

**MOTOR VEHICLE (THIRD
PARTY INSURANCE)
(No. 2).**

No. 21 of 1969.

AN ACT to amend the Motor Vehicle (Third Party Insurance) Act, 1943-1967.

[Assented to 7th May, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Motor Vehicle (Third Party Insurance) Act Amendment Act (No. 2), 1969.*

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1968.

(2) In this Act the Motor Vehicle (Third Party Insurance) Act, 1943-1967 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Motor Vehicle (Third Party Insurance) Act, 1943-1969.

2. Section three of the principal Act is amended by adding, after the interpretation "Participating approved insurer", an interpretation as follows—

Amendment
to s. 3.

"Person under a legal disability" means—

- (a) a person under the full age of twenty-one years; or
- (b) a person of unsound mind.

3. Section three P of the principal Act is amended as to subsection (4)—

Amendment
to s. 3P.

- (a) by substituting for the words "insurances effected", in line one of subparagraph (i) of paragraph (b), the words "accidents occurring"; and
- (b) by substituting for the words "in respect of insurances effected during", in lines two and three of paragraph (c), the words "and applicable to".

4. Section sixteen E of the principal Act is amended by repealing and re-enacting subsection (1) as follows—

Amendment
to s. 16E.

(1) Subject to the provisions of section sixteen F of this Act, where, in respect of the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle, a claim for damages is made against the owner or driver of the vehicle or against the Trust, the Tribunal has exclusive jurisdiction—

- (a) to hear and determine all actions and proceedings making the claim; and
- (b) to approve or disapprove of any proposed settlement or compromise of the claim where—
 - (i) a person under a legal disability is a party to, or is entitled to the whole or part of the proceeds of any judgment that may be given in, such an action or proceeding; or

- (ii) the claim is made by, on behalf of, or against a person under a legal disability but no such action or proceeding has been commenced. .

Repeal and
re-enact-
ment of s. 29.

5. Section twenty-nine of the principal Act is repealed and re-enacted as follows—

29. (1) A person shall not, in respect of the death or bodily injury to a person caused by or arising out of the use of a motor vehicle by another person which may, under the provisions of this Act, give rise to an action or proceeding for damages against either an insured person or the Trust, commence or maintain such an action or proceeding unless the person proposing to claim the damages or some person on his behalf has given to the Trust, as soon as practicable after the occurrence giving rise to the claim, notice in writing prescribed by the regulations of his intention to make the claim.

(2) Where a person (hereafter in this section called "the claimant") or some person on his behalf has given the notice referred to in subsection (1) of this section but he or some person on his behalf has not, within the period of six months after the occurrence giving rise to the claim, commenced an action or proceeding making the claim the Trust may, pursuant to a notice of application with an affidavit in support containing a brief statement of the facts to be relied on, make, subject to subsection (3) of this section, an application to the Chairman of the Tribunal (hereafter in this section called the Chairman) for an order that such an action or proceeding be commenced.

(3) The Chairman shall not hear the application referred to in subsection (2) of this section unless the Trust has, at least fourteen days before the day fixed for the hearing, served on the claimant, in the same manner as prescribed

in the rules of the Tribunal for service of a claim, a copy of the notice of application and the affidavit in support.

(4) On hearing an application made pursuant to subsection (2) of this section the Chairman may make an order—

(a) fixing the time after service of the order on the claimant, in the manner prescribed in the rules of the Tribunal, within which the action or proceeding referred to in that subsection shall be commenced; or

(b) adjourning the application (with liberty to the Trust to apply)—

(i) for an indefinite period or such a period as the Chairman thinks fit; and

(ii) on such terms and conditions as he thinks fit,

and may make such other and further order as he thinks fit.

(5) On any later hearing of an application adjourned pursuant to paragraph (b) of subsection (4) of this section the Chairman has all the powers he had under that subsection in respect of the first hearing.

(6) Where, before the end of the time fixed by any order of the Chairman pursuant to paragraph (a) of subsection (4) of this section, an application for an extension of that time is filed in the Registry of the Tribunal, the Chairman may order the extension.

(7) Where the Chairman makes an order pursuant to paragraph (a) of subsection (4) of this section and the action or proceeding has not been commenced within the time fixed, or any extension of it pursuant to subsection (6) of this section, the claim of the claimant and any rights he may have had in respect of it are forever barred and extinguished. .
