

# Transport Accident (Amendment) Bill

No.

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# LEGISLATIVE ASSEMBLY

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Read 1° 30 March 1988

*(Brought in by Mr Mathews and Mr Roper)*

## A BILL

to amend the *Transport Accident Act* 1986, to make a consequential amendment to the *Transport Act* 1983, and for other purposes.

### **Transport Accident (Amendment) Act 1988**

The Parliament of Victoria enacts as follows:

#### **PART 1—PRELIMINARY**

##### **Purpose.**

- 5     1. The purpose of this Act is to make various amendments to the *Transport Accident Act* 1986 and to make a consequential amendment to the *Transport Act* 1983.

##### **Commencement.**

- 10     2. (1) Subject to sub-sections (2) and (3), this Act comes into operation on a day or days to be proclaimed.
- (2) Sections 4 (2) and 35 are deemed to have come into operation on 16 December 1986.
- (3) Sections 34, 36 and 37 are deemed to have come into operation on 1 March 1988.

**Principal Act.**

No. 111/1986 as  
amended by No.  
127/1986.

3. In this Act, the *Transport Accident Act* 1986 is called the Principal Act.

**PART 2—AMENDMENT OF THE *TRANSPORT ACCIDENT ACT* 1986****Definitions.**

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4. (1) In section 3 (1) of the Principal Act—

(a) in the definition of “Ambulance service”, after “conveying” insert “in Australia”; and

(b) in the definition of “Degree of impairment”, for “Degree of impairment” substitute “Degree”, in relation to impairment.’

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(2) In section 3 (1) of the Principal Act, for the definition of “Earner” substitute—

“**Earner**” means an earner within the meaning of sub-section (2), and in sections 57 and 58—

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(a) includes a person who receives, or received benefits, other than an age pension under the *Social Security Act* 1947 of the Commonwealth as amended and in force for the time being; but

(b) does not include a person who, at the date of death would, subject to satisfying any other requirements, have been eligible to receive an age pension under the *Social Security Act* 1947 of the Commonwealth as amended and in force for the time being.’

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(3) In section 3 (1) of the Principal Act, in the definition of “Medical practitioner” after “1970” insert “and, in relation to anything done for the purposes of this Act in a place outside Victoria, includes a medical practitioner who is lawfully qualified under a law in force in that place to do that thing”.

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(4) In section 3 (1) of the Principal Act, in paragraph (b) of the definition of “Rehabilitation service” for “modifications to a home or a motor vehicle” substitute “modifications to a motor vehicle owned by or on behalf of, or to a home owned by or that was the principal place of residence of, the person before the transport accident to which the rehabilitation relates”.

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**Pre-accident earnings.**

5. (1) In section 4 (1) of the Principal Act—

(a) in paragraph (a), for “for that period” substitute “for the whole of that period”; and

(b) in paragraph (b), for “for which” substitute “for the whole of which”.

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(2) After section 4 (1) of the Principal Act insert—

“(1A) For the purposes of sub-section (1), if an earner voluntarily (otherwise than by reason of an incapacity resulting from an injury which entitled the earner to compensation)—

(a) alters the normal number of hours worked; or

(b) alters the nature of the work performed with the result that a change occurs in the earner's ordinary time rate of pay—

any period before the alteration takes effect shall be disregarded in calculating the earner's average weekly earnings.

(1B) For the purposes of sub-section (1), an earner's average weekly earnings shall be calculated by dividing the sum of amounts payable to the earner calculated at the earner's ordinary time rate of pay for the normal number of hours per week by the number of weeks during which the earner actually worked or was on annual, sick or other paid leave.”.

(3) After section 4 (4) (b) of the Principal Act insert—

“(ba) if the normal number of hours per week is fixed in any industrial award applicable to an earner, the earner's normal number of hours per week in that work shall be deemed to be the number so fixed; and”.

(4) In section 4 of the Principal Act, for sub-sections (5) and (6) substitute—

“(5) For the purposes of this section, if at the time of the transport accident, the earner was—

(a) under the age of 21 years; or

(b) an apprentice; or

(c) employed under a contract of service under which he or she is expressly required to undergo any training, instructions or examination for the purpose of becoming qualified for the occupation to which the contract of service relates—

and, in terms of his or her employment, the earner would have been entitled at subsequent stages to increments in earnings, the earner's pre-accident weekly earnings shall be calculated—

(d) until the earner attains the age or stage or would, but for the accident, have attained the stage at which the highest rate is payable—as if, at the time of the accident, the earner were being paid at the rate applicable to the age or stage of the earner for the time being; and

(e) on and after the earner attains the age or stage or would, but for the accident, have attained the stage at which the highest rate is payable—as if, at the time of the accident, the earner were being paid at the rate applicable at that age or stage.”.

(5) In section 5 of the Principal Act, for “having regard to the person’s loss of earnings” substitute “having regard to the earnings of the person during the three years immediately preceding the accident”.

#### **Amendment of section 13.**

6. In section 13 of the Principal Act— 5
- (a) after “13.” insert “(1)”; and
- (b) at the end of the section insert—
- “(2) Without limiting or derogating from sub-section (1), the Commission may enter into agreements or arrangements and settle or compromise differences or disputes with other persons.”. 10

#### **The Transport Accident Commission.**

7. (1) In section 22 of the Principal Act—
- (a) in sub-section (3)—
- (i) for “under Part 7” substitute “under Part 5 or Part 7”; 15
- and
- (ii) for “this Part” substitute “Part 7”; and
- (b) in sub-section (9)—
- (i) for “Part 7 or Part 9” substitute “Part 5 or Part 7, or, insofar as it relates to functions and powers under Part 7, under Part 9”; and 20
- (ii) for “sub-section (2)” substitute “sub-section (3)”.
- (2) In section 27 (2) (c) of the Principal Act, after “Act” insert “or the regulations”.

#### **Annual report. 25**

8. (1) In section 31 of the Principal Act—
- (a) in sub-section (1), omit “to be submitted to the Minister not later than the following 30 September”; and
- (b) after sub-section (1) insert—
- “(1A) The Commission must submit the annual report to the Minister— 30
- (a) not later than 30 September next following the financial year in respect of which the report was prepared; or
- (b) if the annual report is not available on that date, 35
- as soon as it is available.”.
- (2) Section 32 of the Principal Act is repealed.

**Entitlement to compensation.****9. (1) In section 39 of the Principal Act—****(a) for paragraph (a) of sub-section (1) substitute—**

“(a) in the case of a transport accident involving a motor vehicle (other than a recreation vehicle)—

(i) that occurred in Victoria—a report is not made to a member of the police force whether under section 61 of the *Road Safety Act 1986* or otherwise; or

(ii) that occurred in another State or in a Territory—a report is not made to a member of the police force of that State or Territory; and”; and

**(b) after sub-section (1) insert—**

“(1A) If—

(a) a person who is injured or dies as a result of a transport accident involving a motor vehicle was not the driver of the motor vehicle; and

(b) a report of the accident was not made in accordance with sub-section (1) (a); and

(c) the Commission determines that in all the circumstances the failure should be excused—

sub-section (1) does not apply in respect of that person.

(1B) The Commission is not liable to pay compensation under this Act in respect of a prohibited non-citizen under the *Migration Act 1958* of the Commonwealth as amended and in force for the time being who is injured or who dies as a result of a transport accident.”.

**(2) The Principal Act is amended as follows:****(a) In section 39—**

(i) in sub-section (3) (b), for “0.15” substitute “0.24”; and

(ii) in sub-section (9) (c), for “0.1” substitute “0.12”; and

**(b) In section 40—**

(i) in sub-section (1) (a), for “0.1” substitute “0.12”; and

(ii) in sub-section (1) (b), for “0.1 or more and less than 0.15” substitute “0.12 or more and less than 0.24”; and

(iii) in sub-section (1) (c), for “0.15” substitute “0.24”; and

(iv) in sub-section (5) (c), for “0.1” substitute “0.12”.

**New section 45A inserted.**

10. After section 45 of the Principal Act insert—

**Advice of return to work.**

“45A. If a person who has been receiving benefits under section 44 or 45 returns to any work (whether as an earner or otherwise), the person must immediately notify the Commission of the return to work.”.

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**New section 46A inserted.**

11. After section 46 of the Principal Act insert—

**Degree of impairment.**

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“46A. The Commission must determine the degree of impairment of each person who is injured as a result of a transport accident and appears to the Commission to be or to be likely to be entitled to an impairment benefit, as at—

(a) if the person is not a minor when the accident occurred—

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(i) 18 months after the accident; or

(ii) when the injury stabilizes—

whichever last occurs; or

(b) if the person was a minor when the accident occurred—

(i) 18 months after the accident; or

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(ii) when the injury stabilizes; or

(iii) when the person attains the age of 18 years—

whichever last occurs.”.

**Benefits.**

12. (1) In section 46 (1) of the Principal Act, for “for compensation under this Act” substitute “to payments in respect of loss of earning capacity”.

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(2) In section 47 of the Principal Act, for sub-sections (1) and (2) substitute—

“(1) If under section 46A or 47 (7A)—

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(a) the Commission has determined the degree of impairment of a person who is injured as a result of a transport accident; and

(b) the degree so determined is more than 10 per centum—

the Commission must assess an impairment benefit in respect of the person.

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(2) An impairment benefit under this section must be assessed in accordance with the formula  $\frac{A-B}{C} \times \$40\,580$  where—

C



A is the degree of impairment of the person as a result of the transport accident;

B is 10 per centum;

C is 90 per centum.”.

5 (3) After section 47 (3) of the Principal Act insert—

“(3A) The Commission must not pay an impairment benefit or interim benefit under this section in respect of a person who is injured as a result of a transport accident before the expiration of 18 months after—

10 (a) the accident occurred; or

(b) the injury first manifested itself—

whichever last occurs.”.

(4) In section 47 (6) (b) of the Principal Act, for sub-paragraphs (i) and (ii) substitute—

15 ‘(i) sub-section (1) (b) of this section were omitted; and

(ii) in sub-section (2) of this section and in section 48 (1), for  $\frac{A-B}{C}$  there were substituted  $\frac{A}{C}$ .”.

(5) In section 47 of the Principal Act, for sub-section (7) substitute—

20 “(7) The Commission may, on the application of a person who is injured as a result of a transport accident and—

(a) who is or may be entitled to compensation under this Act; or

25 (b) whose injury arises out of or in the course of any employment within the meaning of the *Accident Compensation Act 1985*—

determine the degree of impairment of the person at a time earlier than the time when it is required to determine the degree of impairment under section 46A if it is satisfied that—

30 (c) the person requires the determination for the purpose of proceedings for the recovery of damages in respect of the injury; and

(d) the injury has stabilized or has substantially stabilized.

35 (7A) If the Commission determines under sub-section (7) (a) the degree of impairment of a person who is injured as a result of a transport accident, the Commission may make a further determination of the degree of impairment of that person in substitution for the determination under sub-section (7) 18 months after the accident occurred or in the case of a minor, when the person attains the age of 18 years.”.

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(6) In section 47 (8) of the Principal Act, for “making of an impairment assessment” substitute “determination of a degree of impairment”.

(7) In section 48 of the Principal Act for sub-section (1) substitute—

“(1) The Commission must pay to a person in respect of whom an impairment benefit is assessed under section 47 periodic payments calculated in accordance with the regulations on an amount determined in accordance with the formula  $\frac{A-B}{C} \times \$94\,680 \times \frac{75-D}{50}$  where— 5

A is the degree of impairment of the person as a result of the transport accident;

B is 10 per centum; 10

C is 90 per centum;

D is—

(a) if the person is 75 years or over—75; or

(b) if the person is 25 years or under—25; or

(c) if the person is over 25 years and under 75 years— the age of the person in whole years.”. 15

#### Weekly payments.

13. (1) In section 53 of the Principal Act, for sub-section (1) substitute—

“(1) Weekly payments under section 44, 45, 49, 50 or 51 are not payable to an earner— 20

(a) if there is a normal retiring age for workers in the occupation in which the earner was employed at the time of the injury—after the earner attains that age; or

(b) in any other case—after the earner attains the age of 65 years— 25

but if an earner is injured—

(c) after attaining the age mentioned in paragraph (a) or (b), as the case requires; or

(d) not more than 12 months before attaining that age— 30

and, but for this sub-section, weekly payments would be payable to the earner, the earner is entitled, subject to this Act, to weekly payments for a period not exceeding 12 months or for periods that, in the aggregate, do not exceed 12 months.

(1A) For the purposes of sub-section (1), in determining whether there is a normal retiring age in an occupation, regard may be had to any retiring age in any industry or establishment where that occupation is carried on. 35

(1B) A person who is serving a sentence of imprisonment is not entitled to weekly payments under section 44, 45, 49, 50 or 51 in respect of any period during which the person is in prison.”. 40

(2) In section 53 (4) (b) of the Principal Act, for “assessed” substitute “determined”.

(3) In section 54 (2) of the Principal Act, omit "percentage".

**Amendment of sections 55, 57 and 58.**

14. (1) For section 55 (2) of the Principal Act substitute—

5       “(2) A review of the entitlement of a person to receive weekly payments under section 49, 50 or 51—

- (a) may be undertaken by the Commission at any time at the request of the person; and
- (b) must be undertaken by the Commission at least once in each period of five years; and
- 10       (c) must not be undertaken by the Commission more than once in each period of five years unless the person otherwise requests.”.

(2) In section 57 of the Principal Act—

- 15       (a) in sub-section (2), after “(2)” insert “Subject to sub-section (4),”; and
- (b) in sub-section (3), after “(3)” insert “Subject to sub-section (4),”.

(3) In section 58 (6) of the Principal Act, for the definition of “Dependent child”, substitute—

20       “**“Dependent child”**, in relation to a surviving spouse of an earner who dies as a result of a transport accident, means a child—

- (a) who is dependent on the surviving spouse and is a child (whether or not a dependent child) of the earner or is a dependant of the earner; and
- 25       (b) who—
- (i) is under the age of 16 years; or
- (ii) has attained the age of 16 years but is under the age of 25 years and is a full-time student—
- but does not include a child who has a spouse.’.

30   **Amendment of section 60.**

15. (1) In section 60 (1) of the Principal Act—

- (a) in paragraph (a), after “received” insert “in Australia”; and
- (b) in paragraph (b), after “undertake” insert “in Australia”; and
- 35       (c) in paragraph (c), after “provide” insert “in Australia”; and
- (d) in paragraph (d), after “costs” insert “incurred in Australia”.

(2) After section 60 (2) of the Principal Act insert—

40       “(3) If a person who is injured as a result of a transport accident reasonably requires modifications to a vehicle or home because of the injury, the Commission may make payments to

the person in respect of such part of the costs of the modifications as, in the circumstances, the Commission considers reasonable.”.

**Indexation.**

16. (1) In section 61 (1) of the Principal Act, for the definition of “C” substitute— 5

“C is the average weekly earnings of all employees for Victoria as at 15 June in the year preceding the preceding financial year published by the Australian Statistician in respect of the December quarter preceding that 15 June.”.

(2) In section 61 (2) of the Principal Act, for the definition of “F” substitute— 10

“F is the all groups consumer price index for Melbourne as at 15 June in the year preceding the preceding financial year published by the Australian Statistician in respect of the December quarter preceding that 15 June.”. 15

(3) In section 61 (4) (a) of the Principal Act, after “Division” insert “(including this section)”.

(4) After section 61 (4) of the Principal Act insert—

“(5) An increase in the amount of a weekly payment under section 44 or 45 by reason of this section takes effect even if it increases the amount of the weekly payment to more than 100 per centum of pre-accident weekly earnings but does not take effect to the extent (if any) to which it increases the amount of the weekly payments to more than 100 per centum of the weekly earnings (calculated at the earner’s ordinary time rate of pay for the earner’s normal number of hours before the accident or the time when the injury first manifested itself within the meaning of section 4) to which the worker would be entitled if he or she were employed in the same position or positions (if it or they can be identified) as he or she was employed in immediately before the accident or the time when the injury first manifested itself (being the position or positions on the basis of which the calculation of the earner’s pre-accident weekly earnings within the meaning of section 4 is made).”.

**Compensation payments.** 35

17. (1) In section 62 of the Principal Act, after “62.” insert “(1)”.

(2) After section 62 (1) of the Principal Act insert—

“(2) For the purposes of sections 44, 45, 49 and 50, if an earner and his or her spouse are both entitled to compensation under this Act, a dependant of both the earner and the spouse— 40

(a) shall be deemed to be a dependant of either the earner or the spouse but not both; and

- (b) unless the earner and the spouse otherwise request in writing, shall be deemed to be a dependant of the one of the earner and the spouse whose pre-accident weekly earnings are the lower.”.

5 **Claims under the Act.**

18. (1) In section 67 (1) of the Principal Act, after “(1)” insert “Subject to sub-section (3),”.

(2) After section 67 (2) of the Principal Act insert—

10 “(3) If, in the opinion of the Commission, a claimant’s medical condition prevents the claimant from being able to make a statutory declaration in relation to a claim—

(a) sub-section (1) (b) does not apply to the claim; and

15 (b) an officer of the Commission who has been so authorised by the Commission may complete the claim for compensation on behalf of the claimant.”.

(3) In section 69 of the Principal Act, for sub-section (1) substitute—

“ (1) A person who is injured as the result of an accident to which Division 1 of Part 10 applies may make a claim to the Commission—

20 (a) not later than 30 June 1989 but within the period of 6 years after the accident; or

(b) with the consent of the Commission, within three years after the accident—

whichever is the later, for—

25 (c) payment of compensation under section 141; and

(d) payment of costs or expenses under section 145—

30 and, if the Motor Accidents Board or the Commission has, in respect of that injury, made any payment under the *Motor Accidents Act* 1973 or this Act or under an agreement made under that Act or this Act, may make a claim to the Commission for costs or expenses under section 145 within one year after the costs or expenses were incurred.

35 (1A) The Commission may give its consent for the purposes of sub-section (1) (b) to the making of a claim if it considers that there were reasonable grounds for the delay in making the claim.”.

(4) In section 74 of the Principal Act, for sub-section (3) substitute—

40 “(3) If the Commission gives notice under sub-section (2), the Commission may discontinue or reduce payments to a person if—

(a) the person does not apply to the Tribunal within 28 days after receiving the notice; or

- (b) the person does so apply and the Commission, within 28 days after receiving a copy of the application, reconsiders the decision in accordance with section 78 and confirms the decision.”.

(5) In section 76 (1) of the Principal Act, after “receiving” insert “or claiming to be entitled to receive”.

(6) After section 76 (2) of the Principal Act insert—

“(2A) A person who is injured as a result of a transport accident is not entitled to receive compensation under Part 3 in respect of the first 18 months after the accident if the injury is an aggravation of an injury or condition suffered by the person before the accident unless the person proves beyond all reasonable doubt that the earlier injury or condition was aggravated by the transport accident.”.

#### Amendment of sections 77, 78 and 79.

19. (1) After section 77 (1) of the Principal Act insert—

“(1A) Sub-section (1) does not apply to a failure of the Commission to issue a certificate under section 93 (4).”.

(2) In section 78 (2) of the Principal Act, after “Tribunal” insert “and such further information relating to the claim as the Commission requires”.

(3) In section 79 of the Principal Act—

(a) after “79.” insert “(1)”; and

(b) for “requested by the Commission or fails to give them” substitute “or further information requested by the Commission or fails to give those particulars or that information”; and

(c) at the end of the section insert—

“(2) Subject to the regulations, the Tribunal may make such orders as to costs in respect of a proceeding under this Act as it thinks just, including an order requiring a representative of a party who appeared before the Tribunal to pay costs.”.

#### Trailers.

20. (1) In section 84 of the Principal Act, in the definition of “Trailer”, after “means” insert “a trailer within the meaning of the *Road Safety Act 1986* or”.

(2) After section 86 (2) (b) of the Principal Act insert—

“; and

(c) does not insure the owner of a trailer against liability to pay compensation under the *Accident Compensation Act 1985*

or under an enactment of another State or of a Territory relating to workers compensation.”.

**Action for damages.**

21. (1) After section 93 (1) of the Principal Act insert—

5 “(1A) If—

(a) a person is injured as a result of a transport accident; and

(b) under section 39 (1), the Commission is not liable to pay compensation to the person—

10 the person shall not recover damages in any proceedings in respect of that injury.”.

(2) In section 93 of the Principal Act—

(a) in sub-section (2), for paragraph (a) substitute—

15 “(a) the Commission has determined the degree of impairment of the person under section 46A, 47 (7) or 47 (7A); and”; and

(b) in sub-section (3), for paragraphs (a) and (b) substitute—

20 “(a) under section 46A, 47 (7) or 47 (7A), the Commission has determined the degree of impairment of a person who is injured as a result of a transport accident; and

(b) the degree so determined is 30 per centum or more—”; and

(c) in sub-section (4), for paragraphs (a) and (b) substitute—

25 “(a) under section 46A, 47 (7) or 47 (7A), the Commission has determined the degree of impairment of a person who is injured as a result of a transport accident; and

(b) the degree so determined is less than 30 per centum—”; and

(d) in sub-section (11) for paragraph (a) substitute—

30 “(a) in the case of damages awarded under sub-section (7)—

(i) in respect of pain and suffering damages, of such part of the damages as is equal to the sum of payments by the Commission under sections 47 and 48 in respect of the injury; or

35 (ii) in respect of pecuniary loss damages, of such part of the damages as is equal to the sum of payments by the Commission under sections 49, 50 and 51 in respect of the injury; or”.

40 (3) In section 93 (18) (b) of the Principal Act, for “motor car” substitute “motor vehicle”.

(4) In section 94 (2) (a) of the Principal Act, omit “(other than the first 28 days of the period)”.

(5) After section 94 (2) (a) of the Principal Act insert—

“(aa) in respect of the period commencing when the transport accident charge applicable to the motor vehicle was due to be paid and ending when that transport accident charge was paid; or”.

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# **Repeal of section 101.**

22. Section 101 of the Principal Act is repealed.

# **Agreements by next friends etc.**

23. In section 103 of the Principal Act, after “included a reference to” insert “a motor vehicle,”.

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# **Amendment of section 107.**

24. In section 107 (1) (c) of the Principal Act, for “or have been instituted but” substitute “have not been instituted or have been instituted but have been discontinued or”.

# **Transport accident charges.**

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25. In section 109 of the Principal Act, for sub-section (4) substitute—

“(4) If a transport accident charge payable on the renewal of registration of a motor vehicle under the *Road Safety Act* 1986 and the regulations under that Act is paid within 28 days after the date on which the previous registration of the vehicle expired, the charge shall be deemed for the purposes of this Act to have been paid on the date on which it was due.”.

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# **Rates of charges.**

26. (1) After section 110 (1) of the Principal Act insert—

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“(1A) The Commission may determine that the transport accident charge applicable to a motor vehicle that is usually kept outside Victoria is a specified amount that is less than the amount prescribed or determined as prescribed if circumstances or conditions determined by the Commission apply.”.

30

(2) In section 110 (2) of the Principal Act—

(a) for the definition of “A” substitute—

“A is the amount of the transport accident charge in force immediately before the beginning of that financial year.”; and

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(b) for the definition of “C” substitute—

“C is the all groups consumer price index for Melbourne as at 31 March in the year preceding the preceding financial



year published by the Australian Statistician in respect of the December quarter preceding that 31 March.”.

(3) After section 110 (5) of the Principal Act insert—

“(6) The regulations—

- 5                   (a) may prescribe the amount, or a method of determining the amount, of the transport accident charge applicable to a motor vehicle; and
- 10                   (b) may, under paragraph (a), prescribe an amount that is greater or less than an amount previously prescribed by the regulations; and
- (c) may provide that sub-section (2) does not apply in respect of a specified financial year.”.

**Amendment of sections 116 and 117.**

15       27. (1) In section 116 of the Principal Act, for “15 penalty units or imprisonment for three months” substitute “100 penalty units or imprisonment for two years”.

(2) In section 117 of the Principal Act, for “10 penalty units for a first offence and 20 penalty units for a second or subsequent offence” substitute “20 penalty units or imprisonment for one month”.

20       **Insertion of new sections 117A, 117B and 117C.**

28. After section 117 of the Principal Act insert—

**Refunding money to Commission.**

25       “117A. If a person is convicted of an offence against section 116 or 117, any payments of compensation made by the Commission as a result of or partly as a result of the commission of the offence may be recovered as a debt due from the person to the Commission together with interest at the prescribed rate calculated from the date on which payments were made until the debt is paid.”

**Obtaining benefits that are not payable.**

30       “117B. (1) A person must not obtain or attempt to obtain a benefit under this Act that the person knows is not payable.

(2) Without limiting the generality of sub-section (1), a person must not obtain or attempt to obtain for another person or assist another person to obtain a benefit that the first-mentioned person  
35       knows is not payable to that other person.”

**Avoiding payment of transport accident charge.**

“117C. The owner of a registered motor vehicle must not fail to pay the transport accident charge that the owner knows is the charge applicable to that vehicle in accordance with this Act and the regulations.

Penalty: 15 penalty units.”. 5

**Institution of proceedings.**

29. After section 120 (3) of the Principal Act insert—

“(4) Despite any law to the contrary, proceedings may be instituted under section 116 or 117 within 2 years after the alleged offence occurred.”. 10

**New section 124A inserted.**

30. After section 124 of the Principal Act insert—

**Certificate of Commission.**

“124A. A certificate purporting to be issued by the Commission certifying that— 15

- (a) a person named in the certificate was liable to pay a transport accident charge; or
- (b) a person has paid a transport accident charge specified in the certificate; or
- (c) a person has not paid a transport accident charge specified in the certificate— 20

is evidence of the matters so certified.”.

**Assignment.**

31. (1) In section 126 (1) of the Principal Act, after “(1)” insert “Subject to sub-section (1A),”. 25

(2) After section 126 (1) of the Principal Act insert—

“(1A) The Commission, in accordance with the written request of a claimant, may on behalf of the claimant, pay an amount payable by the Commission to the claimant to an employer of the claimant or to an officer employed in the Commonwealth Department for the time being administering the *Social Security Act 1947* of the Commonwealth as amended and in force for the time being.”. 30

**New sections 127A and 127B inserted.**

32. After section 127 of the Principal Act insert—

**Powers of inspection.**

5 “127A. (1) An officer of the Commission authorised by the Commission may—

- (a) with an interpreter or such other assistance as the person requires, enter, inspect and examine at any reasonable time any premises; and
- 10 (b) require a person in or on those premises to give information and produce books; and
- (c) inspect, examine and make extracts from, or copies of, any books in or on those premises; and
- (d) exercise such other powers as are necessary—

15 for the purpose of determining whether the provisions of this Act are being contravened or generally of enforcing the provisions of this Act.

(2) If a person exercising powers under sub-section (1) uses the assistance of an interpreter—

- 20 (a) a request for information made on behalf of that person by the interpreter shall be deemed to have been made by that person; and
- (b) any answer given to the interpreter shall be deemed to have been given to that person.

(3) The Commission must give to each officer authorised for the purposes of this section a certificate of the authority.

25 (4) An authorised officer must produce the certificate of authority if requested to do so when exercising powers under this section.”

**Offence to obstruct inspection.**

“127B. A person must not—

- 30 (a) obstruct or hinder a person exercising powers under section 127A; or
- (b) without reasonable excuse, refuse or fail to comply with a requirement made by a person exercising powers under section 127A; or
- 35 (c) assault, intimidate or threaten, or attempt to assault, intimidate or threaten a person exercising powers under section 127A.

Penalty: 25 penalty units or imprisonment for six months.”.

**Secrecy.**

33. After section 131 (2) (c) of the Principal Act insert—

- “(ca) producing a document or divulging or communicating information to a person who has responsibility for the administration of a welfare, benefit or compensation scheme of a State or Territory or the Commonwealth; or”.

**Definition of registered motor car.**

34. In section 134 of the Principal Act, after the definition of “Medical service” insert—

- “Registered motor car” means—
- (a) a motor car that is registered in accordance with the *Motor Car Act 1958*; or
  - (b) a motor car that is not so registered but but is usually kept in Victoria and is not exempt from the operation of all or any of the provisions of Part II of that Act; or
  - (c) a motor car in respect of which a permit granted under section 11A or 19 of that Act is in force; or
  - (d) a recreation vehicle registered in accordance with the *Transport Act 1983*; or
  - (e) a motor vehicle registered with a Registration Authority in Victoria under the *Interstate Road Transport Act 1985* of the Commonwealth or, if that Act is amended, that Act as amended and in force for the time being.’.

**Compensation under Division 1 of Part 10.**

35. In section 135 (2) (c) of the Principal Act, for “23 December 1981” substitute “15 December 1982”.

**PART 3—CONSEQUENTIAL AMENDMENT AND SAVING PROVISIONS**

**Repeal of section 99 of the *Transport Act 1983*.**

36. Section 99 of the *Transport Act 1983* is repealed.

**Saving provision.**

37. Notwithstanding the amendment of sections 121 (1) and 132 (2) of the Principal Act by the *Road Safety Act 1986*—

- (a) section 121 (1) of the Principal Act, as in force immediately before the commencement of item 29.19 of Schedule 4 of the *Road Safety Act 1986*, applies in respect of monetary penalties imposed before the commencement of that item; and

- 5 (b) section 132 (2) of the Principal Act, as in force immediately before the commencement of item 29.20 of Schedule 4 to the *Road Safety Act* 1986, applies in respect of offences under the *Transport Act* 1983 or the *Motor Car Act* 1958 to which section 121 (2) of the Principal Act, as in force immediately before the commencement of item 29.19 of Schedule 4 of the *Road Safety Act* 1986, applies.





