

South Australia

Motor Vehicles (Third Party Insurance) Regulations 2013

under the *Motor Vehicles Act 1959*

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Schedule 1—Form

Legislative history

1—Short title

These regulations may be cited as the *Motor Vehicles (Third Party Insurance) Regulations 2013*.

2—Commencement

These regulations will come into operation on 1 July 2013.

3—Interpretation

In these regulations—

Act means the *Motor Vehicles Act 1959*;

motor vehicle injury means a bodily injury to a person caused by or arising out of the use of a motor vehicle;

relevant motor vehicle accident means the motor vehicle accident that results in the motor vehicle injury that is relevant for the purposes of the application of the Act in relation to a particular person.

4—Claim for compensation (section 126A of Act)

- (1) A notice of a claim under section 126A(1) of the Act must be given—
 - (a) in the case of a notice of a claim in relation to an action against the nominal defendant—as soon as reasonably practicable after it becomes apparent that—
 - (i) the identity of the relevant motor vehicle is not readily ascertainable;
 - or

- (ii) the relevant motor vehicle was uninsured; or
 - (b) in any other case—within 6 months after the relevant motor vehicle accident.
- (2) A failure to comply with subregulation (1) does not attract the operation of section 126A(6) of the Act if—
 - (a) the failure to give the notice of claim within the relevant period was occasioned by—
 - (i) ignorance or mistake of the claimant; or
 - (ii) absence of the claimant from the State; or
 - (iii) inability of the claimant on account of injury; or
 - (iv) inability of the claimant on account of the claimant's legal disability; or
 - (v) other reasonable cause; and
 - (b) the proper assessment of the claim has not been substantially prejudiced.
- (3) Nothing in section 126A of the Act (or these regulations) affects the ability of a person to commence or continue proceedings once the person has provided the information and statements referred to in subsection (2)(c) and (d) of that section (including after the period referred to in subregulation (1) has expired).

5—Information that must accompany notice of claim (section 126A(2)(c)(iv) of Act)

Pursuant to section 126A(2)(c)(iv) of the Act, a notice of claim under subsection (1) of that section must be accompanied by—

- (a) if the claim includes loss of income or earning capacity—evidence of income or earning capacity, including, for example, relevant payslips, PAYG payment summaries or income tax returns; and
- (b) if the claim includes payment of medical expenses—evidence of expenses incurred up to the date of the claim, including, for example, accounts or receipts in respect of medical services; and
- (c) if the claim relates to the death of a person and is brought under Part 5 of the *Civil Liability Act 1936*—the certificate of death of that person; and
- (d) if the claimant was injured while driving a motor vehicle—the claimant's driver's licence number; and
- (e) if the claimant was not driving a motor vehicle when he or she was injured—proof of the claimant's identity.

6—Authority to obtain information (section 126A(2)(d) of Act)

- (1) The prescribed form for a statement of authority to obtain information under section 126A(2)(d) of the Act is set out in Schedule 1.
- (2) Subject to subregulation (3), an authority to obtain information provided by a person under this regulation operates for the duration of the person's claim for compensation in respect of the relevant motor vehicle injury, unless revoked.

- (3) An authority to obtain information under this regulation is irrevocable for a period of 6 months from the date on which it is executed.

7—Liability of insurer to pay treatment, care and support costs (section 127B(1)(g) of Act)

- (1) For the purposes of section 127B(1)(g) of the Act, the *treatment, care and support needs* of a child are the child's needs for or in connection with any of the following:
- (a) education and vocational training;
 - (b) home and transport modification;
 - (c) such other kinds of treatment, care, support or services as may be approved by the insurer (either generally, for specified classes of cases, or for a particular person).
- (2) This regulation will expire on 1 July 2016.

8—Review of Scheme (section 134A of Act)

- (1) The prescribed percentage for the purposes of section 134A of the Act is—
- (a) for the financial year 2013/2014—33%;
 - (b) for subsequent financial years—31%.
- (2) For the purposes of section 134A(5) of the Act, *State average weekly earnings* are—
- (a) for the 2013/2014 financial year—\$1 276;
 - (b) for subsequent financial years—the amount obtained in accordance with the following formula:

$$A = \$1\,276 \times \frac{B}{C}$$

where—

A is the amount that is to constitute State average weekly earnings

B is the total hourly rates of pay (excluding bonuses) private and public sectors, all industries index for South Australia, last published before the beginning of the relevant financial year by the Australian Bureau of Statistics

C is the total hourly rates of pay (excluding bonuses) private and public sectors, all industries index for South Australia, December quarter 2012.

Schedule 1—Form

Form 1—Statement giving authority to obtain information

By completing this authority to obtain information (the *authority*) you are giving [*Motor Accident Commission/nominal defendant or claims agent*] permission to obtain documentary information relevant to processing and assessing your claim.

I [*please print*]:

date of birth:

authorise [*Motor Accident Commission/nominal defendant or agent*] to obtain documentary information relevant to my claim for damages or other compensation [*specify*]:

sustained on or about [*date*]:

from the following people/organisations:

- (a) insurers that carry on the business of providing—
 - (i) compulsory third party insurance; or
 - (ii) private health insurance; or
 - (iii) motor vehicle insurance; or
 - (iv) workers compensation insurance;
- (b) health practitioners;
- (c) hospitals, including private hospitals;
- (d) ambulance or other emergency services;
- (e) professional providers of rehabilitation services or persons professionally qualified to assess cognitive, functional or vocational capacity;
- (f) educational institutions;
- (g) my employer or my previous employer;
- (h) departments, agencies or instrumentalities of the Commonwealth, the State or another State, administering laws about health, police, transport, taxation or social welfare;
- (i) the Lifetime Support Authority of South Australia;
- (j) the WorkCover Corporation.

I approve a copy of the authority, including an electronic version, being treated as the original. This authority is valid for the duration of my claim (unless revoked after the expiration of 6 months from the date of execution of the authority).

Signed:

Date:

[Non-English translations are available on request]

Note—

- 1 If you wish to make a claim for damages or compensation you must sign this authority. This is required by law.
- 2 This authority will remain in force until your claim is resolved or you revoke it. However, you cannot revoke this authority for at least 6 months after you sign it.
- 3 Prior to using this authority to obtain information, the Motor Accident Commission, nominal defendant or agent must ensure the authority is valid and the information is relevant.
- 4 The claimant has the right to seek independent legal or other advice before signing the authority. You will be responsible for paying any fee for the advice.
- 5 The Motor Accident Commission/nominal defendant or claims agent must provide you with a copy of any documents that they obtain under this authority within 21 days of receipt of those documents.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2013	164	<i>Gazette 20.6.2013 p2632</i>	1.7.2013: r 2

Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
r 7	will expire: r 7(2)	(1.7.2016)