



New South Wales

Motor Accident Injuries Bill 2017

Explanatory note

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

Overview of Bill

New motor injuries scheme

The object of this Bill is to replace the current compulsory third-party motor accidents scheme under the *Motor Accidents Compensation Act 1999* with a new scheme to cover persons injured in motor accidents after the commencement of the proposed Act.

Features of new motor injuries scheme

The principal features of the new scheme are as follows:

- (a) Insurance for liability of the driver or owner of a registered motor vehicle relating to the death of or injury to other persons as a consequence of motor accidents continues to be compulsory.
- (b) Insurance under the new scheme continues to be privately underwritten and the insurance risk remains with the private sector. Insurers are licensed and supervised by the State Insurance Regulatory Authority (*the Authority*). The Authority is provided with enhanced powers to regulate premiums for compulsory third-party policies to ensure that premium levels are adequate to fund the obligations of insurers and excessive underwriting profits are avoided. The factors to be used in the calculation of third-party premiums will ensure that insurer costs and expenses and estimates of claims costs and expenses are reasonable.
- (c) Transitional provisions will facilitate the adjustment of third-party premiums after the commencement of the new scheme to avoid excess profits and losses arising from the effect on cost of claims of the new scheme and to apply any unearned premium surplus in

reduction of premiums. The Authority will review the need for the provisions after 3 years from the commencement of the scheme.

- (d) No-fault statutory benefits will be payable by insurers for motor accidents. Statutory benefits will include weekly payments for loss of earnings, payment of treatment and care expenses and payment of funeral expenses. Statutory benefits will be payable for loss of earnings or for treatment and care for up to 6 months after the motor accident regardless of fault.
- (e) Statutory benefits will not be payable after 6 months from the date of the motor accident to injured persons suffering minor injuries only. Except in the case of minor injuries, statutory benefits will be payable to cover the ongoing cost of treatment and care after 6 months if the injured person was not most at fault or was under the age of 16 years at the time of the accident. Statutory benefits will generally be payable for loss of earnings for up to 2 years (and in some cases up to 5 years) where the injured person was not most at fault and the injuries are not minor injuries.
- (f) The maximum amount of weekly statutory benefits is set at 2.5 times average weekly earnings (\$3,853).
- (g) Common law damages will be recoverable only for specified categories of economic loss, including past and future loss of earnings and non-economic loss (statutory benefits will be payable to cover the cost of treatment and care). No common law damages will be recoverable for minor injuries. Damages for non-economic loss will not be recoverable unless permanent impairment is greater than 10%.
- (h) Funding arrangements for levies to fund the administration of the scheme will provide for the Authority to determine and collect a single levy from compulsory third-party policy holders that is required for the purposes of meeting the obligations of the Authority and the Lifetime Care and Support Authority.
- (i) If the motor vehicle involved in the accident was not insured or cannot be identified, compensation continues to be payable under a Nominal Defendant scheme operated by the Authority (with licensed insurers acting for the Authority in connection with claims).
- (j) Parties will be required to comply with certain duties in connection with claims, including the duty of insurers and claimants to act with good faith and the duty of claimants to take reasonable steps to minimise loss.
- (k) A claim for damages will be required to be made within 3 years after the motor accident. A claim for damages cannot be made before 20 months from the date of the motor accident unless the claim relates to a death or the degree of permanent impairment is greater than 10%. A claim for statutory benefits will be required to be made within 3 months after the motor accident.
- (l) A Dispute Resolution Service will be established within the Authority (replacing the Motor Accidents Claims Assessment and Resolution Service and the Motor Accidents Medical Assessment Service) for the resolution of disputes in connection with motor accident claims for statutory benefits or common law damages. The Service consists of staff of the Authority and independent merit reviewers, medical assessors and claims assessors.
- (m) Claims for damages are to be assessed by claims assessors before court proceedings can be commenced (unless they are exempt from assessment). The courts are the final arbiters on the issues of liability to pay common law damages and the assessment of the amount of damages required to be paid by way of compensation.
- (n) A system of independent medical assessment is continued for the resolution of disputes about degree of permanent impairment, treatment, impairment of earning capacity and other medical matters.
- (o) Other disputes may be referred to the Dispute Resolution Service for merit review or for assessment. Decisions determining merit reviews and medical assessments will generally be binding on the parties to the dispute, subject to a right of review by a review panel.

Decisions on the assessment of disputes about claims for statutory benefits (other than by merit review or medical assessment) will be binding on the parties.

- (p) The process for the resolution of disputes about statutory benefits (and some disputes about claims for damages) will generally require internal review by an insurer before a dispute can be referred to the Dispute Resolution Service for determination by way of merit review or medical or other assessment (except claims assessment). Internal reviews are to be conducted in accordance with guidelines issued by the Authority.
- (q) Parties to a claim for damages will no longer be required to participate in a settlement conference and exchange the documents on which they propose to rely for the purposes of an assessment of the claim. The parties to the claim will be required to use their best endeavours to settle the claim before referring it to the Dispute Resolution Service for assessment. A claim will not be able to be referred for assessment more than 3 years after the motor accident unless there is a full and satisfactory explanation for the delay.
- (r) A claim for damages will not be able to be settled within 2 years after the motor accident unless the injured person has a degree of permanent impairment of greater than 10%. A claim for damages will not be able to be settled at any time unless the claimant is legally represented or the settlement is approved by the Dispute Resolution Service.
- (s) Specific principles apply to a court when assessing compensation payments in any award of damages (including restrictions on compensation for pain and suffering and other categories of damages).
- (t) The regulations will fix maximum costs for legal services provided in a motor accidents matter. Legal costs will not be recoverable for statutory benefits claims unless permitted by the regulations or the Dispute Resolution Service.
- (u) The Authority will be authorised to issue Motor Accident Guidelines dealing with various matters in connection with the scheme.

Outline of provisions

Part 1 Preliminary

Division 1.1 Introductory

This Division sets out the name of the proposed Act, provides for its commencement on a day or days to be proclaimed and sets out the objects of the proposed Act.

Division 1.2 Interpretation

This Division defines words and expressions used in the proposed Act. A definition of “minor injury” is included which covers soft tissue injuries and minor psychological or psychiatric injuries.

Division 1.3 Application

This Division contains general provisions relating to the application of the proposed Act, including a provision restricting the application of the proposed Act to motor accidents occurring after the commencement of the proposed Act. Generally, the new scheme continues to apply to the kinds of motor accidents to which the existing motor accidents scheme applies.

Part 2 Third-party insurance

Division 2.1 Compulsory insurance

This Division makes it an offence to use on a road a motor vehicle that is not insured under a third-party policy under the proposed Act. It provides for a defence in criminal proceedings where the defendant believed on reasonable grounds that the vehicle was insured. This Division also

includes exceptions for unregistered motor vehicles lawfully used on a road, trailers and motor vehicles or a kind prescribed by the regulations.

Division 2.2 Insurance policies

This Division deals with matters relating to third-party policies. The prescribed form of policy covers the use or operation of a registered vehicle on a road or elsewhere in Australia and the use or operation of a vehicle the subject of an unregistered vehicle permit only on a road in Australia. The Division prohibits RMS from registering or renewing the registration of a motor vehicle or issuing a trader's plate unless a certificate of insurance is produced to RMS or RMS is otherwise satisfied that a third-party policy exists. The Division also outlines the method of effecting a third-party policy. More specifically, it deals with the issuing of certificates of insurance, the commencement, duration and cancellation of policies, the rights and liabilities attaching to the parties to the policies and certain exclusions from coverage under the policies.

Division 2.3 Insurance premiums

This Division relates to third-party insurance premiums. It provides for the charging of premiums in accordance with premiums filed by insurers with, and not rejected by, the Authority. The Motor Accident Guidelines may provide for the determination of premiums, for when premiums must be filed and how often they can be filed, for the payment of fees in connection with premium filing and for the disclosure by insurers of profit margins. The Division also provides that the regulations may impose arrangements on licensed insurers in relation to premium risk equalisation. It is a condition of an insurer's licence to comply with such an arrangement.

Division 2.4 Uninsured or unidentified motor vehicles

This Division enables claims for damages or statutory benefits in connection with a motor accident to be brought against the Nominal Defendant where a vehicle is uninsured or is not identified. The Authority is designated as the Nominal Defendant, but claims are allocated to licensed insurers to be dealt with.

Part 3 Statutory benefits

Division 3.1 Entitlement to statutory benefits

This Division provides for an entitlement to statutory benefits in respect of the death of or injury to a person resulting from a motor accident in New South Wales. Statutory benefits are payable whether or not the motor accident was the fault of any person. Statutory benefits are payable by the *relevant insurer*, which is the third-party insurer of the vehicle involved in the motor accident, the at-fault vehicle (if more than one vehicle was involved) or the Nominal Defendant. In the case of statutory benefits for treatment and care provided more than 5 years after the motor accident, the Lifetime Care and Support Authority of New South Wales is the relevant insurer. An insurer who pays statutory benefits under the Part is entitled to recover the amount of statutory benefits from the relevant insurer liable to make the payments.

Division 3.2 Statutory benefits for funeral expenses

This Division provides for statutory benefits for funeral expenses in respect of a person who has died as a result of a motor accident. The statutory benefits are payable to the legal personal representative of the deceased or the person who has paid or is liable to pay the funeral expenses. Statutory benefits for death are limited to payment of funeral expenses.

Division 3.3 Weekly payments of statutory benefits to injured persons

This Division provides for an entitlement to weekly payments of statutory benefits for an injured person who suffers a total or partial loss of earnings as a result of the injury. The Division provides for the variation of the rate of weekly payments during 3 entitlement periods (weeks 1–13, weeks 14–78 and after week 78). Weekly payments after week 78 are not available to persons until

they reach the age of 18 years unless they were employed or receiving workers compensation or payments under the proposed Act in respect of loss of earnings before the motor accident.

Weekly payments to an injured person cease after 26 weeks if the motor accident was caused wholly or mostly by the fault of the person or the only resulting injuries were minor injuries. In any other case, weekly payments cease after 104 weeks if the person's injury is not subject to a pending claim for damages. If the injury is subject to a pending claim for damages, weekly payments cease after 156 weeks, or 260 weeks if the injured person has a degree of permanent impairment of greater than 10%.

The Division provides for the termination of weekly benefits on retiring age (or 12 months after retiring age if the injury happens after retiring age) and obligations of injured persons with respect to the provision to insurers of medical certificates as to fitness for work and other authorisations and the undertaking of reasonable and necessary treatment, rehabilitation or vocational training. The Division also includes provisions relating to earning capacity decisions of insurers, notification of a change in circumstances or a discontinuation or reduction of weekly payments, refund of weekly payments after return to employment, payment of weekly payments to injured persons residing outside Australia and indexation of weekly payments.

Division 3.4 Statutory benefits for treatment and care

This Division provides for an entitlement to statutory benefits for expenses incurred in connection with providing treatment and care (including, for example, medical treatment and services, rehabilitation and education and training) to an injured person. Statutory benefits are limited to the reasonable cost of treatment and care and reasonable and necessary travel and accommodation expenses incurred in obtaining treatment and care. In certain circumstances, the entitlement to statutory benefits for treatment and care extends to expenses incurred in connection with the provision of domestic services to an injured person's dependants. No statutory benefits are payable for gratuitous attendant care services. The entitlement to statutory benefits ceases after 6 months if the injured person was wholly or mostly at fault (and was over the age of 16 years at the time of the accident) or suffered minor injuries only. The Division includes other provisions for limiting the amount of statutory benefits payable for treatment and care or the circumstances in which benefits are payable.

Division 3.5 Restrictions and limitations on statutory benefits

This Division contains provisions restricting or limiting entitlement to statutory benefits generally. Statutory benefits are not payable to an injured person who is entitled to claim workers compensation for the injury. An at-fault driver is not entitled to statutory benefits if his or her vehicle is uninsured. No statutory benefits are payable to a person who is charged with or convicted of a serious driving offence that was related to the motor accident concerned. Weekly statutory benefits are to be reduced after 6 months if any conduct of the injured person in relation to the motor accident constitutes contributory negligence. The regulations may prescribe standard rates of deduction from weekly payments of statutory benefits for contributory negligence. The Division also includes provisions that limit the entitlement to statutory benefits for mental harm and provide for the reduction of damages awarded for a death or injury for which statutory benefits have been paid.

Division 3.6 Miscellaneous

This Division deals with miscellaneous matters relating to statutory benefits. The Division includes provisions relating to the administration of vocational and return to work support programs by the Authority, recovery of overpayment of statutory benefits and the effect on claims for damages of certain determinations in connection with claims for statutory benefits. It also contains a provision relating to arrangements between insurers and the Lifetime Care and Support Authority for ongoing responsibility for statutory benefits for treatment and care provided to injured persons 5 years from the date of the motor accident.

Part 4 Award of damages

Division 4.1 Application

This Division contains provisions relating to the application of the Part. The Part applies to and in respect of an award for damages that relates to the death or injury of a person caused by the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle. The Division provides that a court cannot award damages relating to motor accidents contrary to the Part. Damages may not be awarded to a person in respect of minor injuries only.

Division 4.2 Damages for economic loss

This Division deals with awards for damages for economic loss and the method of making such awards. The Division includes provisions relating to the maximum amount of damages that may be awarded for loss of earnings, restrictions on the award of damages for future economic loss, the discount rate for lump sum awards and the reduction of the amount of economic loss by an amount prescribed by the regulations. The Division also authorises (but not requires) disputes about the degree of impairment of earning capacity to be assessed by a medical assessor before damages are awarded.

Division 4.3 Damages for non-economic loss

This Division relates to awards for damages for non-economic loss and the making of such awards. It provides for the threshold test of at least 10% permanent impairment of an injured person (which is the threshold applicable to damages for non-economic loss under the replaced scheme). Disputes about the degree of permanent impairment of an injured person are required to be assessed by a medical assessor before damages may be awarded. The Division fixes \$521,000 as the maximum amount of damages that may be awarded for non-economic loss (subject to indexation).

Division 4.4 Other matters

This Division deals with other matters that relate to awards for damages including, amongst other things, the duty of an injured person to mitigate his or her damages, interest payments on damages awards, contributory negligence, voluntary assumption of risk, the prohibition on exemplary or punitive damages and indexation of maximum award amounts provided for in the Part.

Part 5 Recovery for no-fault motor accidents

This Part provides an entitlement to statutory benefits or to recover damages for a death or injury resulting from a motor accident not caused by the fault of the owner or driver of the motor vehicle concerned or of any other person. The Part provides that the driver of the motor vehicle is not entitled to recover damages for a no-fault motor accident where the driver caused the motor accident (even though not “at fault”).

Part 6 Motor accident claims

Division 6.1 Preliminary

This Division deals with preliminary matters relating to Part 6, including the making of Motor Accident Guidelines by the Authority dealing with the handling of claims and the definition of an expression used in the Part.

Division 6.2 General duties of claimants and insurers

This Division sets out the general duties of claimants and insurers in connection with claims. These duties include the duty to act with good faith, the duty to try to resolve a claim justly and expeditiously and the duty of a claimant to minimise loss caused by the injury. The Division also

authorises the Dispute Resolution Service to give directions for compliance with duties and to provide reports to the Authority on any failure to comply with a duty.

Division 6.3 Preliminary matters relating to claims

This Division deals with matters relating to the making of claims. These matters include the requirement for claimants to comply with obligations set out in the Motor Accident Guidelines as to the verification of motor accidents, access by the Authority to police information relating to motor accidents, the time for and notice of making of claims, the making of late claims and certain powers of insurers relating to claims.

Division 6.4 Dealing with claims

This Division contains provisions relating to the duties of insurers, claimants and other parties in connection with the handling of claims. The Division provides for a 4-week deadline for an insurer to accept or deny liability for statutory benefits during the first 26 weeks after a motor accident and a 3-month deadline for statutory benefits after those first 26 weeks or for claims for damages. A costs penalty may be imposed on an insurer by a claims assessor for an unreasonable denial of liability. Other duties set out in the Division include the duty of an insurer to make a reasonable offer of settlement on a claim for damages, the duty of a claimant to co-operate with insurers and persons against whom claims are made, to provide relevant particulars of a claim for damages and to comply with requests to undergo medical and other examinations and the duty of the owner or driver of a motor vehicle to which a claim relates to co-operate with the insurer. The Division also provides that a claim for damages cannot be settled within 2 years after the motor accident (unless the injured person meets the permanent impairment threshold).

Division 6.5 Court proceedings on claims for damages

This Division deals with certain matters relating to court proceedings in respect of claims, including the 3-year time limitation on commencement of court proceedings and the prohibition on commencing proceedings in respect of a claim without a certificate of claims assessment or exemption from claims assessment.

Division 6.6 Fraud in relation to claims

This Division contains provisions relating to fraudulent claims, including a requirement for licensed insurers to take reasonable steps to deter and prevent fraudulent claims. The Division also makes it an offence to knowingly make a false and misleading statement in relation to a claim or to obtain a financial advantage by deception in connection with the motor accidents injuries scheme. The maximum penalty for an offence is 500 penalty units (\$55,000) or 2 years imprisonment, or both. The Division also provides for a right of recovery against a person who obtains a financial benefit by means of a fraudulent claim.

Part 7 Dispute resolution

Division 7.1 Preliminary

This Division defines words and expressions used in the Part.

Division 7.2 Dispute Resolution Service

This Division deals with arrangements for the establishment of a Dispute Resolution Service within the Authority for determining disputes relating to claims under the proposed Act and for assessing claims for damages before court proceedings can be commenced. The Service consists of merit reviewers, medical assessors and claims assessors. The Division also provides for the appointment of a Principal Claims Assessor to exercise certain functions in relation to the assessment and exemption from assessment of claims for damages. The Dispute Resolution Service may designate reviewers and assessors to exercise certain miscellaneous functions arising under other provisions of the proposed Act.

Division 7.3 Internal review

This Division provides for a process of internal review of decisions of insurers in connection with claims for statutory benefits and claims for damages. Certain disputes may not be referred for dispute resolution by way of merit review or medical assessment until the insurer has conducted an internal review of the disputed decision.

Division 7.4 Merit review

This Division provides for a process of merit review for the determination of disputes about certain decisions of insurers (including decisions relating to procedural matters in connection with claims for statutory benefits or damages and decisions about the amount of statutory benefits payable). Applications for reviews are referred to merit reviewers for determination and the decision of a merit reviewer on an application is binding on the insurer and the claimant. The regulations may require the giving of reasons for an insurer's decision and may provide for the procedures to be followed by claimants and insurers in connection with a merit review.

Division 7.5 Medical assessment

This Division provides for a process of determination of disputes about medical or related matters (including disputes about the degree of permanent impairment that has resulted from an injury or whether any particular treatment and care is reasonable and necessary). Medical disputes may be referred to the Dispute Resolution Service by either party to the dispute or by a merit reviewer, a claims assessor or a court. A certificate of a medical assessor is prima facie evidence of any matter relating to the degree of impairment of earning capacity of an injured person, and conclusive evidence of any other matter. The Division also provides for assessment procedures, costs of assessments and the review of assessments by a review panel.

Division 7.6 Claims assessment

This Division provides for a process of assessment of claims for damages before court proceedings can be commenced to assist in the resolution of disputes about claims. Claims for damages may be referred for assessment by the claimant or the insurer. The claims assessor can exempt a claim from assessment if it is exempt from assessment by the regulations or if it is not suitable for assessment. Parties to a claim for damages are no longer required to participate in a settlement conference and exchange the documents on which they propose to rely for the purposes of an assessment of the claim. The parties to the claim are required to use their best endeavours to settle the claim before referring it to the Dispute Resolution Service for assessment. A claim cannot be referred for assessment more than 3 years after the motor accident unless there is a full and satisfactory explanation for the delay. The decision of the claims assessor on the amount of compensation to be paid is binding on the insurer, and on the claimant if the claimant accepts the amount within 21 days. Any decision of a claims assessor on liability is not binding. This Division deals with the manner of assessment by claims assessors and proceedings before and the powers of claims assessors. It also provides that regulations may be made with respect to the procedures to be followed under the Division.

The Division applies to certain other miscellaneous disputes (in connection with a claim for statutory benefits or damages) in the same way as it applies to the assessment of claims for damages, subject to any modifications prescribed by the regulations. Miscellaneous disputes are generally subject to a requirement for internal review before they can be referred for assessment.

Division 7.7 Miscellaneous

This Division deals with miscellaneous matters in connection with the resolution of disputes by the Dispute Resolution Service. These include provision for the establishment of an advisory service to assist claimants in connection with claims and disputes, the publication of decisions of merit reviewers and claims assessors and a restriction on the classes of medical and other practitioners who may give evidence in relation to medical matters in court, merit review or claims assessment proceedings.

Part 8 Costs and fees

This Part deals with matters relating to legal and associated costs in connection with motor accident claims. It includes provisions that allow for regulations to be made fixing maximum costs recoverable by legal practitioners for legal services and other non-legal services (such as expenses for investigations, witnesses or medical reports) and for maximum fees recoverable by health practitioners for the provision of medical reports or witness appearances in connection with a claim. The regulations may fix the maximum costs by reference to the amount recovered by the claimant. Legal costs will not be recoverable for statutory benefits claims unless payment of those costs is permitted by the regulations or the Dispute Resolution Service. The Part also authorises the regulations to prescribe court fees and claims assessment fees.

Part 9 Insurers

Division 9.1 Licensing of insurers

This Division deals with the licensing of insurers authorised to issue third-party policies for the purposes of the proposed Act. It includes provisions relating to applications for licences and the duration, conditions, suspension, cancellation and assignment of licences. The Division provides that it is an offence for an unlicensed insurer to issue a certificate of insurance for a third-party policy and provides for the imposition of a civil penalty for a contravention by a licensed insurer. The maximum penalty for an offence or civil contravention is \$110,000. The Division also authorises the Authority to publish information about licensed insurers relating to compliance, premium pricing, profitability, performance comparisons and other matters of public interest.

Division 9.2 Supervision of licensed insurers

This Division deals with the supervision of licensed insurers by the Authority. It provides for the accounts, returns and other documents that must be kept by licensed insurers or lodged with the Authority. The Division includes obligations of insurers with respect to the determination of market share, the preparation of business plans, notifications relating to re-insurance, investment and other business arrangements. It also provides for auditing of insurers' accounting and other records by the Authority, reports by the Authority on insurer compliance and complaints about insurers and powers of the Supreme Court to make orders for protecting policy-holders where insurers are unable to meet their liabilities under third-party policies.

Division 9.3 Self-insurance for government bodies

This Division authorises the Authority (with the approval of the Minister) to approve Government bodies as self-insurers so they can issue third-party policies for their own vehicles and those of other government bodies.

Division 9.4 Insolvent insurers

This Division deals with matters relating to insolvent insurers. It includes provisions relating to the tasks of liquidators of insolvent insurers and the role of the Nominal Defendant as agent and attorney of persons insured under a third-party policy issued by an insolvent insurer.

Part 10 Administration

Division 10.1 Functions of Authority

This Division deals with the functions of the Authority under the proposed Act. The functions include monitoring the operation of the motor accidents scheme, and in particular researching the level of statutory benefits paid by insurers, the level of damages paid, assessed or awarded and the handling of claims by insurers. Other functions include advising the Minister on the administration of the scheme, publicising information about the scheme, investigating complaints, monitoring insurer compliance, investigating and detecting fraudulent claims, issuing and

reviewing guidelines under the proposed Act, establishing the Dispute Resolution Service and an advisory service to assist claimants in connection with claims and providing funding measures for motor accident injury prevention or minimisation and safety education.

Division 10.2 Motor Accident Guidelines

This Division authorises the Authority to issue guidelines with respect to matters under the proposed Act. Changes to provisions of the guidelines relating to the determination of insurance premiums for third-party policies require the approval of the Board of the Authority. The Division also includes provisions relating to guidelines about medical matters, consultation about guidelines with insurance and legal stakeholders, publication and Parliamentary scrutiny of guidelines and regulations with respect to the issue of guidelines. Compliance with guidelines issued under the Division is a condition of an insurer's licence under the proposed Act.

Division 10.3 Bulk billing arrangements

This Division enables the Authority to enter into arrangements with the Minister for Health and service providers for the payment by the Authority of hospital, ambulance and other treatment and care expenses of injured persons at the arranged rate.

Division 10.4 Financial provisions

This Division deals with funding arrangements for authorities in connection with the exercise of their functions under the proposed Act. The Division establishes the Motor Accidents Operational Fund, which funds the operations of the Authority under the proposed Act. It also establishes the Motor Accident Injuries Treatment and Care Benefits Fund (the *MAITC Benefits Fund*), which funds the operations of the Lifetime Care and Support Authority under the proposed Act. Payments of statutory benefits for treatment and care that the Lifetime Care and Support Authority is required to make as the relevant insurer after 5 years from the date of a motor accident are to be paid from the MAITC Benefits Fund. The Division provides for the Authority to determine and collect a single levy from compulsory third-party policy holders that is required for the purposes of meeting the obligations of both of those funds and the Lifetime Care and Support Authority Fund under the *Motor Accidents (Lifetime Care and Support) Act 2006*. The Authority may authorise the payment of grants to the Lifetime Care and Support Authority Fund or the MAITC Benefits Fund from the Motor Accidents Operational Fund if that Fund is in surplus. The Division also includes provisions for the refund of levy amounts, records relating to collection of levies, audit of levy records and the payment by the Authority of workers compensation indemnities on behalf of insurers.

Division 10.5 Information collection and sharing

This Division contains provisions relating to the collection, use and disclosure by the Authority, licensed insurers and relevant insurance or compensation authorities of data relating to third-party policies, claims and other related matters under the proposed Act. It includes a provision that authorises the Authority to obtain data from licensed insurers, authorities that administer insurance or compensation schemes, hospitals and government agencies and that authorises the exchange of data between those entities.

The Division also provides for a register for motor accident claims and work-related claims which may be accessed by the Authority, licensed insurers and other persons approved by the Authority.

Division 10.6 Investigative powers

This Division provides for the investigative powers of the Authority in connection with the motor accidents scheme. It includes provisions for the appointment of investigation officers, powers of entry, inspection and search of premises, powers to require information and documents and offences for failing to comply with requirements of investigation officers and delaying, obstructing or providing false or misleading information to investigation officers.

Part 11 Miscellaneous

This Part contains miscellaneous provisions, including provisions relating to secrecy of information, the service of documents, proceedings for offences and the issue of penalty notices for offences against the proposed Act, and the making of regulations in aid of the proposed Act (including for the purpose of regulating advertising by lawyers and agents in connection with motor accident claims).

Schedule 1 Definitions relating to earnings for purposes of weekly payments of statutory benefits under Division 3.3

Schedule 1 defines certain words and expressions that apply in Division 3.3.

Schedule 2 Jurisdiction of Dispute Resolution Service

Schedule 2 lists the matters in relation to which disputes may be referred to the Dispute Resolution Service for merit review, medical assessment or miscellaneous claims assessment.

Schedule 3 Provisions relating to Principal Claims Assessor

Schedule 3 contains provision relating to the Principal Claims Assessor.

Schedule 4 Savings, transitional and other provisions

Schedule 4 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 5 Amendment of other Acts

Schedule 5 makes consequential amendments to other Acts, including the following:

- (a) the *Civil Liability Act 2002* (provides that provisions of that Act generally do not apply to civil liability in relation to an award of damages under the proposed Act),
- (b) the *Motor Accidents Compensation Act 1999* (provides that motor accidents occurring before the commencement of the new scheme and railway and other public transport accidents will continue to be subject to the scheme established under that Act),
- (c) the *Motor Accidents (Lifetime Care and Support) Act 2006* (includes provision for persons injured in motor accidents occurring outside New South Wales to be accepted as lifetime participants in the scheme for lifetime care and support provided for by that Act),
- (d) the *State Insurance and Care Governance Act 2015* (confers functions on the State Insurance Regulatory Authority in relation to the proposed Act),
- (e) the *Transport Administration Act 1988* (provides that the provisions of the *Motor Accidents Compensation Act 1999* relating to the award of damages continue to apply to public transport accidents occurring after commencement of the proposed Act, subject to regulations under the *Transport Administration Act 1988* applying provisions of the proposed Act relating to the award of damages or statutory benefits).