

TASMANIA

**MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) (TRIBUNAL) REGULATIONS
2019**

STATUTORY RULES 2019, No. 27

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**MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) (TRIBUNAL) REGULATIONS
2019**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Motor Accidents (Liabilities and Compensation) Act 1973*.

Dated 20 May 2019.

C. WARNER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Justice

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Motor Accidents (Liabilities and Compensation) (Tribunal) Regulations 2019*.

2. Commencement

These regulations take effect on 3 June 2019.

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Part 1 – Preliminary

3. Interpretation

In these regulations, unless the contrary intention appears –

Act means the *Motor Accidents (Liabilities and Compensation) Act 1973*;

party, when used in relation to a reference, includes the Board;

reference means a reference to the Tribunal under section 28(2) or (3) of the Act;

secretary means the secretary of the Tribunal appointed under section 13(2) of the Act.

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PART 2 – REFERENCE TO TRIBUNAL

4. Reference to Tribunal

(1) In this regulation –

relevant document in relation to a matter,
means a document that is considered by
the Tribunal to be relevant to the matter.

(2) A person may refer a matter to the Tribunal
under section 28(2) of the Act by giving the
secretary –

(a) written notice in the form determined by
the Board; and

(b) a copy of all relevant documents in the
possession of that person.

(3) The Board may refer a matter to the Tribunal
under section 28(3) of the Act by giving the
secretary –

(a) written notice in the form determined by
the Board; and

(b) a copy of all relevant documents in the
possession of the Board.

(4) A person is to give notice under
subregulation (2)(a) within –

(a) 14 days after the person is notified of a
determination or refusal of the Board or

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becomes aware of the failure of the Board to make a payment by way of a scheduled benefit; or

(b) any further period that the Tribunal, on application by the person, considers reasonable.

(5) A copy of a notice given under subregulation (2)(a) or subregulation (3)(a) is to be served –

(a) on each other party to the reference; and

(b) within the period required by subregulation (4).

5. Reference to Tribunal on behalf of infant

(1) In this regulation –

relevant person, in relation to an infant, means –

(a) the infant’s parent or guardian; or

(b) another person appointed by the Tribunal in relation to the infant.

(2) A relevant person in relation to an infant, may –

(a) refer a matter to the Tribunal on behalf of the infant under section 28(2) of the Act; and

(b) represent that infant before the Tribunal.

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6. Reasons for determination

- (1) Any party to a reference, or the Tribunal, may request the Board to give reasons in writing for a determination of the Board made under section 28(1) of the Act.
- (2) The Board, within 7 days after the receipt of a request made under subregulation (1), is to give a copy of its reasons to –
 - (a) each party to the reference; and
 - (b) the Tribunal.

7. Notice of hearing date

The secretary is to give to each party to a reference at least 14 days' notice of the day fixed for the hearing of the reference unless the parties agree to accept a shorter notice period.

8. Determination of Tribunal

On the determination by the Tribunal of a reference, the secretary is to serve on each party to the reference –

- (a) a sealed copy of the Tribunal's determination; and
- (b) the reasons for that determination.

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9. Register

- (1) The secretary is to keep a register of –
 - (a) all references to the Tribunal; and
 - (b) each determination made by the Tribunal in relation to those references.
- (2) A party to a reference, or any person whom the chairman of the Tribunal considers to have a sufficient interest in a reference or in a determination by the Tribunal, may inspect the register during office hours at the office of the secretary.

10. Medical examination

- (1) In this regulation –

examination has the same meaning as in section 27B of the Act.
- (2) The Tribunal may require a party to a reference, who is injured as a result of a motor accident to which the reference relates, to undergo an examination.
- (3) If the Tribunal requires a party to undergo an examination, the Tribunal is to ensure, if the Tribunal considers it relevant to the hearing of the reference, that a copy of any report resulting from the examination is given to each party to the reference.

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11. Service of notices

- (1) A document or notice under these regulations may be served on or given to the Board by –
 - (a) delivering it personally to the chief executive officer of the Board; or
 - (b) leaving it addressed to the Board, with a person who has apparently attained the age of 18 years, at the office of the chief executive officer of the Board; or
 - (c) sending it by ordinary or registered post to the chief executive officer of the Board; or
 - (d) faxing it to the Board’s fax number; or
 - (e) emailing it to the Board’s email address.
- (2) A document or notice under these regulations may be served on or given to the Tribunal by –
 - (a) delivering it personally to the secretary; or
 - (b) leaving it addressed to the Tribunal, with a person who has apparently attained the age of 18 years, at the office of the secretary; or
 - (c) sending it by ordinary or registered post to the secretary; or
 - (d) faxing it to the Tribunal’s fax number; or

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- (e) emailing it to the Tribunal’s email address.
- (3) A document or notice under these regulations may be served on or given to a person other than the Board or Tribunal by –
- (a) delivering it personally to that person; or
 - (b) leaving it addressed to that person at his or her usual or last known place of residence with a person who has apparently attained the age of 18 years, and is apparently residing or employed there; or
 - (c) sending it by ordinary or registered post addressed to that person at the usual or last known place of residence or business of that person; or
 - (d) with the written consent of that person –
 - (i) faxing it to that person’s fax number; or
 - (ii) emailing it to that person’s email address.
- (4) A document or notice that is posted to a person is taken to have been served on or given to the person on the day on which it would have been delivered in the ordinary course of post.

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- (5) A document or notice that is faxed or emailed to a person is taken to have been served on or given to the person –
- (a) if faxed or emailed before normal business hours on a business day, on that business day; or
 - (b) if faxed or emailed during normal business hours on a business day, on that business day; or
 - (c) in all other cases, on the next business day after it is faxed or emailed.

12. Procedure of Tribunal

Subject to the Act and these regulations, the Tribunal may regulate its own procedure.

13. Discontinuance or dismissal of reference

A reference may be discontinued or dismissed for want of prosecution in accordance with the practice applicable in the Supreme Court for the discontinuance or dismissal for want of prosecution of an action.

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Part 3 – Costs

PART 3 – COSTS

14. Order for costs

On determining a reference, the Tribunal may order a party to the reference to pay costs to another party to the reference.

15. Agreement as to costs

If the Tribunal orders a party to the reference to pay costs to another party to the reference under regulation 14, the amount of those costs may be agreed between the parties.

16. Bill of costs

(1) If –

(a) the Tribunal orders a party to the reference to pay costs under regulation 14; and

(b) the amount of those costs is not agreed between the parties under regulation 15 –

the party to whom the costs are payable under that order may serve a bill of costs on the party ordered to pay costs.

(2) Unless the Tribunal orders otherwise, the fees specified in a bill of costs are to be at the rate of 85% of the fees set out in Part 1 of Schedule 1 to the *Supreme Court Rules 2000*.

17. Objection to bill of costs

- (1) A party on whom a bill of costs is served under regulation 16(1) is taken to admit each item on that bill of costs unless that party delivers to the secretary, and to the party responsible for the service of the bill of costs, a notice of objection within 14 days after the date of service of the bill of costs.
- (2) A notice of objection is to –
 - (a) specify the items objected to on the bill of costs; and
 - (b) specify detailed reasons for each objection; and
 - (c) include a copy of the bill of costs.

18. Assessment of costs

- (1) After receiving a notice of objection under regulation 17, the secretary is to –
 - (a) fix a date, time and place for an assessment of costs; and
 - (b) notify the parties at least 7 days before the date and time fixed under paragraph (a).
- (2) At an assessment of costs, the secretary may allow or disallow costs including costs in respect of the assessment.

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- (3) An assessment of costs under this regulation may proceed in the absence of any party.
- (4) Within 48 hours after making an assessment of costs, the secretary is to –
 - (a) issue a certificate of assessment in respect of the costs; and
 - (b) give a copy of that certificate to the parties.
- (5) If disallowed costs represent one-sixth or more of the amount of the costs included in the original bill of costs that are allowed under the certificate of assessment –
 - (a) the party responsible for the service of the bill of costs is not entitled to any costs in respect of the assessment; and
 - (b) the certificate of assessment may allow that the party on whom the bill of costs was served is entitled to costs in respect of the assessment.

19. Review of assessment

- (1) A party to a reference may apply for a review of assessment within 7 days after the issue of a certificate of assessment under regulation 18(4)(a).
- (2) An application is to –

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- (a) be forwarded to the Tribunal and to the other parties to the matter; and
 - (b) specify any item in respect of which a review is sought; and
 - (c) state detailed reasons for seeking the review of each item.
- (3) On receiving an application, the Tribunal is to –
- (a) fix a date, time and place for the review; and
 - (b) notify the parties at least 7 days before the date and time fixed under paragraph (a).
- (4) In determining the application, the Tribunal –
- (a) may allow or disallow any item reviewed; and
 - (b) may make such order in respect of costs as the Tribunal considers reasonable.
- (5) The Tribunal is to provide written reasons for the allowance or disallowance of any item reviewed.

20. Recovery of costs

If costs are payable under this Part, the party to whom the costs are payable may recover those costs as if they were a judgment debt obtained in the court that –

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- (a) is nearest to the place where the party resides or carries on business; and
- (b) has jurisdiction in respect of the amount of those costs.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 29 May 2019.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) prescribe, for the purposes of the *Motor Accidents (Liabilities and Compensation) Act 1973* –
 - (i) the manner of referring a matter to the Motor Accidents Compensation Tribunal; and
 - (ii) administrative matters relating to the procedure of the Tribunal in determining a reference or discontinuing or dismissing a reference; and
 - (iii) the procedure in relation to costs resulting from the determination by the Tribunal of a reference; and
- (b) are made consequentially on the repeal of the *Motor Accidents Compensation*

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*Tribunal Regulations 2009 under section
11 of the Subordinate Legislation Act
1992.*