

# MOTOR VEHICLE (THIRD PARTY INSURANCE).

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No. 42 of 1972.

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**AN ACT to abolish the Third Party Claims Tribunal  
and for purposes incidental thereto.**

[Assented to 16th June, 1972.]

**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:—

1. (1) This Act may be cited as the *Motor Vehicle (Third Party Insurance) Act Amendment Act, 1972.*

Short title  
and citation.

(2) In this Act the Motor Vehicle (Third Party Insurance) Act, 1943-1971 is referred to as the principal Act.

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approved for  
reprint 14th  
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1968 and  
amended by  
Acts Nos. 21  
of 1969, 19  
of 1970, and  
44 of 1971.

No. 42.] *Motor Vehicle (Third Party Insurance)* [1972.]

(3) The principal Act as amended by this Act may be cited as the Motor Vehicle (Third Party Insurance) Act, 1943-1972.

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Amendment  
to long  
title.

3. The long title to the principal Act is amended by deleting the passage “, to establish the Third Party Claims Tribunal”, in lines five and six.

Amendment  
to s. 3.  
(Interpre-  
tation.)

4. Section 3 of the principal Act is amended—

(a) by adding after the interpretation “Contract of Insurance” an interpretation as follows—

“District Court” means The District Court of Western Australia established under the District Court of Western Australia Act, 1969; ; and

(b) by deleting the interpretations “Person under a legal disability”, “the Chairman”, and “the Tribunal”.

Amendment  
to s. 3P  
(Establish-  
ment of  
Fund.)

5. Section 3P of the principal Act is amended by substituting for the words “the Tribunal”—

(a) in line four of subsection (3a); and

(b) in line four of subsection (3b),  
the words “a Court”.

6. Section 16 of the principal Act is repealed and re-enacted as follows—

Repeal and re-enactment of s. 16.

16. (1) In this section—

Jurisdiction.

“action or proceedings” means action or proceedings making a claim for damages, in respect of the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle, against the owner or driver of the vehicle or against the Trust;

“Court” means Supreme Court, District Court, or Local Court established under the Local Courts Act, 1904, as the case may be;

“pending action or proceedings” means action or proceedings commenced in the Tribunal and pending or in progress therein immediately before the proclaimed date, and includes action or proceedings in respect of which the tribunal had, at that time, power to review periodical payments, or to order that periodical payments be redeemed by a lump sum;

“proclaimed date” means the date on which the Motor Vehicle (Third Party Insurance) Act Amendment Act, 1972 comes into operation; and

“the Tribunal” means the Third Party Claims Tribunal abolished by subsection (2) of this section.

(2) On the proclaimed date the Third Party Claims Tribunal, established under this Act before that date, is abolished.

(3) On and after the proclaimed date a Court may, subject to the extent of its jurisdiction and to subsection (5) of this section, hear and determine any action or proceedings.

(4) On the hearing and determination of any action or proceedings a Court shall, without in any way limiting its usual powers in relation thereto, have the following further powers—

- (a) to award by way of general damages either a lump sum or periodical payments or a lump sum and periodical payments, such periodical payments to be for such period and upon such terms as the Court determines; and
- (b) at any time either of its own motion or on the application of any party to the action or proceedings—
  - (i) to review any periodical payment and either continue, vary, reduce, increase, suspend, or determine it, or on the review to order payment to the claimant of a further lump sum; or
  - (ii) to order that any such periodical payments be redeemed by payment of a lump sum.

(5) Any pending action or proceedings shall, notwithstanding the amount of damages claimed, be continued in the District Court in accordance with such practice and procedure of the Tribunal, or the District Court, or a mixture of both, as the District Court, generally or for the particular case, directs.

(6) In relation to any pending action or proceedings, the District Court may, with such modifications as are necessary or desirable, exercise all or any of the powers referred to in subsection (4) of this section.

(7) After the proclaimed date, the books and records of the Tribunal shall be kept by the Registrar of the District Court and that Registrar may certify for all purposes any such book or record or any copy thereof or extract therefrom, as if he were the Registrar of the Tribunal.

7. Sections 16A to 16H, both inclusive, of the principal Act are repealed.

Repeal of  
ss. 16A to  
16H.

8. Section 29 of the principal Act is amended—

Amendment  
to s. 29.  
(Notice of  
claim.)

(a) by substituting for the words “notice of application”—

(i) in line nine of subsection (2); and

(ii) in line seven of subsection (3),  
the word “summons”;

(b) by substituting for the words “the Chairman of the Tribunal”, in lines twelve and thirteen of subsection (2), the words “a Judge of the Supreme Court or of the District Court”;

(c) by substituting for the word “Chairman”—

(i) in line fourteen of subsection (2);

(ii) in line one of subsection (3);

(iii) in line two of subsection (4);

(iv) in line two of subparagraph (i) of  
paragraph (b) of subsection (4);

(v) in line three of subsection (5);

(vi) in line two of subsection (6);

(vii) in line six of subsection (6); and

(viii) in line one of subsection (7),  
the word “Judge”;

(d) by deleting the passage “, in the same manner as prescribed in the rules of the Tribunal for service of a claim,” in lines five and six of subsection (3);

- (e) by deleting the passage “, in the manner prescribed in the rules of the Tribunal,” in lines two and three of paragraph (a) of subsection (4); and
- (f) by substituting for the words “Registry of the Tribunal”, in line five of subsection (6), the passage “Supreme Court or the District Court, as the case requires,”.

Amendment  
to s. 33  
(Regulations.)

9. Section 33 of the principal Act is amended—

- (a) by deleting the words “rules and”, in line one of subsection (1);
- (b) by repealing and re-enacting subsection (2) as follows—

(2) In regulations made under subsection (1) of this section penalties, recoverable summarily and not exceeding eighty dollars, may be prescribed for the breach of any regulation. ; and

- (c) by deleting the passage “before the Tribunal,” in lines one and two of subsection (3) and substituting the passage “making a claim for damages, in respect of the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle, against the owner or driver of the vehicle or against the Trust which proceedings have been entered for trial”.

Repeal of  
s. 33A.

10. Section 33A of the principal Act is repealed.