



*Motor Accident Insurance Act 1994*

# Motor Accident Insurance Regulation 2004

**Current as at 24 August 2018**

**Reprint note**

This is the last reprint before expiry. Expired on 31 August 2018. See SIA s 56A(2) and SIR s 3 sch 2.

© State of Queensland 2018



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

# Motor Accident Insurance Regulation 2004

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	5
2	Commencement . . . . .	5
3	Definitions . . . . .	5
<b>Part 2</b>	<b>Classification of motor vehicles</b>	
4	Classification of motor vehicles for fixing insurance premiums . .	5
<b>Part 3</b>	<b>CTP insurance policies</b>	
<b>Division 1</b>	<b>Matters about insurer's premium</b>	
5	Setting insurer's premium—Act, ss 13 and 13A . . . . .	7
6	Additional amount for insurer's premium—Act, s 13 . . . . .	8
7	Insurer's premium if registration period less than 1 year—Act, s 13(4)(b) 8	
8	Levies and administration fee—Act, s 14A . . . . .	9
9	Change in vehicle class involving higher insurer's premium . . . .	10
10	Change in vehicle class involving lower insurer's premium . . . .	12
11	Change in vehicle class not affecting insurer's premium . . . . .	13
12	Refund on cancellation of registration . . . . .	14
13	Refund by transport administration . . . . .	15
<b>Division 2</b>	<b>Other matters</b>	
14	Certificate of insurance—Act, s 21 . . . . .	15
15	Gratuitous insurance—Act, s 23 . . . . .	16
16	Rate of interest for amount owed to transport administration—Act, s 27A 16	
<b>Part 4</b>	<b>Claims</b>	
<b>Division 1</b>	<b>Notices of claims and additional information forms</b>	
17	Notice of claim—generally . . . . .	16

Contents

---

18	Notice of claim—Act, s 37(1)(a) and (d) . . . . .	17
19	Notice of claim—Act, s 37(1)(b) . . . . .	20
20	Additional information form—Act, s 37A . . . . .	21
<b>Division 2</b>	<b>Other matters about claims</b>	
21	Offer of settlement . . . . .	21
22	Verification and payment of expenses—Act, ss 42 and 51 . . . . .	22
23	Insurer to give information to claimant . . . . .	23
<b>Part 5</b>	<b>Licensed insurers</b>	
24	Information and materials for application—Act, s 62 . . . . .	23
25	Condition about when licence takes effect—Act, s 64 . . . . .	24
26	Accounts and returns—Act, s 70 . . . . .	24
27	Information to be provided by return—Act, s 88 . . . . .	25
<b>Part 6</b>	<b>Miscellaneous</b>	
27A	Prescribed limits for particular definitions—Act, s 4 . . . . .	29
28	Panels of recognised medical experts—Act, s 45A . . . . .	30
29	Costs if mandatory final offer accepted—Act, s 51C . . . . .	30
30	Fees for attending examination—Act, s 78(3) . . . . .	31
31	Exchange of information—Act, s 92 . . . . .	31
32	Form and execution of industry deed . . . . .	33
<b>Part 7</b>	<b>Repeal and transitional provisions for SL No. 153 of 2004</b>	
33	Repeal . . . . .	33
34	Transitional application of industry deed . . . . .	33
<b>Part 8</b>	<b>Transitional provisions</b>	
<b>Division 1</b>	<b>Transitional provision for the Motor Accident Insurance Amendment Regulation (No. 2) 2006</b>	
35	Policy of insurance for class 10 motor vehicles not affected . . . . .	34
<b>Division 2</b>	<b>Transitional provisions for the Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017</b>	
36	Change in vehicle class for class 26 motor vehicles involving higher insurer's premium . . . . .	34
37	Change in vehicle class for class 26 motor vehicles involving lower insurer's premium . . . . .	35
<b>Schedule 1</b>	<b>Motor vehicle classes</b> . . . . .	36
<b>Schedule 2</b>	<b>Additional amounts</b> . . . . .	40
<b>Schedule 3</b>	<b>Levies</b> . . . . .	42
<b>Schedule 4</b>	<b>Dictionary</b> . . . . .	44
<b>Schedule 5</b>	<b>Motor Accident Insurance Act 1994 Industry Deed</b> . . . . .	47

---

<b>Part 1</b>	<b>Preliminary</b>	
1	Parties . . . . .	47
2	Definitions . . . . .	48
<b>Part 2</b>	<b>Claims management and rehabilitation</b>	
3	Claims procedures generally . . . . .	48
4	Rehabilitation . . . . .	49
<b>Part 3</b>	<b>Claims involving multiple insurers</b>	
5	Obligation to resolve questions . . . . .	50
6	Cost sharing . . . . .	51
7	Resolution of disputed questions . . . . .	51
8	Rules for resolving disputes . . . . .	52
9	Agreement for giving information about, and payment of, share of claim costs . . . . .	52
10	If there is no dispute under s 5 and no agreement mentioned in s 9(1) 53	
11	If there is a dispute under s 5 and no agreement mentioned in s 9(1)	54
12	Accounts to be kept . . . . .	54
<b>Part 4</b>	<b>Exchange of information</b>	
13	Exchange of information . . . . .	54
<b>Part 5</b>	<b>Public disclosure of information</b>	
14	Information may be publicly disclosed . . . . .	55
<b>Part 6</b>	<b>Transport administration's obligations</b>	
15	Transport administration's obligation to make its records available to the commission . . . . .	56
16	Transport administration's obligation to provide information for licensed insurers . . . . .	56
17	Notice to accompany registration renewal notice . . . . .	57
18	Transport administration's responsibility for enforcement . . . . .	57
<b>Part 7</b>	<b>General</b>	
19	Late fees . . . . .	57
20	Exclusion of collateral agreement etc. . . . .	58

---



---

# Motor Accident Insurance Regulation 2004

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Motor Accident Insurance Regulation 2004*.

### 2 Commencement

This regulation commences on 1 September 2004.

### 3 Definitions

The dictionary in schedule 4 defines particular words used in this regulation.

## Part 2 Classification of motor vehicles

### 4 Classification of motor vehicles for fixing insurance premiums

- (1) For fixing insurance premiums for CTP insurance, motor vehicles are classified as stated in schedule 1.
- (2) If a motor vehicle falls into 2 or more of the classes stated in schedule 1, the vehicle's class is taken to be the class that attracts the highest insurance premium.
- (3) However—
  - (a) if the motor vehicle is used only for primary production, the insurance premium is calculated on the basis appropriate to a vehicle used only for primary production even if the vehicle also belongs to another class that attracts a higher insurance premium; and

- (b) if a bus falls into class 9 and also class 10A or 11, the bus is taken to fall into class 9, and not class 10A or 11, if—
  - (i) the bus is not likely to be used for a purpose that would result in its classification under class 10A or 11 for a period, or a number of separate periods, of more than  $\frac{14}{365}$  of the total registration period for the bus; and
  - (ii) before the bus is used for a purpose mentioned in subparagraph (i), the registered operator of the bus advises the insurer of the day or days on which the bus is to be used for that purpose and pays to the insurer a surcharge equal to the higher of the following—
    - (A) \$4 for each day the bus is to be used for that purpose;
    - (B) \$10; and
- (c) if a bus (a **replacement bus**) falls into a class other than class 10B, the replacement bus may be used to replace a bus that falls into class 10B (a **class 10B bus**), without affecting the classification of the replacement bus under schedule 1, if—
  - (i) the replacement bus is used to replace a class 10B bus for a period, or a number of separate periods, of not more than  $\frac{14}{365}$  of the total registration period of the replacement bus; and
  - (ii) before the replacement bus is used to replace a class 10B bus, the registered operator of the replacement bus advises the insurer of the day or days on which the replacement bus is to be used to replace a class 10B bus; and
  - (iii) while the replacement bus is used to replace a class 10B bus, the class 10B bus is not used to transport passengers.



---

## **Part 3                      CTP insurance policies**

### **Division 1                      Matters about insurer's premium**

#### **5                      Setting insurer's premium—Act, ss 13 and 13A**

- (1) For section 13(2) of the Act, the quarter starting on 1 July 2004 and each successive quarter is an assessment period.
- (2) For section 13A(7) of the Act, the time limit for an insurer to submit to the commission the premiums set by the insurer for an assessment period is the period—
  - (a) starting on the day on which the insurer receives notice of the limits of insurer's premium fixed by the commission for each class of CTP insurance; and

*Note—*  
See section 13A(6)(b) of the Act.

  - (b) ending on the day that is 10 weeks before the start of the assessment period.
- (3) For section 13A(9) of the Act, the time limit in relation to an assessment period is the day that is 9 weeks before the start of the assessment period.
- (4) If a motor vehicle is to be used for racing, pacemaking, or in reliability, speed or other trials, the insurer may impose a surcharge of \$10 for each day of the registration period on which the motor vehicle is to be used for the purpose.
- (5) A surcharge under subsection (4)—
  - (a) must be paid directly to the insurer; and
  - (b) is taken not to be part of the insurance premium under the provisions of the Act and this regulation dealing with the collection, disbursement and refund of insurance premiums.
- (6) The limits of insurer's premium fixed by the commission for a class 10A, 10B or 11 motor vehicle may include an amount worked out using the formula—

$$(N - 7) \times SA$$

where—

*N* means the number of passenger seats in the vehicle.

*SA* means an amount, for each passenger seat in the vehicle, decided by the commission.

- (7) The limits of insurer's premium fixed by the commission for a class 22 motor vehicle may include an amount for each day more than 1 day the vehicle may be driven on roads while unregistered.

## **6 Additional amount for insurer's premium—Act, s 13**

For section 13(3B)(b) of the Act, the additional amount for a CTP insurance policy for a class of motor vehicles is an amount equal to the percentage, stated for the class in schedule 2, column 2, of the insurer's premium set under section 13(1) of the Act for the motor vehicle's class of insurance.

## **7 Insurer's premium if registration period less than 1 year—Act, s 13(4)(b)**

- (1) For section 13(4)(b) of the Act, the additional amount, other than for a CTP insurance policy for a class 22 vehicle, is—
- (a) if the period for which registration is to be renewed is 3 months and the amounts payable to transport administration for the renewal are paid under a direct debit arrangement—\$2; or
  - (b) if the period for which registration is to be granted or renewed is 6 months or less and paragraph (a) does not apply—\$4; or
  - (c) if the period for which the registration is to be renewed is more than 6 months but less than 1 year and the insurance renewal amount is less than the lowest

---

insurance premium set by any licensed insurer for the class of motor vehicle for a 1 year renewal—\$4.

- (2) If the insurer's premium on a CTP insurance policy for a motor vehicle registered for less than 1 year would, other than for this subsection, be less than \$10, the insurer's premium is increased to \$10.

## **8 Levies and administration fee—Act, s 14A**

- (1) The levies for the financial year starting on 1 July 2018 are fixed under schedule 3.
- (2) The administration fee for the financial year starting on 1 July 2018 is fixed at \$7.50.
- (3) The levies and administration fee fixed under subsection (1) or (2) are the amounts appropriate to a registration period of 1 year and, if the registration period is more or less than 1 year, the amount of a levy or the administration fee is worked out using the formula—

$$\frac{A \times N}{365}$$

where—

*A* is the amount of the levy fixed under subsection (1) or the amount of the administration fee fixed under subsection (2).

*N* is the number of days in the registration period.

- (4) However, the following further amount must be added to the amount of the administration fee calculated under subsection (3)—
- (a) if the registration period is 3 months and the amounts payable to transport administration for the period are paid under a direct debit arrangement—\$0.50;
- (b) if the registration period is 6 months or less and paragraph (a) does not apply—\$1;

[s 9]

---

- (c) if the registration period is more than 6 months but less than 1 year and the insurance renewal amount for the registration is less than the lowest insurance premium set by any licensed insurer for the class of motor vehicle for a 1 year renewal—\$1.
- (5) Despite subsections (3) and (4), if the motor vehicle is a motor vehicle, other than a trailer, for which an unregistered vehicle permit has been or is to be issued, the levy and administration fee under subsections (1) and (2) apply irrespective of the period of the permit.

## **9 Change in vehicle class involving higher insurer's premium**

- (1) This section applies to a proposed change to a registered motor vehicle or its use that would change the vehicle's class to a class for which a higher insurer's premium would, assuming the change had happened before the relevant date, have been payable.
- (2) The registered operator of the vehicle must—
  - (a) before the change is made—
    - (i) give the vehicle's insurer written notice of the change and when it is to be made; and
    - (ii) pay the insurer the premium shortfall; and
  - (b) as soon as practicable, but not more than 14 days, after giving notice under paragraph (a)(i), give transport administration a written notice—
    - (i) identifying the vehicle and the registered operator; and
    - (ii) stating the nature of the change to the vehicle or its use and when the change was, or is to be, made; and
    - (iii) containing or accompanied by a receipt or other evidence that the premium shortfall has been paid.

Maximum penalty—20 penalty units.

- 
- (3) However, if the change is to happen on a transfer of the vehicle's registration, transport administration may arrange with the registered operator to notify the vehicle's insurer of the change on the registered operator's behalf.
- (4) If an arrangement is made under subsection (3)—
- (a) subsection (2) does not apply to the registered operator; and
  - (b) transport administration must give the vehicle's insurer written notice of the change and when it was made; and
  - (c) the new registered operator must, if asked by the insurer, pay the insurer the premium shortfall.

- (5) In this section—

**formula amount** means the amount worked out using the formula—

$$\frac{A \times (P_1 - P_2)}{365}$$

where—

**A** means the number of days remaining in the vehicle's registration period after the change.

**P<sub>1</sub>** means the annual insurer's premium, calculated at the relevant date, for the vehicle's class after the change.

**P<sub>2</sub>** means the annual insurer's premium, calculated at the relevant date, for the class under which the vehicle was insured before the change.

**premium shortfall** means the higher of the following amounts—

- (a) the formula amount;
- (b) \$10.

**relevant date** means the commencement of the registration period in which the change to the registered motor vehicle or its use happens.

## **10 Change in vehicle class involving lower insurer's premium**

- (1) This section applies to a change or proposed change to a registered motor vehicle or its use that changes the vehicle's class to a class for which a lower insurer's premium would, assuming the change had happened before the relevant date, have been payable.
- (2) However, this section applies only if the change is intended to be permanent.
- (3) The registered operator of the vehicle may ask for a refund of part of the insurer's premium paid for the vehicle.
- (4) Before asking for a refund, the registered operator must give transport administration a written notice—
  - (a) identifying the vehicle and the registered operator; and
  - (b) stating the nature of the change to the vehicle or its use and when the change was, or is to be, made; and
  - (c) if the change is a change in the use of the vehicle—containing enough details to show the change is intended to be permanent.
- (5) Transport administration may ask for some or all information stated in the notice given under subsection (4) to be verified by statutory declaration.
- (6) A request for a refund must be made by giving the vehicle's insurer a written notice—
  - (a) stating the nature of the change to the vehicle or its use and when the change was, or is to be, made; and
  - (b) containing or accompanied by evidence the change in class has been accepted by transport administration.
- (7) The insurer must give the registered operator a refund within 1 month after receiving the request.
- (8) However, an insurer is not required to give a refund if—
  - (a) the applicant for the refund did not pay the insurance premium; or

- 
- (b) the refund amount calculated under this section is less than \$10; or
  - (c) there has already been a refund for a change of class in the same registration period.
- (9) The amount of a refund under this section must be worked out using the formula—

$$\frac{A \times (P_1 - P_2)}{365}$$

where—

*A* means the number of days remaining in the vehicle's registration period after the change.

*P<sub>1</sub>* means the annual insurer's premium, calculated at the relevant date, for the class under which the vehicle was insured before the change.

*P<sub>2</sub>* means the annual insurer's premium, calculated at the relevant date, for the vehicle's class after the change.

- (10) No right to the refund of a levy or the administration fee arises on change of class of a registered motor vehicle in the registration period.
- (11) In this section—

*relevant date* means the commencement of the registration period in which the change to the registered motor vehicle or its use happens.

## 11 Change in vehicle class not affecting insurer's premium

- (1) This section applies to a proposed change to a registered motor vehicle or its use that changes the vehicle's class without affecting the insurer's premium that would, assuming the change had happened before the relevant date, have been payable.

[s 12]

---

- (2) The registered operator of the vehicle must, before or within 14 days after the change, give transport administration a written notice—
- (a) identifying the vehicle and the registered operator; and
  - (b) stating the nature of the change to the vehicle or its use and when the change was, or is to be, made.

Maximum penalty—4 penalty units.

- (3) In this section—

*relevant date* means the commencement of the registration period in which the change to the registered motor vehicle or its use happens.

## 12 Refund on cancellation of registration

- (1) If the registration of a motor vehicle is cancelled before the end of the registration period for the vehicle, the vehicle's insurer must, if asked by—
- (a) the registered operator of the vehicle at the time of cancellation (the *former registered operator*); or
  - (b) transport administration;

refund to the former registered operator, within 1 month after receiving the request, an amount worked out using the formula—

$$\frac{IP \times A}{B}$$

where—

*A* means the number of days remaining in the registration period.

*B* means the total number of days in the registration period.

*IP* means the insurer's premium paid for the registration period.



- 
- (2) A request for a refund under subsection (1) must be supported by a written statement from transport administration confirming the cancellation of the registration and the date of the cancellation.
  - (3) An insurer is not required to give a refund if the refund amount calculated under this section is less than \$10.
  - (4) No right to the refund of a levy or the administration fee arises on cancellation of the registration of a motor vehicle.

### **13 Refund by transport administration**

Transport administration may give a refund under this regulation for the insurer of a motor vehicle if—

- (a) transport administration has arranged with the insurer to give refunds for the insurer; or
- (b) the commission has asked transport administration to give refunds for the insurer.

## **Division 2 Other matters**

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

A certificate of insurance must contain all of 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 motor 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;

[s 15]

---

- (e) if the vehicle is registered in Queensland—the registered number assigned to the vehicle;
- (f) the vehicle’s class for CTP insurance;
- (g) the period for which the insurance premium has been paid;
- (h) the amount of the insurance premium paid;
- (i) other information required by the form approved by the commission.

**15 Gratuitous insurance—Act, s 23**

For section 23(7) of the Act, motorised wheelchairs are a class of motor vehicles for which gratuitous insurance is provided by the Nominal Defendant.

**16 Rate of interest for amount owed to transport administration—Act, s 27A**

For section 27A(3) of the Act, the rate of interest is the yield for Commonwealth Government 10 year bonds (monthly) published by the Reserve Bank of Australia, as at the beginning of the quarter in which the payment should have been made.

*Note—*

The rate of interest is available on the Reserve Bank of Australia’s website.

## **Part 4 Claims**

### **Division 1 Notices of claims and additional information forms**

**17 Notice of claim—generally**

A notice of claim must—

- (a) be in a form approved by the commission; and
- (b) be signed and witnessed as shown in the form; and
- (c) if the form states that some or all of the information to be provided by the claimant in the notice must be verified by the claimant on oath—contain the form of the oath completed, as shown on the form, by the claimant and a person who is permitted by law to administer the oath.

## **18 Notice of claim—Act, s 37(1)(a) and (d)**

- (1) A notice of claim 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 occupation and, if the claimant is currently employed, 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) whether the claimant, or for a derivative claim, the injured person, was involved in the accident as a driver or a passenger, or in another stated capacity; and
    - (iii) whether the claimant, or for a derivative claim, the injured person, was using a protective device at the time of the accident and, if so, the nature of the protective device; and

*Example of protective device—*

a seatbelt or safety helmet

- (iv) details of the claimant's consumption of alcohol or drugs, or for a derivative claim, the injured person's consumption of alcohol or drugs, within 12 hours immediately before the accident and, if the claimant or injured person 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 within 12 hours immediately before the accident; and
  - (v) details of how the accident happened; and
  - (vi) a diagram showing, to the best of the claimant's knowledge, the scene of the accident; and
- (c) the cause of the accident, including—
- (i) who, in the claimant's opinion, was responsible for causing the accident; and
  - (ii) why the claimant attributes responsibility to that person; and
- (d) the make, model, type, colour, year of manufacture, and registration number of each vehicle involved in the accident; and
- (e) the name and address of the owner and driver of each vehicle involved in the accident; and
- (f) the names and addresses of the witnesses to the accident; and
- (g) the name of the police officer who attended the scene of the accident, or to whom the accident was reported, and the police station where the police officer was stationed and the police accident report reference number for the accident; and
- (h) the claimant's employment and income at the time of the accident; and
- (i) all significant disabilities suffered by the claimant; and

- (j) whether the claimant is a participant in the injury insurance scheme in relation to an injury resulting from the motor vehicle accident the subject of the claim; and
  - (k) whether an application has been made under the National Injury Act for approval for the claimant to participate in the injury insurance scheme in relation to an injury resulting from the motor vehicle accident the subject of the claim; and
  - (l) all claims made by the claimant for damages, compensation or social security benefits for a significant disability; and
  - (m) all amounts received by the claimant by way of damages, compensation or social security benefits for a significant disability; and
  - (n) for a claim other than a derivative claim—the date the claimant was first examined by a doctor in relation to personal injury resulting from the accident; and
  - (o) the date the claimant first consulted a lawyer about the possibility of making a claim.
- (2) Also, a notice of claim must contain—
- (a) a statement of the nature and extent of the claimant's loss, as far as it can be assessed at the date of the notice; and
  - (b) a statement of an amount the claimant would be willing to accept in full satisfaction of the claim (an *offer of settlement*) or a statement of why the claimant is not yet in a position to make an offer of settlement.
- (3) In addition, a notice of claim must—
- (a) if the claim is not a derivative claim—contain a certificate signed by a doctor stating—
    - (i) the doctor's name, address, professional qualifications and medicare provider number; and

- (ii) a description of the injury and its effects including the extent the injury has limited, or is likely to limit, the claimant's ability to work; and
    - (iii) details of hospitalisation and medical treatment to the date of the certificate and medical treatment the doctor considers will be necessary in the future; and
  - (b) if the claim is a derivative claim made by or for the dependants of a person who died as a result of injury received in a motor vehicle accident—be accompanied by a copy of the death certificate.
- (4) For a notice of claim, a disability is significant if—
- (a) the disability may be relevant to the assessment of the extent of the injury suffered by the claimant in the accident; or
  - (b) the disability or its symptoms lasted for 4 weeks or more.

## **19 Notice of claim—Act, s 37(1)(b)**

A notice of claim must include written permission allowing the insurer to have access to, and to make copies of, records about the claimant and relevant to the claim in the possession of the following—

- (a) other licensed insurers;
- (b) 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;
- (c) a department, agency or instrumentality of the Commonwealth, the State or another State administering laws about police, transport, taxation or social welfare;
- (d) a hospital, including a private hospital;
- (e) an ambulance or other emergency service;

- 
- (f) a doctor, professional provider of rehabilitation services or person professionally qualified to assess cognitive, functional or vocational capacity;
  - (g) an employer or previous employer of the claimant;
  - (h) an educational institution;
  - (i) the office of the director of public prosecutions;
  - (j) the legal services commission;
  - (k) the workers' compensation regulator;
  - (l) the insurance agency.

## **20 Additional information form—Act, s 37A**

An additional information form must—

- (a) be signed and witnessed as shown in the form; and
- (b) if the form states that information to be provided by the claimant in the form must be verified by the claimant on oath—contain the form of the oath completed, as shown on the form, by the claimant and a person who is permitted by law to administer the oath.

## **Division 2 Other matters about claims**

### **21 Offer of settlement**

- (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 counter offer of settlement can not be made or accepted by or for the claimant unless the court or the public trustee—
  - (a) is satisfied that settlement of the claim on the terms proposed would be in the claimant's best interests; and

- (b) approves the terms of the offer or counter offer.
- (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) in relation to the claimant.
- (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 another reason.

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

- (1) If a claimant asks an insurer for payment or reimbursement of private hospital, medical and pharmaceutical expenses under section 42, or rehabilitation expenses under section 51, of the Act, the request must—
  - (a) be for a total amount of at least \$200; and
  - (b) be accompanied by receipts, unpaid accounts or other appropriate evidence of the expenses.
- (2) If the insurer reasonably requires, the claimant must give the insurer a certificate from the doctor responsible for treating the personal injury certifying that the expenses were reasonably incurred having regard to the nature and extent of the injury.



- (3) Despite subsection (1), 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.

## **23 Insurer to give information to claimant**

- (1) If an insurer obtains information about a claimant under section 19, the insurer must give the information to the claimant within 1 month after obtaining it.
- (2) However, an insurer may withhold information from a claimant if the insurer has reasonable grounds to suspect the claimant of fraud.
- (3) 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.

## **Part 5 Licensed insurers**

### **24 Information and materials for application—Act, s 62**

An application for a licence must be accompanied by all of the following—

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

[s 25]

---

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

## **25 Condition about when licence takes effect—Act, s 64**

A licence is subject to a condition that the licensed insurer must not start carrying on business under the licence until the first day of the quarter next following the grant of the licence.

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

- (1) On filing or giving accounts, returns or other information under the Corporations Act 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 Australian Prudential Regulation Authority, 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 the commission asks a licensed insurer for an actuarial report on the insurer's financial position, the insurer must file the report with the commission within 3 months after receiving the request.
- (4) If a transaction happens that may affect control of a licensed insurer, the insurer must file full particulars of the transaction with the commission within 1 month after it happens.
- (5) If a change of the manager responsible for managing a licensed insurer's CTP business happens, the insurer must file full particulars of the change with the commission within 1 month after it happens.

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

- (1) A licensed insurer must, within 7 days after the end of each reporting period, give the commission a return for the reporting period, in a form approved by the commission, stating—
  - (a) for each notice of claim received in the reporting period—
    - (i) the required claim details; and
    - (ii) if the notice of claim is not disputed—the required further claim details; and
  - (b) for each disputed notice of claim for which the dispute was resolved in the reporting period—the required further claim details; and
  - (c) for each notifiable step in the processing of a claim that takes place in the reporting period—
    - (i) the nature of the step; and
    - (ii) the date it was taken; and

- (iii) other details of the notifiable step the commission requires by written notice given to all licensed insurers.
- (2) Each of the following is a notifiable step in the processing of a claim—
  - (a) a dispute affecting the notice of claim is resolved;
  - (b) the insurer asks the claimant to complete an additional information form;
  - (c) the claimant returns a completed additional information form to the insurer;
  - (d) the insurer admits liability on the claim, with or without an allegation of contributory negligence against the claimant, or denies liability on the claim;
  - (e) the insurer makes a decision about the provision of rehabilitation services for the claimant or agreement is reached on the rehabilitation services to be provided for the claimant;
  - (f) a compulsory conference is held;

*Note—*  
See part 4, division 5A of the Act.

  - (g) the claim is settled;
  - (h) a proceeding based on the claim is started in a court;
  - (i) a court makes a decision about liability or the amount of damages;
  - (j) the claim is finalised.
- (3) A licensed insurer must, within 15 days after the end of each reporting period, give the commission a return for the reporting period stating—
  - (a) the insurer's costs on each claim for the reporting period, 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 medical examinations and obtaining medical reports; and
  - (v) the cost of rehabilitation; and
  - (vi) other costs the commission, by notice to the licensed insurers, requires to be separately itemised; and
- (b) the amount recovered under part 4, division 7 of the Act on each claim.
- (4) If a claim involves 2 or more insurers and a claim manager is appointed, an insurer (other than the claim manager) that has notified the required claim details for the claim and notified the appointment of the claim manager need not notify further information about the claim under subsections (1) and (3).
- (5) A return must include particulars updating information supplied in previous returns about motor vehicle accidents, claims, estimates and costs.
- (6) In this section—

***compliance date***, for a notice of claim, means—

- (a) if the notice is not a disputed notice of claim—the date the notice was received by the insurer; or
- (b) if the notice is a disputed notice of claim—the date the dispute was resolved.

***disputed notice of claim*** means a notice of claim for which the insurer states in the insurer's response to the notice of claim that the insurer—

- (a) is not satisfied the notice has been given as required under part 4, division 3 of the Act; and

*Note—*

See part 4, division 3 of the Act.

- (b) does not waive compliance with the relevant requirements.

*Note—*

See section 39(1)(a) of the Act.

***reporting period*** means—

- (a) for subsection (1)—a month; or
- (b) for subsection (3)—
  - (i) if the commission has given written notice to all licensed insurers that the reporting period is to be reduced to a month as from a stated date that is at least 3 months after the date of the notice and the stated date has passed—a month; or
  - (ii) otherwise—a quarter.

***required claim details***, for a claim, means the following details—

- (a) the date the notice of claim was received by the insurer;
- (b) the date the insurer opened a file on the claim;
- (c) the date, time and place of the accident;
- (d) an identifying accident number assigned by the insurer;
- (e) an identifying claim number;
- (f) the relevant police accident report reference number;
- (g) for each claimant—
  - (i) the claimant's full name and residential address; and
  - (ii) the claimant's date of birth.

***required further claim details***, for a claim, means the following details—

- (a) the compliance date for the notice of claim;
- (b) the make, model, type, year of manufacture, and registration number of each motor vehicle involved in the accident;
- (c) the names and addresses of the owner and driver of each motor vehicle involved in the accident;

- 
- (d) the name and address of each witness to the accident known to the insurer;
  - (e) the circumstances of the accident, including how the claimant came to be involved in the accident;
  - (f) the nature of the personal injury to the claimant;
  - (g) the date, as shown in the notice of claim, on which the claimant was first examined by a doctor in relation to the personal injury;
  - (h) the date, as shown in the notice of claim, on which the claimant first consulted a lawyer about the possibility of making a claim.

***resolved***, in relation to a disputed notice of claim, means—

- (a) the insurer is satisfied the claimant has complied with the relevant requirements of part 4, division 3 of the Act, or is satisfied with the action taken by the claimant to remedy the noncompliance or waives compliance in any event; or
- (b) the court declares the claimant has remedied the noncompliance; or

*Note—*

See section 39(5)(c)(i) of the Act.

- (c) the court authorises further proceedings based on the claim despite the noncompliance.

*Note—*

See section 39(5)(c)(ii) of the Act.

## Part 6 Miscellaneous

### 27A Prescribed limits for particular definitions—Act, s 4

- (1) This section prescribes the amount for the definitions *declared costs limit*, *lower offer limit* and *upper offer limit* in section 4 of the Act.

[s 28]

- (2) For an injury arising during a period stated in an item of the following table, the amounts stated in the item are prescribed.

Item	Period (dates inclusive)	Declared costs limit	Lower offer limit	Upper offer limit
1	2 December 2002 to 30 June 2010	\$2,500	\$30,000	\$50,000
2	1 July 2010 to 30 June 2011	\$2,950	\$35,340	\$58,900
3	1 July 2011 to 30 June 2012	\$3,040	\$36,400	\$60,670
4	1 July 2012 to 30 June 2013	\$3,210	\$38,390	\$63,990
5	1 July 2013 to 30 June 2014	\$3,380	\$40,460	\$67,450
6	1 July 2014 to 30 June 2015	\$3,510	\$41,990	\$70,010
7	1 July 2015 to 30 June 2017	\$3,600	\$43,020	\$71,730
8	1 July 2017 to 30 June 2018	\$3,690	\$44,070	\$73,490
9	1 July 2018 and after	\$3,800	\$45,430	\$75,750

## 28 Panels of recognised medical experts—Act, s 45A

For section 45A(2)(a) of the Act, the following professional bodies are prescribed—

- (a) Australian Lawyers Alliance Limited ACN 086 880 499;
- (b) Insurance Council of Australia Limited ACN 005 617 318;
- (c) Queensland Law Society Incorporated ABN 33 423 389 441.

## 29 Costs if mandatory final offer accepted—Act, s 51C

- (1) For section 51C(4) of the Act, if a mandatory final offer for more than the lower offer limit but not more than the upper offer limit is accepted, the claimant is entitled to payment of costs as follows—



- 
- (a) 100% of item 1 costs;
  - (b) 50% of item 5 costs;
  - (c) the claimant's costs of legal representation, if any, at the compulsory conference at the rate of \$175 for the first hour and \$150 for every 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;
  - (e) reasonable disbursements of which documentary evidence is available.
- (2) However, if the amount calculated under subsection (1) is more than the declared costs limit, the claimant's entitlement is limited to the declared costs limit.
- (3) In this section—

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

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

### **30 Fees for attending examination—Act, s 78(3)**

A person required to attend for examination under part 5, division 3 of the Act is entitled to allowances and expenses on the same basis as a witness in a proceeding before the District Court.

### **31 Exchange of information—Act, s 92**

- (1) For section 92(2) of the Act, the following are authorised to provide information to, and to receive information from, each other—
  - (a) licensed or other insurers providing CTP insurance in the State or elsewhere;
  - (b) the commission;

- (c) the Nominal Defendant;
  - (d) the insurance agency.
- (2) For section 92(2) of the Act, 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—
- (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 laws about police, transport, taxation or social welfare;
  - (c) a hospital;
  - (d) an ambulance or other emergency service;
  - (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 the claimant;
  - (g) an educational institution;
  - (h) the office of the director of public prosecutions;
  - (i) the legal services commission;
  - (j) the workers' compensation regulator;
  - (k) the insurance agency.
- (3) The commission is authorised to disclose information to which section 92(1) of the Act applies to a department, agency or instrumentality of the Commonwealth administering laws about the prudential regulation of entities in the financial sector.

**32 Form and execution of industry deed**

- (1) The approved form of the industry deed is in schedule 5.
- (2) A party executes the industry deed by executing a counterpart of the deed provided by the commission.
- (3) The executed counterpart must be given to the commission.

**Part 7 Repeal and transitional provisions for SL No. 153 of 2004**

**33 Repeal**

The Motor Accident Insurance Regulation 1994 SL No. 298 is repealed.

**34 Transitional application of industry deed**

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.

[s 35]

---

## **Part 8 Transitional provisions**

### **Division 1 Transitional provision for the Motor Accident Insurance Amendment Regulation (No. 2) 2006**

#### **35 Policy of insurance for class 10 motor vehicles not affected**

- (1) This section applies if a policy of insurance under the Act for a class 10 motor vehicle was in force immediately before the amending regulation commenced.
- (2) The policy of insurance continues in force as if the amending regulation had not commenced.
- (3) The registered operator of the vehicle is not entitled to a refund of an amount of insurance premium, or liable to pay a further amount of insurance premium, for the policy of insurance only because the amending regulation commenced.
- (4) In this section—

*amending regulation* means the *Motor Accident Insurance Amendment Regulation (No. 2) 2006*.

### **Division 2 Transitional provisions for the Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017**

#### **36 Change in vehicle class for class 26 motor vehicles involving higher insurer's premium**

- (1) This section applies if—
  - (a) a proposed change to a registered motor vehicle's use would change the vehicle's class to class 26; and

- (b) the relevant date under section 9 for the registration of the vehicle is before the commencement.
- (2) For section 9(1), class 26 is taken to be the class for which a higher insurer's premium would have been payable.
- (3) For section 9(5), definition *formula amount*, the value of  $P_1$  is taken to be the annual insurer's premium for class 26.

**37 Change in vehicle class for class 26 motor vehicles involving lower insurer's premium**

- (1) This section applies if—
  - (a) a change or proposed change to a registered motor vehicle's use changes or would change the vehicle's class to class 26; and
  - (b) the change is intended to be permanent; and
  - (c) the relevant date under section 10 for the registration of the vehicle is before the commencement.
- (2) For section 10(1), class 26 is taken to be the class for which a lower insurer's premium would have been payable.
- (3) For section 10(9), for working out the amount of the refund, the value of  $P_2$  is taken to be the annual insurer's premium for class 26.

## **Schedule 1      Motor vehicle classes**

section 4

<b>Vehicle class</b>	<b>Description of class</b>
1	cars and station wagons
2	motorised homes, but not if the part of the motor vehicle designed for residence is detachable from the part providing the motive power
3	taxis—cars and station wagons only
4	hire vehicles that— (a) would otherwise fall into class 1, 2 or 6; and (b) are not in class 26
5	motor vehicles, including cycles, for use only as vintage, veteran, historic or street rod motor vehicles
6	trucks, utilities and vans, including panel vans, with a GVM of 4.5t or less
7	trucks, prime movers and vans with a GVM of more than 4.5t
8	buses that are— (a) exempt or partially exempt from payment of vehicle registration fees on the basis of use for charitable or community service; or (b) used only for driver tuition; or (c) not used for or in connection with a business or commercial purpose

---

<b>Vehicle class</b>	<b>Description of class</b>
9	buses used substantially for transporting— (a) children, mature age students, teachers, other school employees and parents to or from school or school events; or (b) persons of any age to or from centres for therapy, rehabilitation, or remedial or other special education;  (but a bus is not taken to be 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)
10A	buses that are— (a) used within 350km of their principal base of operations; and (b) not in class 8, 9 or 10B
10B	buses operating under an integrated mass transit service contract, other than buses used only for a school service
11	buses that are not in class 8, 9, 10A or 10B
12	motorcycles with 2 or 3 wheels, including motorcycles for hire, with seating only for the driver
13	motorcycles with 2 or 3 wheels, including motorcycles for hire, with either or both of the following— (a) seating for a pillion passenger; (b) a sidecar
14	tractors, with or without attachment, that are conditionally registered with unrestricted access registration

<b>Vehicle class</b>	<b>Description of class</b>
15	(a) self-propelled machinery, other than a vehicle of class 14, 19, 20 or 21; and (b) fire engines, bush fire brigade vehicles and other emergency vehicles other than ambulances
16	ambulances
17	motor vehicles used only for primary production, other than motor vehicles for which a lower premium is prescribed
18 <sup>a</sup>	
19	motor vehicles that are conditionally registered with limited access registration
20	motor vehicles that are conditionally registered with zone access registration
21	self-propelled machinery, other than a vehicle of class 14, 15, 19 or 20, that is conditionally registered with unrestricted access registration
22	motor vehicles, other than trailers, for which unregistered vehicle permits have been or are to be issued
23	motor vehicles, other than trailers, to be driven with a dealer's plate attached in the course of a business for which the dealer's plate is issued
24	trailers registered under the <i>Interstate Road Transport Act 1985</i> (Cwlth) or trailers with a GVM of more than 4.5t for which a supplementary policy within the meaning of s 31(5) of the Act is sought
25 <sup>b</sup>	
26	booked hire vehicles (cars, station wagons and utilities) and limousines (cars and station wagons) that are not also motor vehicles made available, at any time, for hire without a driver



- 
- a Class 18 has been abolished.
  - b Class 25 has been abolished.

## **Schedule 2      Additional amounts**

section 6

<b>Motor vehicle class</b>	<b>%</b>
1	7.4
2	7.4
3	8.2
4	7.9
5	4.6
6	7.5
7	8.0
8	7.7
9	7.7
10A	8.0
10B	8.2
11	8.0
12	5.6
13	7.2
14	5.0
15	7.1
16	7.7
17	7.0
19	5.0
20	5.0

<b>Motor vehicle class</b>	<b>%</b>
21	6.0
22	4.2
23	7.4
24	5.6
26	7.4

## Schedule 3 Levies

section 8(1)

<b>Class of CTP insurance</b>	<b>Statutory insurance scheme levy</b>	<b>Hospital and emergency services levy</b>	<b>Nominal Defendant levy</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
1	1.50	18.00	9.00
2	1.50	18.00	9.00
3	1.50	34.80	18.00
4	1.50	34.80	18.00
5	1.50	4.20	1.20
6	1.50	18.00	9.00
7	1.50	34.80	18.00
8	1.50	18.00	9.00
9	1.50	18.00	9.00
10A	1.50	34.80	18.00
10B	1.50	34.80	18.00
11	1.50	34.80	18.00
12	1.50	6.60	3.00
13	1.50	18.00	9.00
14	1.50	6.60	3.00
15	1.50	6.60	3.00
16	1.50	18.00	9.00
17	1.50	9.60	4.80

---

<b>Class of CTP insurance</b>	<b>Statutory insurance scheme levy</b>	<b>Hospital and emergency services levy</b>	<b>Nominal Defendant levy</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
19	1.50	4.20	1.20
20	1.50	4.20	1.20
21	1.50	4.20	1.20
22	1.50	4.20	1.20
23	1.50	18.00	9.00
24	1.50	6.60	3.00
26	1.50	34.80	18.00

## Schedule 4 Dictionary

### section 3

***additional information form*** see section 37A(3) of the Act.

***booked hire vehicle*** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

***bus*** means a motor vehicle principally built to carry more than 8 seated adult persons including the driver.

***claim manager*** see section 38 of the Act.

***conditionally registered*** means registered under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, section 12(2).

***derivative claim*** means a motor vehicle accident claim based on the death of, or injury to, a person in a motor vehicle accident, other than the claimant.

*Examples—*

- 1 a claim brought on behalf of the dependants of a person killed in a motor vehicle accident
- 2 a claim brought by the spouse of a person injured in a motor vehicle accident for loss of matrimonial consortium

***direct debit arrangement***, for payment of amounts to transport administration, see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

***disability*** includes a personal injury and an illness.

***injured person*** includes a person who dies as a result of injury received in a motor vehicle accident.

***insurance renewal amount***, for a renewal of registration, means the amount of the registration-related amount paid to transport administration less the amounts payable to transport administration for registration fees and charges.

***integrated mass transit service contract*** see the *Transport Operations (Passenger Transport) Act 1994*, section 62AAC.

***legal services commission*** means the Legal Services Commission continued under the *Legal Profession Act 2007*, section 591(1).

***limited access registration*** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

***limousine*** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

***notice of claim*** means a notice of a motor vehicle accident claim under section 37 of the Act.

***offer of settlement*** see section 18(2)(b).

***police accident report reference number*** means the identifying number allocated by the police department to a motor vehicle accident.

***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.

***registration period***, for a motor vehicle, means the period for which registration of the vehicle was granted or last renewed.

***registration-related amount*** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

***school service*** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

***taxi*** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

***the office of the director of public prosecutions*** means the Office of the Director of Public Prosecutions established under the *Director of Public Prosecutions Act 1984*, section 4A(2).

***unregistered vehicle permit*** means a permit, issued under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, section 60, allowing a vehicle to be driven on roads while unregistered.

***unrestricted access registration*** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

***workers' compensation regulator*** means the Workers' Compensation Regulator established under the *Workers' Compensation and Rehabilitation Act 2003*, section 326(1).

***zone access registration*** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.



---

# Schedule 5      Motor Accident Insurance Act 1994 Industry Deed

## section 32

**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

### 1                      Parties

- (1) The parties to this deed are—
  - (a) the commission; and
  - (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.

## 2 Definitions

- (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 the *Motor Accident Insurance Regulation 2004*, schedule 1.

*contributing insurer* means a licensed insurer for whom another licensed insurer is acting as claim manager for a claim.

*contribution notice* see section 10(2).

*referee* means a person, or 1 of 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

### 3 Claims procedures generally

- (1) An insurer must deal as quickly as possible with claims.
- (2) An insurer must ensure that its procedures for dealing with claims are efficient and cost-effective.
- (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 claim the insurer receives under section 37 of the Act and the date when the insurer received it; and
  - (ii) each waiver or order affecting a claim under section 39 of the Act, the terms of the waiver or order, and the date when it was given or made; and
  - (iii) each offer or counteroffer of settlement made by or on behalf of a claimant, the terms 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.

#### **4 Rehabilitation**

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 obligations to undertake appropriate medical treatment and rehabilitation programs; and
- (c) facilitate access to appropriate rehabilitation services for injured claimants; and

- (d) provide guidance to help insurers decide what rehabilitation services and costs of the services are reasonable and appropriate; 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**

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

- (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.
- (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 must not be referred to a referee if this deed prescribes the basis on which claim costs are to be shared in the absence of agreement between the insurers.
- (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.

## **6 Cost sharing**

- (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.

## **7 Resolution of disputed questions**

- (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 quickly 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.

## **8 Rules for resolving disputes**

The Institute of Arbitrators and Mediators Australia Rules for the Conduct of Commercial Arbitrations apply to a proceeding before the referee under this deed.

## **9 Agreement for giving information about, and payment of, share of claim costs**

- (1) Licensed insurers may enter into an agreement about how a claim manager must give a contributing insurer information about claim costs and payment of the contributing insurer's share of the claim costs.
- (2) However, the information must be given to a contributing insurer at intervals of not more than 6 months.

- 
- (3) Also, a contributing insurer must pay the full contribution payable by the insurer to the claim manager within 6 months after the claim is finalised.

**10 If there is no dispute under s 5 and no agreement mentioned in s 9(1)**

- (1) This section applies if, for a claim—
- (a) there is no dispute about which insurer is to be the claim manager or the basis on which claim costs are to be shared; and
  - (b) 1 of the insurers for the claim has not entered into an agreement mentioned in section 9(1).
- (2) The claim manager must, within 6 months after the claim manager receives the claim, and at intervals of not more than 6 months, give each contributing insurer a written notice (a *contribution notice*)—
- (a) identifying the claim for which the claim manager is acting as claim manager for the contributing insurer; and
  - (b) stating the claim costs incurred in the period—
    - (i) for the first report—since receiving the claim; and
    - (ii) for another report—since the previous report was given; and
  - (c) stating the name of all the contributing insurers from whom a contribution is claimed; and
  - (d) stating the amount of the contribution and the amount, if any, the claim manager requires to be paid; and
  - (e) giving details and supporting information in a form required by the commission.
- (3) Each contributing insurer must, within 1 month after receiving the contribution notice, pay the claim manager the amount, if any, required to be paid.

**11 If there is a dispute under s 5 and no agreement mentioned in s 9(1)**

- (1) This section applies if, 6 months after an insurer receives a claim—
  - (a) there is a dispute about which insurer is to be claim manager for the claim or the basis on which claim costs are to be shared; and
  - (b) 1 of the insurers for the claim has not entered into an agreement mentioned in section 9(1).
- (2) When the dispute is resolved, the claim manager must, within 1 month after the day it is resolved, and at intervals of not more than 6 months, give each contributing insurer a contribution notice.
- (3) Each contributing insurer must, within 1 month after receiving the contribution notice, pay the claim manager the amount, if any, required to be paid.

**12 Accounts to be kept**

A licensed insurer must keep appropriate 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.

**Part 4 Exchange of information**

**13 Exchange of information**

- (1) A licensed insurer must, if asked by another licensed insurer who has an 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**

#### **14 Information may be publicly disclosed**

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 about the conduct of CTP insurance business.



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

### **17 Notice to accompany registration renewal notice**

- (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.

### **18 Transport administration's responsibility for enforcement**

Transport administration must, if asked by the commission—

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

## **Part 7 General**

### **19 Late fees**

- (1) If an insurer does not 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 subsection (1).

**20 Exclusion of collateral agreement etc.**

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*].

[*Common seal*]

\_\_\_\_\_  
\_\_\_\_\_

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