



New South Wales

Motor Accidents (Lifetime Care and Support) Amendment Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make the following changes to the Scheme under the *Motor Accidents (Lifetime Care and Support) Act 2006* which provides for the treatment and care needs of persons injured in motor accidents who are in need of lifetime care and support:

- (a) to clarify that the Lifetime Care and Support Authority may satisfy its liability to pay for expenses incurred in relation to an injured person's treatment and care needs by making a reasonable contribution to alternative expenditure that the Authority is satisfied will provide for those needs in a cost effective manner,
- (b) to enable the Authority to enter into contracts with other local or interstate insurers and authorities with similar functions for the purpose of providing services to injured persons who are eligible under similar lifetime care schemes.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16

Schedule 1 [1] provides that the Authority has the option of satisfying its liability under the Act to pay for expenses incurred in relation to a Scheme participant's assessed treatment and care

needs by making a reasonable contribution to alternative expenditure that the Authority is satisfied will provide for those same needs in a cost effective manner.

Schedule 1 [3] enables the Authority to enter into arrangements with other insurers and authorities with similar functions, both in New South Wales and in other States or Territories, for the purpose of the Authority exercising functions on their behalf to provide treatment, rehabilitation, care and support services to persons who have been accepted as eligible participants in similar lifetime care schemes. **Schedule 1 [2]** provides for the Authority to delegate any of its functions under any such arrangements.

Schedule 1 [4] provides for payments and receipts under the arrangements referred to in Schedule 1 [3] to be accounted for separately within the Fund kept under the Act and not to affect contributions to the funding of the Scheme by third-party insurance policy holders.



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Motor Accidents (Lifetime Care and Support) Amendment Bill 2014

No. , 2014

A Bill for

An Act to amend the *Motor Accidents (Lifetime Care and Support) Act 2006* to make further provision for the treatment and care needs of participants in the Scheme under that Act and for the functions of the Lifetime Care and Support Authority.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Motor Accidents (Lifetime Care and Support) Amendment Act 2014*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16	1
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[1] Section 11AA		3
Insert after section 11A:		4
11AA Option of contribution to other cost effective expenditure for meeting treatment and care needs		5
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(1) The Authority has the option of satisfying its liability under this Part to pay for expenses incurred in relation to a participant's assessed treatment and care needs by contributing to alternative expenditure (incurred by or on behalf of the participant) that the Authority is satisfied will provide for those needs in a cost effective manner.		7
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(2) The Authority's contribution to alternative expenditure is limited to the amount of a reasonable contribution to that expenditure and is not to exceed the amount for which the Authority would otherwise have been liable under this Part to pay for expenses incurred in relation to a participant's assessed treatment and care needs.		12
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(3) An assessment of the option of contributing to alternative expenditure under this section is part of the assessment of the treatment and care needs of a participant in the Scheme.		17
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Note. Because an assessment of this option is part of the assessment of the treatment and care needs of a participant, Part 4 and the LTCS Guidelines extend to an assessment of that option.		20
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[2] Section 41 Delegation of functions		23
Insert “, including any function provided for by a care and support arrangement under section 43A” after “delegation” in section 41 (1).		24
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[3] Section 43A		26
Insert after section 43:		27
43A Functions of the Authority under other care and support schemes		28
(1) The Authority may, with the approval of the Minister and the Treasurer, enter into an arrangement (a <i>care and support arrangement</i>) that provides for the Authority to exercise all or specified functions of a relevant authority under a care and support scheme that is prescribed by the regulations for the purposes of this section.		29
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(2) A care and support arrangement is to be entered into by agreement between the Authority and the relevant authority concerned and can include provision for or with respect to any matter that is necessary or convenient in connection with the conferring of functions on the Authority including (without limitation) any of the following matters:		34
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(a) the manner in which the Authority is to exercise functions under the arrangement,		39
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(b) the administrative arrangements for the exercise of functions under the arrangement, including funding arrangements,		41
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(c)	the sharing of information between the Authority and the relevant authority in connection with the operation of the arrangement and the exercise of functions under the arrangement,	1 2 3
(d)	such other matters as may be prescribed by the regulations.	4
(3)	The Authority has the functions provided for by a care and support arrangement entered into under this section and is to exercise those functions in accordance with the arrangement. Functions exercised by the Authority under a care and support arrangement are exercised for and on behalf of the relevant authority.	5 6 7 8 9
(4)	A care and support arrangement can provide for the exercise of functions by the Authority outside the State.	10 11
(5)	In this section: <i>care and support scheme</i> means a law of the State or of another State or Territory or of the Commonwealth that makes provision for:	12 13 14
(a)	a scheme that is substantially the same as or similar to the Scheme under this Act, or	15 16
(b)	a scheme for the payment of compensation or the provision of other care and support to persons who have suffered injury (whether or not caused by a motor accident).	17 18 19
	<i>relevant authority</i> means a person or body that has functions under a care and support scheme (including functions under a contract of insurance required or provided for by a care and support scheme).	20 21 22
[4] Section 48A		23
	Insert after section 48:	24
48A Separate accounting for care and support arrangements		25
(1)	Each care and support arrangement is to have a separate account established for it within the Fund.	26 27
(2)	Amounts payable to or by the Authority under a care and support arrangement are to be accounted for separately within the Fund by being paid into or from the separate account established for the arrangement.	28 29 30
(3)	A liability of the Authority under a care and support arrangement is not a liability of the Fund except to the extent that the liability can be satisfied out of money standing to the credit of the separate account established for the arrangement within the Fund.	31 32 33 34
(4)	Accordingly, an amount required to be paid under a care and support arrangement can only be paid from the separate account established for the arrangement but this does not prevent the use of other money in the Fund for the payment of such an amount pursuant to the provision of temporary financial accommodation (including by the making of an advance to the separate account established for the arrangement) that is repaid from the separate account.	35 36 37 38 39 40 41
(5)	The Authority is to have no regard to a liability of the Authority under a care and support arrangement in making a determination under section 49 (Determination by Authority of amount to be contributed to Fund).	42 43 44

- (6) In this section: 1
care and support arrangement means a care and support arrangement entered 2
into under section 43A. 3