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Motor Accident Injuries Regulation

for the

Motor Accident Injuries Bill 2019

introduced into the Legislative Assembly

19 March 2019

Preamble

The Government introduced the *Motor Accident Injuries Bill 2019* into the Legislative Assembly on 19 March 2019. The Bill contains a number of powers to make regulations. The Draft *Motor Accident Injuries Regulation 2019* to the Bill has been made available to further inform stakeholders prior to the debate of the Bill about how the Motor Accident Injuries Scheme will operate.

The draft regulation includes provisions on essential elements of the Scheme, including the indexation of benefits, dispute resolution, premiums and premium classes, matters associated with the Nominal Defendant, insurer licences, and information collection from insurers.

It is not proposed to make regulations for all the regulation powers prior to the commencement of the new scheme, as a number of these powers have been provided to use if necessary once the scheme commences to ensure the effective and efficient operation of the scheme. One example is the ability to make a regulation in relation to profits if future analysis indicates that insurer profits might be higher than is reasonable for the industry.

Also, some regulations require consultation before they can be drafted and hence are not included in this draft regulation. This consultation will occur once the Bill passes. Examples include:

- a regulation specifying what information (particularly around legal costs) is to be provided by the legal profession to the MAI Commission for applications and claims made under the scheme; and
- a regulation prescribing legal costs and fees payable by applicants and insurers in relation to defined benefits.

As a result, the draft regulation is not exhaustive, and refinements may be made, or additional provisions added, to the regulation prior to it being made once the legislation is passed.

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(Prepared by Parliamentary Counsel's Office)

Motor Accident Injuries Regulation 2019

Subordinate Law SL2019-

made under the

Motor Accident Injuries Act 2019

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Motor Accident Injuries Regulation 2019*.

2 Commencement

This regulation commences on the commencement of the *Motor Accident Injuries Act 2019*, section 3.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*input tax credit*—see the *A New Tax System (Goods and Services) Act 1999* (Cwlth), section 195-1 (Dictionary).’ means that the term ‘input tax credit’ is defined in that section and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Important concepts

6 Average weekly earnings series—Act, s 17, def *average weekly earnings*

The series known as *Persons: fulltime adult total earnings series—seasonally adjusted* for the ACT in *Average Weekly Earnings, Australia* (State and Territory Earnings), issued by the Australian statistician, is prescribed.

Note *Average Weekly Earnings, Australia* is issued in May and November and is available at www.abs.gov.au.

7 Indexation day—Act, s 18, def *AWE indexed*, par (b)

- (1) The indexation days for each amount mentioned in the following sections of the Act that is to be AWE indexed are 1 April and 1 October:
 - (a) section 96 (Amount of income replacement benefits—first payment period);
 - (b) section 97 (Amount of income replacement benefits—second payment period);
 - (c) section 103 (Income replacement benefits—interim weekly payments).
- (2) The indexation day for each amount mentioned in the following sections of the Act that is to be AWE indexed is 1 October:
 - (a) section 139 (5) (a) (Insurer believes injuries stable but no permanent impairment);
 - (b) section 164 (1) (Amount of quality of life benefits payable);
 - (c) section 171 (Amount of death benefits payable);
 - (d) section 178 (Funeral benefits—maximum amount payable);

- (e) section 240 (1) (Quality of life damages—amount that may be awarded);
- (f) section 241 (2) (Quality of life damages—amount that may be awarded for children);
- (g) section 273 (1) (Costs—awards of damages over \$50 000).

**8 AWE indexation factor—income replacement benefits—
Act, s 19 (3), def *AWE indexation factor***

- (1) This section applies to an amount to be AWE indexed (an *AWE indexed amount*) on an indexation day for the amount under the following sections of the Act:
 - (a) section 96 (Amount of income replacement benefits—first payment period);
 - (b) section 97 (Amount of income replacement benefits—second payment period);
 - (c) section 103 (Income replacement benefits—interim weekly payments).
- (2) The AWE indexation factor for an AWE indexed amount on an indexation day is the factor worked out using the following formula and applying subsections (4) and (5):

$$\frac{AWE^1}{AWE^2}$$

AWE¹ means the AWE published for the period ending immediately before the indexation day.

AWE² means the AWE published for the period ending 6 months before the indexation day.

- (3) However, if, on an indexation day for an AWE indexed amount, the effect of a negative adjustment is to be offset against an increase in line with an adjustment in the AWE, the AWE indexation factor for the amount is worked out using the following formula and applying subsections (4) and (5):

$$\frac{AWE^1}{AWE^3}$$

AWE^1 means the AWE published for the period ending immediately before the indexation day.

AWE^3 means the AWE published for the period ending 6 months before an indexation day when a negative adjustment that has not been offset first occurred.

Example—offsetting of negative adjustment

The following AWE amounts are published in 2020, 2021 and 2022:

- (a) for May 2020—\$1 680;
- (b) for November 2020—\$1 700;
- (c) for May 2021—\$1 690;
- (c) for November 2021—\$1 695;
- (d) for May 2022—\$1 750.

For the indexation day on 1 October 2021, the AWE indexation factor is \$1 690/\$1 700. Because the AWE indexation factor would be less than 1, the AWE indexation factor for 1 October 2021 is 1.

A negative adjustment applies for the indexation day on 1 April 2022. The indexation factor is \$1 695/\$1 700. Because the AWE indexation factor would be less than 1, the AWE indexation factor for 1 April 2022 is 1.

A negative adjustment also applies for the indexation day on 1 October 2022. The indexation factor is \$1 750/\$1 700. The negative adjustment is now fully offset and the AWE indexation factor for 1 October 2022 is 1.02941 rounded to 1.029.

Note The Act, s 18 sets out what happens if an amount to be AWE indexed would, if adjusted in line with a negative adjustment to the AWE, become smaller.

- (4) The AWE indexation factor for the AWE indexed amount must be—
 - (a) worked out to 3 decimal places; and
 - (b) if the 4th decimal place is 5 or more—rounded up.
- (5) If the AWE indexation factor worked out under subsection (2) or (3) would be less than 1, the AWE indexation factor is 1.

9 AWE indexation factor—amounts indexed annually—Act, s 19 (3), def *AWE indexation factor*

- (1) This section applies to an amount to be AWE indexed (an *AWE indexed amount*) on an indexation day for the amount under the following sections of the Act:
 - (a) section 139 (5) (a) (Insurer believes injuries stable but no permanent impairment);
 - (b) section 164 (1) (Amount of quality of life benefits payable);
 - (c) section 171 (Amount of death benefits payable);
 - (d) section 178 (Funeral benefits—maximum amount payable);
 - (e) section 240 (1) (Quality of life damages—amount that may be awarded);
 - (f) section 241 (2) (Quality of life damages—amount that may be awarded for children);
 - (g) section 273 (1) (Costs—awards of damages over \$50 000).
- (2) The AWE indexation factor for an AWE indexed amount on an indexation day is the factor worked out using the following formula and applying subsections (4) and (5):

$$\frac{AWE^1}{AWE^2}$$

AWE¹ means the AWE published for the period ending immediately before the indexation day.

AWE² means the AWE published for the period ending 12 months before the indexation day.

- (3) However, if, on an indexation day for an AWE indexed amount, the effect of a negative adjustment is to be offset against an increase in line with an adjustment in the AWE, the AWE indexation factor for the amount is worked out using the following formula and applying subsections (4) and (5):

$$\frac{AWE^1}{AWE^3}$$

AWE¹ means the AWE published for the period ending immediately before the indexation day.

AWE³ means the AWE published for the period ending 12 months before an indexation day when a negative adjustment that has not been offset first occurred.

Note The Act, s 18 sets out what happens if an amount to be AWE indexed would, if adjusted in line with a negative adjustment to the AWE, become smaller.

- (4) The AWE indexation factor for the AWE indexed amount must be—
- (a) worked out to 3 decimal places; and
 - (b) if the 4th decimal place is 5 or more—rounded up.
- (5) If the AWE indexation factor worked out under subsection (2) or (3) would be less than 1, the AWE indexation factor is 1.

10 Adjustment day—Act, s 94 (1), def *AWE adjusted*, par (b)

The adjustment days for a person's pre-injury income are 1 April and 1 October.

11 AWE adjustment factor—Act, s 95 (3), def AWE adjustment factor

- (1) The AWE adjustment factor for an amount of pre-injury income to be adjusted on an adjustment day is the factor worked out using the following formula and applying subsections (3) and (4):

$$\frac{AWE^1}{AWE^2}$$

AWE¹ means the AWE published for the period ending immediately before the adjustment day.

AWE² means the AWE published for the period ending 6 months before the adjustment day.

- (2) However, if, on an adjustment day for an amount of pre-injury income to be adjusted, the effect of a negative adjustment is to be offset against an increase in line with an adjustment in the AWE, the AWE adjustment factor is the factor worked out using the following formula and applying subsections (3) and (4):

$$\frac{AWE^1}{AWE^3}$$

AWE¹ means the AWE published for the period ending immediately before the adjustment day.

AWE³ means the AWE published for the period ending 6 months before an adjustment day when a negative adjustment that has not been offset first occurred.

Note The Act, s 94 sets out what happens if an amount to be AWE adjusted would, if adjusted in line with a negative adjustment to the AWE, become smaller.

- (3) The AWE adjustment factor for the amount must be—
 - (a) worked out to 3 decimal places; and
 - (b) if the 4th decimal place is 5 or more—rounded up.
- (4) If the AWE adjustment factor worked out under subsection (1) or (2) would be less than 1, the AWE adjustment factor is 1.

Part 3 Income replacement benefits

12 Amount of interim weekly payment—prescribed percentage—Act, s 103 (3)

The amount of the interim weekly payment is 22.5% of \$2 250 AWE indexed.

13 Notice of changed circumstances—Act, s 106 (3)

- (1) Notice may be given orally or in writing.

Note For how documents may be given, see the Legislation Act, pt 19.5.

- (2) If an injured person gives notice orally, the injured person must confirm the notice, in writing, within 10 business days after giving the oral notice.

Part 4 **Defined benefits—quality of life benefits**

14 **WPI taken to be 10% in certain circumstances—prescribed requirements—Act, s 133 (1) (b) (i)**

The injured person must—

- (a) have a current recovery plan under which the injured person requires ongoing treatment and care; and
- (b) be undergoing treatment and care that has been approved by the relevant insurer in accordance with the Act.

Example—treatment and care that is not ongoing

one appointment for physiotherapy treatment in a 3-year period

Note Under the Act, s 126, an injured person’s recovery plan must state the treatment and care approved by the relevant insurer as reasonable and necessary treatment and care for the person.

Part 5 Defined benefits—dispute resolution

15 Internally reviewable decisions—Act, s 183, def *internally reviewable decision*

A decision mentioned in schedule 1, part 1.1, column 3 under a provision mentioned in column 2 in relation to the decision is prescribed.

16 ACAT reviewable decisions—Act, s 189, def *ACAT reviewable decision*

A decision mentioned in schedule 1, part 1.2, column 3 under a provision mentioned in column 2 in relation to the decision is prescribed.

Part 6 Motor accident claims

17 Costs—mandatory final offer accepted—Act, s 263 (2)

If a mandatory final offer for \$50 000 or less but for more than \$30 000 is accepted, costs (including disbursements) must—

- (a) be worked out on a party and party basis; and
- (b) be paid by the insurer; and
- (c) not exceed \$5 000.

Part 7 MAI premiums

18 Definitions—pt 7

In this part:

annual MAI premium, for an MAI policy, means the premium payable for insurance under the MAI policy for 1 year.

MAI premium class means a class mentioned in an item in schedule 2, part 2.2, consisting of—

- (a) a class number mentioned in column 2 for the item; and
- (b) a kind of motor vehicle or trader's plate mentioned in column 3 for the item; and
- (c) a case (if any) mentioned in column 4 for the item; and
- (d) an entitlement to an input tax credit mentioned in column 5 for the item.

19 Licensed insurers to have annual MAI premium approved for MAI premium classes

A licensed insurer must have an annual MAI premium approved by the MAI commission under the Act, part 6.7 (MAI premiums), for each MAI premium class.

20 MAI premium if vehicle or plate in multiple classes

- (1) This section applies if a motor vehicle or trader's plate fits into 2 or more MAI premium classes.

- (2) The maximum MAI premium payable for an MAI policy for the vehicle or plate is the higher of the maximum premiums that apply to the vehicle or plate.

Example

Phillipe uses his ute for car sharing. This means the ute fits into both MAI premium class 3 (goods vehicle) and class 25B (personal share vehicle). If the MAI premium is higher for class 25B than class 3, Phillipe must pay the class 25B premium.

21 MAI premiums for policies for less than 1 year

- (1) This section applies if a person—
- (a) registers a motor vehicle for less than 1 year; or
 - (b) renews the registration of a motor vehicle for less than 1 year; or
 - (c) is issued with a trader’s plate for less than 1 year; or
 - (d) enters into an MAI policy for a light rail vehicle for less than 1 year.

Note An MAI premium for an MAI policy must be paid when—

- (a) registering a vehicle (see Act, s 295); and
 - (b) renewing the registration of a vehicle (see Act, s 296); and
 - (c) applying for a trader’s plate (see Act, s 297); and
 - (d) intending to use a light rail vehicle (see Act, s 298).
- (2) The maximum MAI premium payable for an MAI policy for the vehicle or plate must be worked out in accordance with the MAI guidelines.

22 Additional MAI premium payable if change in construction or use of vehicle

- (1) This section applies if—
 - (a) an MAI premium (the *original premium*) has been paid for an MAI policy for a motor vehicle; and
 - (b) a change is made in the construction or use of the motor vehicle; and
 - (c) because of the change, a higher MAI premium than the original premium would be payable if a new MAI policy were issued for the motor vehicle.
- (2) The owner of the motor vehicle is liable to pay an additional MAI premium, starting on the day the change happens, worked out in accordance with the MAI guidelines.

Part 8 **Nominal defendant**

Division 8.1 **Nominal defendant's liabilities**

23 **Circumstances in which motor vehicle has sufficient connection with ACT—Act, s 323 (4)**

A motor vehicle has sufficient connection with the ACT if the motor vehicle—

- (a) is usually used and garaged in the ACT; or
- (b) is usually used for a business that has its principal place of business in the ACT; or
- (c) is in the ACT at the time of the motor accident and there is no place outside the ACT where a claim in relation to personal injury could be made against a nominal defendant in relation to the motor accident.

Division 8.2 **Nominal defendant fund**

24 **Collections for nominal defendant fund—prescribed person—Act, s 328 (1) (a)**

The following people (each of whom is a *prescribed person*) are prescribed:

- (a) each licensed insurer;
- (b) the Territory;
- (c) the Commonwealth.

**25 Collections for nominal defendant fund—arrangements—
Act, s 328 (1) (b)**

- (1) This section applies if the MAI commission decides an amount to be collected for a financial year under the Act, section 328 (2).
- (2) The MAI commission must decide what proportion of the amount is to be paid by each prescribed person each quarter.
- (3) In deciding a prescribed person’s proportion for a quarter, the MAI commission must have regard to—
 - (a) for a licensed insurer—the income received by the insurer for MAI policy premiums in the previous quarter; and
 - (b) for the Territory—the premiums that would have been payable for territory government vehicles in the previous quarter if the vehicles had been insured under MAI policies; and
 - (c) for the Commonwealth—the premiums that would have been payable for commonwealth government vehicles in the previous quarter if the vehicles had been insured under MAI policies.
- (4) In this section:

commonwealth authority means a body, whether or not incorporated, established under a Commonwealth Act.

commonwealth government vehicle means a motor vehicle usually used in the ACT and owned by the Commonwealth or a commonwealth authority.

territory government vehicle means a motor vehicle usually used in the ACT and owned by the Territory or a territory authority.

Note *territory authority*—see the Legislation Act, dictionary, pt 1.

26 Collections for nominal defendant fund—collection notice—Act, s 328 (1) (b)

- (1) The MAI commission must give written notice (a *collection notice*) of a decision under section 25 (2) to each prescribed person.
- (2) The collection notice must state—
 - (a) the amount payable by the prescribed person; and
 - (b) that the amount must be paid to the nominal defendant fund not later than a stated date (the *due date*).
- (3) The MAI commission may amend or revoke a prescribed person’s collection notice by giving written notice to the prescribed person before the due date.
- (4) The due date for a prescribed person’s collection notice, or an amended collection notice, must be at least 42 days after the day the collection notice is given to the prescribed person.

27 Offence—failure to pay contribution—Act, s 328 (1) (b)

- (1) A licensed insurer commits an offence if—
 - (a) a collection notice is in force for the licensed insurer; and
 - (b) the licensed insurer does not pay the amount stated in the notice to the nominal defendant fund on or before the due date stated in the collection notice.

Maximum penalty: 20 penalty units.

- (2) If the Magistrates Court convicts a licensed insurer, or finds a licensed insurer guilty, of an offence against this section, the court may order the insurer to pay any unpaid amount to the nominal defendant fund.
- (3) An order under subsection (2) is in addition to a penalty imposed for the offence.

- (4) For the enforcement of payment of the order and the calculation of interest in relation to a judgment, the order is taken to be a final judgment of the Magistrates Court for the amount stated in the order.

Part 9 MAI insurer licences

28 What must be included in an insurance industry deed— Act, s 357 (2)

(1) The MAI commission must approve the required content for the insurance industry deed.

(2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) The insurance industry deed must be substantially in accordance with the content approved under this section.

29 Application requirements—Act, s 359 (2)

An application for an MAI insurer licence must—

(a) include the following information:

(i) the applicant's trading name;

(ii) the address of the applicant's registered office;

(iii) the applicant's ABN;

(iv) details of reinsurance arrangements proposed to be made for reinsurance for MAI policies to be issued by the applicant; and

(b) be accompanied by the following:

(i) a copy of the applicant's authority to carry on an insurance business under the *Insurance Act 1973* (Cwlth);

- (ii) if the applicant is licensed to carry on business as a CTP insurer in another Australian jurisdiction—a copy of the licence from the other jurisdiction;
- (iii) if the applicant is not licensed to carry on business as a CTP insurer in another Australian jurisdiction—
 - (A) a copy of all documents given to APRA in applying for authority to carry on an insurance business under the *Insurance Act 1973* (Cwlth); and
 - (B) a copy of the applicant’s latest annual financial accounts and annual statement lodged with ASIC; and
 - (C) a copy of all reports and returns lodged with APRA under reporting and prudential standards applying to the applicant’s general insurance business in relation to the 12 months before the date of the application.

Part 10 Information collection and secrecy

30 Monthly returns for applications and claims—Act, s 459 (2) (b) (i) and (c) (i) and (4) (a)

- (1) A licensed insurer must, not later than 7 days after the end of each month, give the MAI commission a return (a *monthly return*) for the month.

Note If a respondent's claim manager is acting for all respondents for the claim, the insurer may not need to provide information (see s 31).

- (2) A monthly return must be in a form approved by the MAI commission.
- (3) A monthly return must include the information set out in schedule 3 for each application for defined benefits and each motor accident claim received or managed by the licensed insurer in the month to which the return relates.

31 Monthly returns and returns—respondent's claim manager—Act, s 459 (2) (b)

- (1) This section applies if—
 - (a) a respondent's claim manager is acting under the *Civil Law (Wrongs) Act 2002*, section 56 (Multiple respondents) for all respondents for a motor accident claim; and
 - (b) another insurer has—
 - (i) told the MAI commission about the respondent's claim manager for the claim; and
 - (ii) given the required claim details for the claim under section 30.

- (2) The insurer need not provide other information required under section 30 about the claim.

32 Information to be provided by licensed insurers—Act, s 459 (2) (d)

- (1) If a licensed insurer receives a request for information or explanation from a Commonwealth financial regulator, the insurer must, not later than 1 month after responding to the request, give a copy of the request and the licensed insurer's response to the request to the MAI commission.
- (2) If the MAI commission asks a licensed insurer for an actuarial report on the insurer's financial position, the insurer must give the report to the MAI commission not later than 3 months after receiving the request.
- (3) If a transaction happens that may affect control of a licensed insurer, the insurer must give complete details of the transaction to the MAI commission not later than 1 month after the transaction happens.
- (4) If the manager responsible for managing a licensed insurer's MAI insurance business changes, the insurer must give complete details of the change to the MAI commission not later than 1 month after the change happens.
- (5) In this section:

Commonwealth financial regulator means an entity established under a law of the Commonwealth for regulation of entities in the financial sector.

Schedule 1 Defined benefits—dispute resolution

(see s 15 and s 16)

Part 1.1 Internally reviewable decisions

column 1 item	column 2 section of Act	column 3 decision
1	59 (2)	refuse late application because applicant does not have full and satisfactory explanation
2	62	refuse to pay applicant's expenses because not allowable expenses under MAI guidelines
3	65 (1)	reject liability for defined benefits
4	65 (1)	reject liability for defined benefits because applicant not a person mentioned in Act, s 55 (1)
5	65 (1)	reject liability for defined benefits because application made on behalf of applicant by someone other than a person mentioned in Act, s 55 (2)
6	66 (1)	not pay income replacement benefits because applicant not entitled to those benefits under Act, s 89
7	66 (1)	not pay treatment and care benefits for expenses incurred for stated treatment and care because of 1 or more of the following reasons: <ul style="list-style-type: none"> (a) treatment and care not reasonable and necessary; (b) treatment and care did not relate to personal injury sustained in motor accident; (c) injured person has not paid for the treatment and care and is not liable to pay for the treatment and care

Schedule 1
Part 1.1

Defined benefits—dispute resolution
Internally reviewable decisions

column 1 item	column 2 section of Act	column 3 decision
8	66 (1)	not pay treatment and care benefits for domestic services expenses incurred by injured person in employing someone to provide domestic services to injured person's dependants because of 1 or more of the following reasons: (a) expenses not reasonable and necessary; (b) injured person did not provide those services to dependants before the motor accident; (c) dependants are able to undertake those services
9	66 (1)	not pay treatment and care benefits for travel expenses incurred by injured person and a parent or other carer accompanying injured person because of 1 or both of the following reasons: (a) expenses for travel and accommodation not reasonable and necessary; (b) travel not undertaken to undergo treatment and care
10	66 (1)	not pay funeral benefits because applicant not entitled to funeral expenses under Act, s 175
11	96	decision about amount of income replacement benefits injured person entitled to for first payment period
12	97	decision about amount of income replacement benefits injured person entitled to for second payment period
13	100 (1)	decision about injured person's post-injury earning capacity
14	101 (3) (b) (ii), (4) (b) (ii) or (5) (b) (ii)	refuse to make earlier payment of income replacement benefits to injured person who makes late application for defined benefits because not satisfied there are exceptional circumstances justifying earlier payment
15	103 (2)	refuse to pay injured person interim weekly payment
16	103 (4)	refuse to pay injured person lower interim weekly payment
17	105 (2)	suspend injured person's benefit payments
18	107 (1) (b)	reduce or stop paying income replacement benefit payments

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column 1 item	column 2 section of Act	column 3 decision
19	121 (1)	make reasonable request to injured person to attend health practitioner for assessment of treatment and care needs
20	121 (3)	suspend payment of treatment and care benefits and income replacement benefits because injured person fails to comply with reasonable request to attend health practitioner
21	128 (2) (a) (i) (B)	refuse to make earlier payment of treatment and care expenses, domestic services expenses and travel expenses in relation to late application for period starting on date that is 13 weeks before date of application because insurer not satisfied that there are exceptional circumstances justifying earlier payment
22	129 (1)	not pay treatment and care expenses, domestic services expenses and travel expenses because of 1 or more of the following reasons: <ul style="list-style-type: none"> (a) the expenses cannot be verified; (b) the expenses have not been incurred; (c) the insurer has previously paid the expenses; (d) for treatment and care expenses—the expenses were— <ul style="list-style-type: none"> (i) not approved by the insurer; or (ii) not set out in the injured person’s recovery plan
23	139 (2)	tell applicant for quality of life benefits that insurer believes person’s injuries have stabilised but the person is not likely to have a permanent impairment as a result of the injuries
24	180 (2)	refuse to make periodic payments of treatment and care benefits and income replacement benefits because insurer not satisfied injured person intends to live outside Australia permanently or for an extended time
25	180 (2)	refuse to make periodic payments of treatment and care benefits and income replacement benefits because injured person has not lived outside Australia for at least eligibility period
26	181 (4) (a)	calculate amount of lump sum to be less than \$10 000

Part 1.2 ACAT reviewable decisions

column 1 item	column 2 section of Act	column 3 decision
1	59 (2)	refuse late application because applicant does not have full and satisfactory explanation
2	65 (1)	reject liability for defined benefits because applicant not a person mentioned in Act, s 55 (1)
3	65 (1)	reject liability for defined benefits because application made on behalf of applicant by someone other than a person mentioned in Act, s 55 (2)
4	65 (1)	reject liability for death benefits or funeral benefits because person's death was not result of motor accident
5	66 (1)	not pay income replacement benefits because— (a) applicant is person mentioned in Act, s 43 (1); and (b) none of the circumstances mentioned in Act, s 43 (2) applies to the applicant
6	66 (1)	not pay quality of life benefits because— (a) applicant is person mentioned in Act, s 43 (1); and (b) the circumstances mentioned in Act, s 43 (3) do not apply to the applicant
7	66 (1)	not pay income replacement benefits because applicant is person mentioned in Act, s 46 (1)
8	66 (1)	not pay quality of life benefits because applicant is person mentioned in Act, s 46 (1)
9	66 (1)	not pay quality of life benefits and death benefits because person who died as a result of motor accident is person mentioned in Act, s 46 (2)
10	66 (1)	not pay defined benefits because Act, s 49 applies to the injured person or dead person but MAI commission has not notified insurer that motor accident caused by, or attributable to, act of terrorism

column 1 item	column 2 section of Act	column 3 decision
11	66 (1)	not pay income replacement benefits because applicant not entitled to those benefits under Act, s 89
12	66 (1)	not pay treatment and care benefits for expenses incurred for stated treatment and care because of 1 or more of the following reasons: <ul style="list-style-type: none"> (a) treatment and care not reasonable and necessary; (b) treatment and care did not relate to personal injury sustained in motor accident; (c) injured person has not paid for the treatment and care and is not liable to pay for the treatment and care
13	66 (1)	not pay treatment and care benefits for domestic services expenses incurred by injured person in employing someone to provide domestic services to injured person's dependants because of 1 or more of the following reasons: <ul style="list-style-type: none"> (a) expenses not reasonable and necessary; (b) injured person did not provide those services to dependants before the motor accident; (c) dependants are able to undertake those services
14	66 (1)	not pay treatment and care benefits for travel expenses incurred by injured person and a parent or other carer accompanying injured person because of 1 or both of the following reasons: <ul style="list-style-type: none"> (a) expenses for travel and accommodation not reasonable and necessary; (b) travel not undertaken to undergo treatment and care
15	66 (1)	not pay death benefits because coroner finds dead person's conduct in relation to motor accident made up physical elements of conduct of serious offence or 2 or more driving offences
16	66 (1)	not pay funeral benefits because applicant not entitled to funeral expenses under Act, s 175
17	96	decision about the amount of income replacement benefits an injured person is entitled to for first payment period

column 1 item	column 2 section of Act	column 3 decision
18	97	decision about the amount of income replacement benefits an injured person is entitled to for second payment period
19	100 (1)	decision about injured person's post-injury earning capacity
20	101 (3) (b) (ii), (4) (b) (ii) or (5) (b) (ii)	refuse to make earlier payment of income replacement benefits to injured person who makes late application for defined benefits because not satisfied there are exceptional circumstances justifying earlier payment
21	105 (2)	suspend injured person's benefit payments
22	107 (1) (b)	reduce or stop paying income replacement benefit payments
23	121 (1)	make reasonable request to injured person to attend health practitioner for assessment of treatment and care needs
24	121 (3)	suspend payment of treatment and care benefits and income replacement benefits because injured person fails to comply with reasonable request to attend health practitioner
25	128 (2) (a) (i) (B)	refuse to make earlier payment of treatment and care expenses, domestic services expenses and travel expenses in relation to late application for period starting on date that is 13 weeks before date of application because insurer not satisfied that there are exceptional circumstances justifying earlier payment
26	158 (2)	amount of injured person's final offer WPI
27	180 (2)	refuse to make periodic payments of treatment and care benefits and income replacement benefits because insurer not satisfied injured person intends to live outside Australia permanently or for an extended time
28	180 (2)	refuse to make periodic payments of treatment and care benefits and income replacement benefits because injured person has not lived outside Australia for at least eligibility period
29	181 (4) (a)	calculate amount of lump sum to be less than \$10 000

Schedule 2 MAI premium classes

(see s 18)

Part 2.1 Definitions

2.1 Definitions—sch 2

In this schedule:

ambulance means a motor vehicle built to transport sick or injured people.

breakdown vehicle means a tow truck within the meaning of the *Road Transport (Vehicle Registration) Regulation 2000*.

bus means a motor vehicle used to carry paying passengers but does not include the following:

- (a) a demand responsive service vehicle;
- (b) a taxi;
- (c) a private hire car;
- (d) a restricted hire car;
- (e) a rideshare vehicle;
- (f) a light rail vehicle.

car rental service means a business operating a fleet of 5 or more motor vehicles, under common ownership or management, for hire.

demand responsive service vehicle—see the *Road Transport (Public Passenger Services) Act 2001*, section 81.

drive-yourself vehicle—

- (a) means a motor vehicle let for hire, without the services of a driver, by a car rental service; but
- (b) does not include a motor vehicle let for hire under a lease or hire-purchase agreement.

firefighting vehicle means a motor vehicle used mainly for firefighting.

goods vehicle means a motor vehicle built mainly to transport goods.

GVM, of a vehicle—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

hire car—see the *Road Transport (Public Passenger Services) Act 2001*, section 67.

historic vehicle—see the *Duties Act 1999*, section 217 (3).

implement—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

input tax credit entitlement means an entitlement to an input tax credit for the MAI premium for an MAI policy.

miscellaneous vehicle means a tractor or implement but does not include a primary producer's tractor.

mobile crane means a motor vehicle built mainly as a crane but does not include—

- (a) a breakdown vehicle; or
- (b) a tractor.

motorbike—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

motorcycle means a motorbike or motortrike.

motortrike—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

passenger vehicle means a motor vehicle built mainly to carry people but does not include the following:

- (a) an ambulance;
- (b) a bus;
- (c) a demand responsive service vehicle;
- (d) a drive-yourself vehicle;
- (e) a motorcycle;
- (f) a police vehicle;
- (g) a private hire car;
- (h) a rideshare vehicle;
- (i) a personal share vehicle;
- (j) a taxi;
- (k) a light rail vehicle.

personal share vehicle—

- (a) means a passenger vehicle, a goods vehicle with a GVM not over 4.5t or a motorcycle let for hire without the services of a driver; but
- (b) does not include a vehicle let for hire by a car rental service.

police vehicle—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

primary producer's tractor means a tractor used by a primary producer for the producer's operations as a primary producer.

private hire car means a hire car that is not a restricted hire car.

restricted hire car—see the *Road Transport (Public Passenger Services) Act 2001*, section 68.

rideshare vehicle—see the *Road Transport (Public Passenger Services) Act 2001*, section 60A.

tractor—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

undertaker's vehicle means a motor vehicle used only as an undertaker's hearse.

veteran vehicle—see the *Duties Act 1999*, section 217 (3).

vintage vehicle—see the *Duties Act 1999*, section 217 (3).

Part 2.2 MAI premium classes

column 1 item	column 2 class number	column 3 kind of motor vehicle or trader's plate	column 4 case (if any)	column 5 input tax credit entitlement
1	1	passenger vehicle		not entitled
2	1	passenger vehicle		entitled
3	3	goods vehicle	GVM not over 4.5t	not entitled
4	3	goods vehicle	GVM not over 4.5t	entitled
5	4	goods vehicle	GVM over 4.5t	not entitled
6	4	goods vehicle	GVM over 4.5t	entitled
7	5A	bus or demand responsive service vehicle	vehicle has seating for more than 16 adults (including driver)	not entitled
8	5A	bus or demand responsive service vehicle	vehicle has seating for more than 16 adults (including driver)	entitled
9	5B	bus or demand responsive service vehicle	vehicle has seating for not more than 16 adults (including driver)	not entitled
10	5B	bus or demand responsive service vehicle	vehicle has seating for not more than 16 adults (including driver)	entitled
11	6	taxi		not entitled
12	6	taxi		entitled
13	7	private hire car		not entitled

Schedule 2
Part 2.2

MAI premium classes
MAI premium classes

column 1 item	column 2 class number	column 3 kind of motor vehicle or trader's plate	column 4 case (if any)	column 5 input tax credit entitlement
14	7	private hire car		entitled
15	8	drive-yourself vehicle		not entitled
16	8	drive-yourself vehicle		entitled
17	9A	motorcycle	engine capacity over 600cc	not entitled
18	9A	motorcycle	engine capacity over 600cc	entitled
19	9B	motorcycle	engine capacity over 300cc but not over 600cc	not entitled
20	9B	motorcycle	engine capacity over 300cc but not over 600cc	entitled
21	9C	motorcycle	engine capacity not over 300cc	not entitled
22	9C	motorcycle	engine capacity not over 300cc	entitled
23	9D	motorcycle	electrically powered motor	not entitled
24	9D	motorcycle	electrically powered motor	entitled
25	10	firefighting vehicle		not entitled
26	10	firefighting vehicle		entitled
27	11	undertaker's vehicle		not entitled
28	11	undertaker's vehicle		entitled
29	12	breakdown vehicle		not entitled

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column 1 item	column 2 class number	column 3 kind of motor vehicle or trader's plate	column 4 case (if any)	column 5 input tax credit entitlement
30	12	breakdown vehicle		entitled
31	14	miscellaneous vehicle		not entitled
32	14	miscellaneous vehicle		entitled
33	15	primary producer's tractor		not entitled
34	15	primary producer's tractor		entitled
35	16	mobile crane		not entitled
36	16	mobile crane		entitled
37	17	trader's plate	to be attached to a motorcycle	not entitled
38	17	trader's plate	to be attached to a motorcycle	entitled
39	18	trader's plate	to be attached to a motor vehicle other than a motorcycle	not entitled
40	18	trader's plate	to be attached to a motor vehicle other than a motorcycle	entitled
41	18D	trader's plate	to be attached to a registrable vehicle other than a motor vehicle	not entitled
42	18D	trader's plate	to be attached to a registrable vehicle other than a motor vehicle	entitled
43	19	veteran vehicle		not entitled

Schedule 2
Part 2.2

MAI premium classes
MAI premium classes

column 1 item	column 2 class number	column 3 kind of motor vehicle or trader's plate	column 4 case (if any)	column 5 input tax credit entitlement
44	19	veteran vehicle		entitled
45	20	vintage vehicle		not entitled
46	20	vintage vehicle		entitled
47	21	historic vehicle		not entitled
48	21	historic vehicle		entitled
49	22	ambulance		not entitled
50	22	ambulance		entitled
51	23	police vehicle		not entitled
52	23	police vehicle		entitled
53	25A	rideshare vehicle		not entitled
54	25A	rideshare vehicle		entitled
55	25B	personal share vehicle		not entitled
56	25B	personal share vehicle		entitled
57	26	light rail vehicle		not entitled
58	26	light rail vehicle		entitled

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Schedule 3 Information to be included in monthly returns

(see s 30)

3.1 Information relating to applications for defined benefits and motor accident claims

(1) The following information about each application for defined benefits and each motor accident claim received or managed in the month:

(a) details about the applicant or claimant, including the following:

- (i) full name;
- (ii) date of birth;
- (iii) home address, postal address (if any) and preferred email address;
- (iv) preferred telephone number;
- (v) nationality;
- (vi) gender;
- (vii) evidence of the applicant's or claimant's identity;

Examples

- driver licence number
- Medicare number
- passport number

(viii) whether they were the person injured in the motor accident;

(b) details about the motor vehicles involved in the motor accident, including the following:

- (i) the make, model, type and year of manufacture of the motor vehicle;

- (ii) if the motor vehicle was registered—the registration number of the motor vehicle;
 - (iii) if the motor vehicle had a valid trader’s plate attached—the unique identifying number on the trader’s plate;
- (c) if the nominal defendant is the relevant insurer for the application or managing insurer for the claim—the reason the nominal defendant is the relevant insurer for the application or managing insurer for the claim;
- (d) details about the motor accident, including the following:
 - (i) the date, time and place of the motor accident;
 - (ii) the unique identifying number (if any) for the motor accident assigned by the Australian Federal Police;
 - (iii) the applicant’s or claimant’s involvement in the motor accident;
- (e) if the applicant or claimant is represented by a lawyer—the lawyer’s name and contact details;
- (f) details of all payments made in relation to the application or claim, including the following:
 - (i) the name and contact details of each person to whom a payment was made;
 - (ii) the amount stated in the account to be paid;
 - (iii) when each payment was made;
 - (iv) for a payment of income replacement benefits—the period to which the payment relates;
 - (v) for a payment of treatment and care benefits that relates to a series of treatment and care or ongoing domestic services—the period to which the payment relates;

(vi) if the applicant or claimant paid a medical provider directly for a service—details of the provider.

(2) In this section:

registration number—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

3.2 Information relating to applications for defined benefits generally

(1) The following information about each application for defined benefits received or managed in the month:

- (a) whether an ambulance attended the motor accident;
- (b) whether the applicant attended hospital after the motor accident and, if so, details of the attendance;
- (c) the date the application was received;
- (d) the date the receipt notice or late receipt notice was given to the applicant;
- (e) for a late application—the reasons for accepting or rejecting the application;
- (f) whether the insurer accepted liability for the application and the date the insurer made the decision about accepting or rejecting liability;
- (g) if the insurer rejected liability for the application—the reason for doing so;
- (h) whether the applicant has made a workers compensation application in relation to an injury sustained as a result of the motor accident;

- (i) if the applicant has made a workers compensation application in relation to an injury sustained as a result of the motor accident—whether the application has been withdrawn and, if so, the date of the withdrawal;
 - (j) whether the applicant has applied to participate in the LTCS scheme in relation to an injury sustained as a result of the motor accident and, if so, the date of any decision in relation to the application;
 - (k) whether the applicant was charged with a driving offence or serious offence in relation to the motor accident and, if so—
 - (i) the nature of the offence; and
 - (ii) the date the applicant was charged with the offence; and
 - (iii) the date and outcome of any decision in relation to the charge;
 - (l) the status of the application.
- (2) In this section:
- serious offence*—see the Act, section 48 (7).

3.3 Information relating to applications for income replacement benefits

The following information about each application for income replacement benefits received or managed in the month:

- (a) if the applicant was in paid work before the motor accident—details of the work the applicant was in, including—
 - (i) the applicant’s occupation; and
 - (ii) the applicant’s work status; and

- (iii) whether the applicant was employed by someone else or self-employed and the name of the applicant's employer or business; and
- (iv) the number of hours the applicant works each week;
- (b) the applicant's pre-injury income;
- (c) the date the applicant stopped paid work after the motor accident;
- (d) if the applicant returned to paid work after the motor accident—details of their return to work;
- (e) if the applicant has given the insurer a fitness for work certificate—details of the certificate;
- (f) if the insurer has made a decision about the applicant's post-injury earning capacity—the date, outcome and reasons for the decision.

3.4 Information relating to applications for treatment and care benefits

The following information about each application for treatment and care benefits received or managed in the month:

- (a) details of the applicant's injury;
- (b) if the applicant has a recovery plan—details of the plan.

3.5 Information relating to applications for quality of life benefits

The following information about each application for quality of life benefits received or managed in the month:

- (a) if the applicant has had 1 or more WPI assessments—the timing and outcome of the assessments;

- (b) if the applicant has arranged for a private medical examiner to carry out a WPI assessment—the timing and outcome of the assessment;
- (c) if a review of the applicant’s first WPI report has been carried out—
 - (i) the final WPI; and
 - (ii) the date of the final WPI offer.

3.6 Information relating to applications for death benefits

The following information about each application for death benefits received or managed in the month:

- (a) the date the insurer received the application;
- (b) whether the person named in the application as the dead person died as a result of a motor accident;
- (c) the date the dead person died;
- (d) the date the insurer applied to the ACAT for an order for the payment of death benefits to the dead person’s dependants;
- (e) the date of the ACAT’s decision about the payment of death benefits;
- (f) the number of the dead person’s dependants who received a payment of death benefits.

3.7 Information relating to disputes about benefits applications

The following information about each application made under the Act, part 2.10 (Defined benefits—dispute resolution) for review of a reviewable decision received or managed in the month:

- (a) if an application is made for internal review of an internally reviewable decision—
 - (i) the date and reason for the application;
 - (ii) whether the application is a late application and, if so, the reason for allowing the applicant to make the late application;
 - (iii) details of the insurer's decision in relation to the application, including the date of the decision and the reasons for the decision;
- (b) if an application is made for external review of the insurer's decision—
 - (i) the date and reference number of the application for external review; and
 - (ii) details of the decision made by the ACAT, including the date of and reasons for the decision; and
 - (iii) whether costs were awarded in relation to the application.

3.8 Information relating to motor accident claims

The following information about each motor accident claim received or managed in the month:

- (a) whether the claimant is eligible to make a motor accident claim and, if so, the reason the claimant is eligible; and

Example—eligibility

the person is a person mentioned in the Act, s 236 (1)

- (b) the date of the notice of claim; and
(c) the kind of claim made; and

Examples—kind of claim

- damages for future treatment and care
- damages for loss of earnings
- quality of life damages

- (d) whether the insurer accepts liability for the claim and, if so, the date the insurer notified the claimant about accepting liability; and
(e) if the insurer rejects liability for the claim, the reason for rejecting liability;
(f) the status of the motor accident claim;
(g) if there was contributory negligence by the claimant—the reason and the percentage of contributory negligence;
(h) the date, amount and outcome of a settlement offer;

- (i) details of court proceedings in relation to the motor accident claim, including the following:
 - (i) the date of each court proceeding;
 - (ii) the jurisdiction in which the proceeding was undertaken;
 - (iii) the status of the proceeding;
 - (iv) the amount of any award of damages.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Commonwealth
- Corporations Act
- Criminal Code
- disallowable instrument (see s 9)
- found guilty
- in relation to
- quarter
- territory authority
- the Territory.

Note 3 Terms used in this regulation have the same meaning that they have in the *Motor Accident Injuries Act 2019* (see Legislation Act, s 148). For example, the following terms are defined in the *Motor Accident Injuries Act 2019*, dict:

- APRA
- ASIC
- AWE (see s 17)
- AWE adjusted
- AWE indexed
- Commonwealth authority
- defined benefits (see s 33)
- driving offence (see s 41)
- income replacement benefit payment
- insurance industry deed (see s 356)
- insurer
- licensed insurer
- MAI commission

- MAI guidelines
- MAI insurer (see s 284)
- MAI policy (see s 283)
- MAI premium (see s 311)
- motor accident (see s 10)
- motor accident claim (see s 225)
- nominal defendant (see s 16)
- paid work
- pre-injury weekly income
- quality of life benefits application (see s 137)
- unregistered vehicle permit
- valid trader's plate.

Note 4 The *Road Transport (General) Act 1999* contains definitions relevant to this Regulation. For example, the following terms are defined in the *Road Transport (General) Act 1999*, dictionary:

- driver
- jurisdiction
- light rail vehicle
- motor vehicle
- taxi
- trader's plate
- vehicle.

ambulance, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

annual MAI premium, for an MAI policy, for part 7 (MAI premiums)—see section 18.

breakdown vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

bus, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

car rental service, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

collection notice—see section 26.

demand responsive service vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

drive-yourself vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

due date—see section 26.

firefighting vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

goods vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

GVM, of a vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

hire car, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

historic vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

implement, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

input tax credit—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), section 195-1 (Dictionary).

input tax credit entitlement, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

MAI premium class, for part 7 (MAI premiums)—see section 18.

miscellaneous vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

mobile crane, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

monthly return—see section 30.

motorbike, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

motorcycle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

motor trike, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

passenger vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

personal share vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

police vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

prescribed person—see section 24.

primary producer's tractor, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

private hire car, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

restricted hire car, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

rideshare vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

tractor, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

undertaker's vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

veteran vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.

vintage vehicle, for schedule 2 (MAI premium classes)—see schedule 2, section 2.1.