

CLAUSE NOTES

Motor Accidents (Liabilities and Compensation) Amendment Bill 2015

Clause 1: Short Title

This clause provides that the Bill will be cited as the Motor Accidents (Liabilities and Compensation) Amendment Act 2015.

Clause 2: Commencement

This clause provides for the amendments proposed by the Bill to commence on the day on which the Bill receives the Royal Assent.

Clause 3: Principal Act

This clause provides that the Principal Act to which the amendments apply is the *Motor Accidents (Liabilities and Compensation) Act 1973*.

Clause 4: Section 12 Amended (The Motor Accidents Compensation Tribunal)

Paragraph (a) - Amendment to subsection (2A):

This is the key clause of the Bill. It removes subsection (2A) of section 12 and replaces it with a new subsection in relation to the appointment of members of the Motor Accidents Compensation Tribunal (MACT).

The Act currently provides that a person is not qualified for appointment as a member of the MACT unless he or she is a Judge, Magistrate or Associate Judge of the Supreme Court.

The amendment made by this clause expands the pool of potential members by adding an extra category of people who can be appointed as members of the MACT, namely, Australian lawyers of not less than 5 years' standing as an Australian legal practitioner.

The terms "Australian lawyer" and "Australian legal practitioner" are defined in the *Legal Profession Act 2007*.

Paragraph (b) - Amendment to subsection (5):

This is a minor amendment to subsection (5) to update terminology to make the legislation gender neutral in accordance with modern drafting practice. Currently, subsection (5) contains

references to “he”. The amendment updates this reference to “he or she”.

Clause 5: Section 12A inserted

This clause inserts a new provision (section 12A) into the Act in relation to the terms of appointment of members of the MACT.

Under the new section 12A, a member of MACT may be appointed for up to 5 years. He or she may, if eligible, be reappointed. There is no limit on the number of times that a person can be reappointed as a member.

The new provision also provides for the circumstances in which a member of the MACT ceases to hold office. Those circumstances are as follows:

- The member ceases to hold the relevant qualification specified in section 12(2A) – i.e., ceases to be qualified as a Magistrate, Judge, Associate Judge or as an Australian lawyer; or
- The member dies or becomes bankrupt; or
- The Governor is satisfied that the person is unable to competently perform the duties of a member; or
- The member is convicted of a crime, or offence, that is punishable by a period of imprisonment of 12 months or more; or
- The member is absent from the office of member for a period of 14 days or more for reasons other than illness or leave;
- The member submits a signed letter of resignation to the Governor.

The new provision also allows the Governor to remove a member where there has been misbehaviour, neglect of duty or incompetence on the part of that member.

The terms of appointment inserted by the new section 12A are similar to terms of appointment applying in relation to other Tribunals and Boards, including the Workers Rehabilitation and Compensation Tribunal, Resource Management and Planning Appeal Tribunal and Mental Health Tribunal.

Clause 6: Repeal of Act

This is a standard provision to repeal the Bill after the amendments have been incorporated into the Principal Act.