering the disputed question, the referee may—

- (a) decide who is to be the claim manager or how the claim costs are to be shared; and
- (b) make orders to give effect to the decision and for payment of the costs of the proceedings before the referee.

(5) The referee's decision and orders are binding on all parties.

(6) The referee must act as expeditiously as possible and with a minimum of formality.

(7) The costs of the referee and of the proceedings before the referee are to be paid by the parties to the dispute in proportions decided by the referee.

**Rules for resolving disputes**

8. The Institute of Arbitrators Rules apply to a proceeding before the referee under this Deed.

**Responsibility of claim manager**

9.(1) A licensed insurer must, within 14 days after the end of each

## SCHEDULE 2 (continued)

month, give other licensed insurers for whom the insurer is acting as claim manager a written notice—

- (a) identifying the claims for which the insurer is acting as claim manager on behalf of the insurer to which the notice is given; and
- (b) stating the claim costs incurred by the insurer during the month for each of the claims; and
- (c) stating the name of all other insurers (“**contributing insurers**”) from which the insurer claims contribution towards claim costs on each claim, and the amount of the contribution; and
- (d) giving details and supporting information in a form required by the Commission.

(2) If the basis of sharing claim costs has been decided, a contributing insurer must pay the appropriate contribution to the claim manager within 14 days after receiving the notice under subsection (1).

(3) If the basis of sharing claim costs has not been decided, a contributing insurer must pay the appropriate contribution to the claim manager within 14 days after the basis of cost sharing has been decided.

**Accounts to be kept**

**10.** A licensed insurer must keep proper accounts setting out for each claim—

- (a) all contributions to claim costs made to other insurers; and
- (b) all contributions to claim costs received from other insurers; and
- (c) all other amounts received or recovered by the insurer towards claim costs.



## SCHEDULE 2 (continued)

**PART 4—EXCHANGE OF INFORMATION****Exchange of information**

**11.(1)** A licensed insurer must, at the request of another licensed insurer who has a proper interest in the information because of a motor vehicle accident claim against the other insurer, provide information in the insurer's possession relevant to—

- (a) a motor vehicle accident claim; and
- (b) a claimant under a motor vehicle accident claim; and
- (c) a person who is related in some way to a claimant under a motor vehicle accident claim.

**(2)** However, a licensed insurer may withhold information under this section if—

- (a) there are reasonable grounds to believe the information is not being genuinely sought to resolve a claim or to combat fraud; or
- (b) the information is relevant to an unresolved dispute between the insurers.

**PART 5—PUBLIC DISCLOSURE OF INFORMATION****Information may be publicly disclosed**

**12.** The Commission may publish information the Commission considers should be disclosed in the public interest about—

- (a) a licensed insurer's financial position; or
- (b) a licensed insurer's management of claims, provision of rehabilitation services, or compliance with other obligations under the statutory insurance scheme; or
- (c) other matters concerning the conduct of CTP insurance business.

## SCHEDULE 2 (continued)

**PART 6—TRANSPORT ADMINISTRATION'S  
OBLIGATIONS****Transport administration's obligation to make its records available to the Commission**

**13.(1)** Transport administration must provide the Commission with access to transport administration's computer records of motor vehicle registration.

**(2)** Transport administration must ensure that registration records for a period of at least 18 months until the present are immediately available, on demand, to the Commission.

**Transport administration's obligation to provide information for licensed insurers**

**14.(1)** Transport administration must give each licensed insurer information for each week about—

- (a) the total amount of CTP insurance premiums received for the insurer in the week, and the total amount of insurance premiums as shown in certificates of insurance, showing the insurer as the CTP insurer, lodged with applications for registration or renewal of registration, for each class of motor vehicle; and
- (b) for each class of motor vehicles—
  - (i) the total number of vehicles for which the insurer was chosen as the CTP insurer (differentiating between CTP policies for vehicles that were previously unregistered, renewals of existing CTP policies, and CTP policies for which the insurer was selected in place of another insurer); and
  - (ii) the registration numbers of the vehicles and the names and addresses of the registered owners; and
- (c) changes of registered owners of vehicles insured under CTP policies with the insurer and the names and addresses of the new

## SCHEDULE 2 (continued)

registered owners; and

- (d) class changes affecting vehicles insured under CTP insurance policies with the insurer; and
- (e) the cancellation of registration of vehicles insured under CTP insurance policies with the insurer.

(2) The information must be provided within 7 days after the end of the week to which the information relates.

**Microfilm records**

**15.(1)** Transport administration must keep microfilm records of—

- (a) notices of nomination and certificates of insurance lodged with applications for registration, or renewal of registration, of motor vehicles; and
- (b) notices of change of class of insured motor vehicles; and
- (c) requests for cancellation of registration and insurance.

(2) Transport administration must make records available to the Commission on request.

**Notice to accompany registration renewal notice**

**16.(1)** Transport administration must send with each notice for the renewal of registration—

- (a) a list of licensed insurers in a form approved by the Commission; and
- (b) a form for nominating an insurer as the insurer under the CTP insurance policy.

(2) The list must also be displayed at transport administration's offices at which applications for registration and renewal of registration are accepted.

## SCHEDULE 2 (continued)

**Transport administration's responsibility for enforcement**

**17.** Transport administration must, at the request of the Commission—

- (a) undertake responsibility for the enforcement of specified provisions of the Act; and
- (b) investigate suspected contraventions of the relevant provisions and take proceedings for suspected offences.

**PART 7—GENERAL****Late fees**

**18.(1)** If an insurer fails to comply with an obligation imposed under the Act, a regulation or this Deed within the relevant time limit, the Commission may, by notice to the insurer, require the insurer to pay a fee for the delay in compliance.

**(2)** The fee must be based on costs to the Commission resulting from the delay.

**(3)** The Commission may, for good reason, remit a fee payable under the scale of late fees.

**Exclusion of collateral agreement etc.**

**19.** This Deed operates to the exclusion of a collateral agreement or understanding.

The common seal of [*here insert name of the party*] was affixed to this counterpart of the Deed on [*here insert date of execution*] in the presence of [*here insert names, addresses and occupations of persons authorised to affix the seal on behalf of the party*].

## SCHEDULE 2 (continued)

[Common seal]

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*[Signatures of the persons attesting  
affixation of the seal]*

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ENDNOTES

1. Made by the Governor in Council on 11 August 1994.
2. Notified in the Gazette on 12 August 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Treasury Department.