

Authorised Version No. 002
Transport Accident Regulations 2017

S.R. No. 40/2017

Authorised Version incorporating amendments as at
23 October 2018

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1 Objectives

The objectives of these Regulations are—

- (a) to specify certain injuries for the purposes of the definition of a *severe injury* in the **Transport Accident Act 1986**; and
- (b) to prescribe the forms to be used for the purposes of that Act.

2 Authorising provision

These Regulations are made under section 132 of the **Transport Accident Act 1986**.

3 Revocation

The Transport Accident Regulations 2007¹ are **revoked**.

4 Definition

In these Regulations, *the Act* means the **Transport Accident Act 1986**.

5 Severe injuries

- (1) The following injuries are specified for the purposes of the definition of *severe injury* in section 3(1) of the Act—
 - (a) an injury that results in permanent blindness;
 - (b) burns to not more than 50% of the body that cause severe disfigurement and comprise of full-thickness burns—

- (i) to the head, neck, arms or lower legs; or
 - (ii) that result in severe difficulties in performing mobility, communication and self-care tasks;
 - (c) a brachial plexus injury that results in the loss of the use of a limb.
- (2) In this regulation, *permanent blindness* means—
- (a) a field of vision that is constricted to 10 degrees or less of arc from central fixation in the better eye, irrespective of corrected visual acuity; or
 - (b) a corrected visual acuity of less than 6/60 of the Snellen Scale in both eyes; or
 - (c) a combination of visual defects resulting in the same degree of visual loss as referred to in paragraph (a) or (b).

6 Reference to forms by number

In these Regulations, a reference to a form by a particular number is a reference to the form of that number in Schedule 1.

7 Statement of earnings form

The prescribed form for a statement of earnings under sections 49(4), 50(4) and 51(5) of the Act is Form 1.

8 Accident report forms

- (1) The prescribed form to be used for making a report under section 64(1) or (3) of the Act is Form 2.
- (2) The prescribed form to be used for making a report under section 64(2) of the Act is Form 3.

9 Form for contract of insurance regarding trailers

The prescribed form for a contract of insurance which may be entered into by the Commission with the owner of a trailer under section 86 of the Act is Form 4.

10 Transitional provisions

- (1) On and from the commencement day, a contract of insurance that complied, or was taken to comply, with the form prescribed by regulation 10 of the Transport Accident Regulations 2007 as in force immediately before the commencement day is taken to be a contract that complies with the form prescribed by regulation 9 of these Regulations.
- (2) In this regulation, *commencement day* means the day these Regulations come into operation.

11 Prescribed limit for home modification payment by the Commission

The prescribed greater amount under section 60(5) of the Act for the purposes of section 60(4) of the Act is \$50 000.

Reg. 11
substituted by
S.R. No.
177/2018
reg. 3.

Schedule 1—Forms

FORM 1

Regulation 7

STATEMENT OF EARNINGS BY A LOSS OF EARNING CAPACITY BENEFICIARY

Name of claimant

Address

Claim no.

Statement period

Earnings received as an employee

<i>Start date</i>	<i>Finish date</i>	<i>Name and address of employer</i>	<i>Weekly hours</i>	<i>Gross pay</i>
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Other earnings

<i>Start date</i>	<i>Finish date</i>	<i>Nature of activity</i>	<i>Gross earnings</i>
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DECLARATION

I declare that the information on this form is true and correct to the best of my knowledge and belief.

Signed

Date of signing

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Schedule 1—Forms

FORM 2

Regulation 8(1)

DRIVER'S ACCIDENT REPORT

- 1 Details of driver
 - Surname
 - Given names
 - Mr, Mrs, Ms
 - Home address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - Date of birth
 - Driver's licence number
 - Expiry date
 - State of issue
 - Period held
 - 2 Accident details
 - Date of accident
 - Day of the week
 - Time
 - Was the driver injured?
Yes
No
 - Location of the accident
 - Describe the circumstances of the accident
 - Draw a diagram of the accident scene, showing the position of all vehicles and any persons injured
 - 3 Details of driver's vehicle
 - Registration number of the vehicle driven at the time of the accident
 - State of registration
 - Vehicle type (*car, truck, motor cycle*)
 - Name and address of owner—if not the driver
 - What was the estimated speed at time of impact
 - Mark the points of impact on the diagram with an X
 - 4 Details of witnesses
 - Surname
 - Given names
 - Home address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - 5 Details of other occupants in driver's vehicle
 - Show by number, the position in the vehicle for other occupants on the diagram
 - Position number
 - Surname
 - Given names
 - Home address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - Was this person injured?
Yes
No
- Estimate cost of repairs
 - Level of damage—
Level 1—minor damage, cosmetic panel damage
Level 2—moderate damage, driveable vehicle
Level 3—major damage—car towed
Level 4—extensive damage—car likely to be unreparable
 - If your vehicle was towed—
Name and address of firm or persons who towed vehicle away
 - Name of panel beater
 - Name of comprehensive insurer

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- | | |
|--|---|
| <p>6 Details of all other vehicles involved in the accident</p> <ul style="list-style-type: none">• Surname• Given names• Home address• Registration number• Number of persons in vehicle• Level of damage (<i>see question 3 for levels 1 to 4</i>) | <p>7 Details of all other persons involved in the accident (<i>not in a vehicle at the time of the accident</i>)</p> <ul style="list-style-type: none">• Surname• Given names• Home address• Type of road user (<i>e.g. pedestrian, cyclist etc.</i>)• Was this person injured?
Yes
No |
|--|---|

Declaration by person making this report

I hereby declare that the above information is true and correct to the best of my knowledge and belief.

Signature

Date

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Schedule 1—Forms

FORM 3

Regulation 8(2)

TRANSPORT AUTHORITY ACCIDENT REPORT

- | | |
|--|--|
| <p>1 Name of Authority</p> <ul style="list-style-type: none">• Returned to <p>2 Details of Transport Authority/Operator involved</p> <ul style="list-style-type: none">• Vehicle types• End• Vehicle Identification Numbers• Destinations• Time table <p>3 Authority/Operator driver details</p> <ul style="list-style-type: none">• Surname• Given names• Employee identification number• Male/Female <p>4 Accident details</p> <ul style="list-style-type: none">• Date of accident• Day of the week• Time a.m./p.m.• Location of the accident• Description of the accident• Visibility good/bad• Weather wet/dry• Lighting on/off• Draw a diagram of the accident showing the position of all vehicles and any injured person as at time of impact• Name of the MTA officer or loss assessor if attended at the scene | <p>5 Police details</p> <ul style="list-style-type: none">• Did the police attend the accident scene—
No
Yes• If yes please provide the following details—
Name of the police officer who attended at the scene
Police officer's badge number
Station where officer located <p>6 Details of persons injured in Authority/Operator Vehicle</p> <ul style="list-style-type: none">• Surname• Given names• Residential address• Home telephone number• Work telephone number• Mobile telephone number• Male/Female• Age• Apparent injuries sustained• Taken to hospital by ambulance—
No
Yes
If yes, name of hospital |
|--|--|

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- 7** Details of other injured persons
- Surname
 - Given names
 - Residential address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - Male/Female
 - Age
 - Registration number if in a vehicle
 - Type of road user
 - Apparent injuries sustained
 - Taken to hospital by ambulance—
No
Yes
If yes, name of hospital
- 8** Details of all other vehicles involved in the accident
- Surname
 - Given names
 - Residential address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - Registration number
 - State of registration
 - Make and colour of vehicle
 - Number of passengers in vehicle, excluding the driver—
Males
Females
Children
 - How did the vehicle leave the scene
 - Description of damage sustained by vehicle
- 9** Details of witnesses
- Surname
 - Given names
 - Residential address
 - Home telephone number
 - Work telephone number
 - Mobile telephone number
 - Did an authority employee witness the accident?
Yes
No
- 10** General remarks
- Have you any doubt the injury occurred as stated?
If so why?
- Completed by**
- Name
Position
Signature
Date
- If report is from tourist railway/tram operator**
- Name of operator
 - Address
 - Telephone number

FORM 4

Regulation 9

CONTRACT OF INSURANCE

1 Interpretation

In this Contract—

Commission means the Transport Accident Commission established under Part 2 of the **Transport Accident Act 1986**;

owner means the person named in the Schedule as the owner of the trailer;

premium means the premium set out in the Schedule;

Schedule means the Schedule to this contract;

trailer means the trailer described in the Schedule.

2 Indemnity

(1) In consideration of the owner having paid to the Commission the premium, the Commission agrees to indemnify—

- (a) the owner; and
- (b) any other person who is at any time in charge of the trailer, with or without the authority of the owner—

against any liability which may be incurred by the owner, or that other person, in respect of the death of, or injury to, any person caused by, or arising out of, the use in Australia of the trailer.

(2) The indemnity set out in this clause applies—

- (a) subject to Part 5 of the **Transport Accident Act 1986**; and
- (b) during—
 - (i) the period of insurance set out in the Schedule; and
 - (ii) any subsequent period for which the Commission accepts a renewal premium.

3 Limitation of liability

- (1) This contract does not indemnify the owner or the person referred to in clause 2(1)(b) against any of the following—
- (a) liability to pay compensation under the **Accident Compensation Act 1985** or an Act or law referred to in section 37 of the **Transport Accident Act 1986**;
 - (b) liability arising under an agreement (other than this contract) unless the liability would have arisen even in the absence of the agreement;
 - (c) liability in respect of death or injury caused by, or arising out of, the use of the trailer in any period during which the trailer is not registered in Victoria under the Interstate Road Transport Act 1985 of the Commonwealth.
- (2) If, at the time of any event giving rise to a liability under this contract, there subsists another contract of insurance or indemnity covering the owner in respect of the same liability, the Commission is not liable under this contract for any more than its rateable proportion.

Signed for and on behalf of the Transport Accident Commission

Date

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Transport Accident Regulations 2017, S.R. No. 40/2017 were made on 6 June 2017 by the Governor in Council under section 132 of the **Transport Accident Act 1986**, No. 111/1986 and came into operation on 6 June 2017.

The Transport Accident Regulations 2017 will sunset 10 years after the day of making on 6 June 2027 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

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Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Transport Accident Regulations 2017 by statutory rules, subordinate instruments and Acts.

Transport Accident Amendment (Home Modification Agreement) Regulations 2018,
S.R. No. 177/2018

<i>Date of Making:</i>	23.10.18
<i>Date of Commencement:</i>	23.10.18

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Reg. 3: S.R. No. 49/2007 as amended by S.R. Nos 8/2010 and 115/2011.