

TASMANIA

**MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) AMENDMENT BILL 2013**

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MOTOR ACCIDENTS (LIABILITIES AND COMPENSATION) AMENDMENT BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
15 October 2013

*(Brought in by the Minister for Infrastructure, the Honourable
David James O'Byrne)*

A BILL FOR

**An Act to amend the *Motor Accidents (Liabilities and
Compensation) Act 1973***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Motor Accidents (Liabilities and Compensation) Amendment Act 2013*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Motor Accidents (Liabilities and Compensation) Act 1973** is referred to as the Principal Act.

4. Section 2 amended (Interpretation)

Section 2(1) of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *funeral benefits*:

interstate motor vehicle means a motor vehicle that –

- (a) is normally used by a resident of another State or a Territory in that State or Territory; and
- (b) is required under a law of that State or Territory to be registered;

interstate premium means a premium, levy or other payment –

- (a) that is required to be made under the law of another State or a Territory in respect of the use of an interstate motor

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vehicle in that State or
Territory; and

(b) that substantially
corresponds, in its effect,
to a premium under this
Act;

(b) by inserting the following definitions
after the definition of *regulations*:

*resident of another State or a
Territory* has the meaning given
by section 2B(2);

resident of this State has the meaning
given by section 2B(1);

5. Section 2B inserted

After section 2A of the Principal Act, the
following section is inserted in Part I:

2B. Meaning of “resident”

- (1) A person is a resident of this State only if his or her ordinary place of residence is in this State.
- (2) A person is a resident of another State or a Territory only if his or her ordinary place of residence is in that other State or that Territory.

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6. Section 23 amended (Liability to pay scheduled benefits)

Section 23 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a person who is”;
- (b) by inserting the following subsection after subsection (1):

(1AA) Despite subsection (1), the benefits payable by the Board under that subsection to a resident of this State who suffers personal injury resulting directly from a motor accident that occurs in another State or a Territory are the prescribed benefits less any benefits payable –

- (a) to the person in respect of that injury; and
- (b) under the law of that other State or Territory.

- (c) by omitting subsection (2) and substituting the following subsection:

(2) The Board must pay the medical benefits and disability benefits, and the benefits to family members for counselling services, prescribed by the regulations if a

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resident of another State or a Territory suffers personal injury resulting directly from a motor accident and –

- (a) the motor accident occurs in this State; and
 - (b) the motor accident involves an interstate motor vehicle; and
 - (c) the injured person requires daily care.
- (d) by omitting from subsection (2A) “Subsections (1) and (1A)” and substituting “Subsections (1), (1A) and (2)”;
- (e) by inserting the following subsection after subsection (2B):
- (2C) For the purposes of subsection (2), a motor accident involves an interstate motor vehicle –
 - (a) whether or not the motor vehicle’s registration has been suspended under a law of the jurisdiction in which it is registered; and
 - (b) if the personal injury results directly from –

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- (i) a collision, or action taken to avoid a collision, with the motor vehicle, whether the vehicle is stationary or moving; or
 - (ii) the motor vehicle moving out of control; or
 - (iii) the driving of the motor vehicle.
- (f) by omitting from subsection (3) “subsection (1) or (1A),” and substituting “subsection (1), (1A) or (2),”.

7. Section 24 amended (Exclusions from scheduled benefits)

Section 24 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (e) in subsection (1):
 - (ea) where the injured person is a resident of another State or a Territory and the motor accident results directly from the use of an interstate motor vehicle –

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(i) that is a trail bike, farm bike or beach buggy; and

(ii) in respect of which an interstate premium is required to be paid but has not been paid –

and the injured person was the owner or driver of that motor vehicle;

(b) by inserting the following paragraph after paragraph (g) in subsection (1):

(ga) where the injured person is a resident of another State or a Territory and the motor accident results from the use of an interstate motor vehicle, other than a trailer of a kind prescribed for the purposes of section 29(1AA), and –

(i) at the time of the motor accident an interstate premium for the use of the motor vehicle had not been paid or an interstate premium for the use of that motor vehicle in the circumstances, or under the conditions in which the motor vehicle was

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being used, had not been paid; and

(ii) at the time of the motor accident the injured person –

(A) was the driver of the interstate motor vehicle and knew or ought to have known that such an interstate premium had not been paid; or

(B) was the owner of the interstate motor vehicle;

(c) by inserting in subsection (3A)(a) “or a law of another State or a Territory that substantially corresponds to that section” after “section 55 of the *Monetary Penalties Enforcement Act 2005*”.

8. Section 27B amended (Board may require examination)

Section 27B(1) of the Principal Act is amended by omitting “normally resident in a State or Territory of the Commonwealth” from paragraph (a) of the definition of *consultant* and substituting “a resident of this State or a resident of another State or a Territory”.

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9. Section 28B amended (Recovery by Board of scheduled benefits)

Section 28B(2)(b) of the Principal Act is amended as follows:

- (a) by inserting “or interstate premium” after “accident a premium”;
- (b) by inserting “or interstate premium” after “or a premium”.

10. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.