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# VICTORIA GOVERNMENT GAZETTE

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## BOARD OF INQUIRY INTO THE SYSTEM OF COMPENSATION FOR VICTIMS OF MOTOR VEHICLE ACCIDENTS.

At the Executive Council Chamber, Melbourne, the  
twenty-fifth day of June, 1976.

### PRESENT:

His Excellency the Governor of Victoria.

Mr. Dickie | Mr. Maclellan.

Whereas it is deemed expedient that a Board of Inquiry be appointed for the purpose of inquiring into, reporting upon, and making recommendations in respect of the system of compensation for victims of motor vehicle accidents:

Now therefore, His Excellency the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, doth by this Order constitute and appoint Sir John Patrick Minogue, LL.B., LL.D., to be a Board for the purpose of inquiring into, reporting upon, and making recommendations concerning the system operating in Victoria to provide compensation in respect of injuries and death suffered by victims of motor vehicle accidents and, in particular, and without affecting the generality of the foregoing, to examine the questions:

1. Whether the present system of motor vehicle accident compensation comprising the tort system of liability of the owner or driver of a motor car for damages caused by the use of the motor car, and the no-fault liability scheme prescribed by the *Motor Accidents Act 1973*, is the most suitable system for present day needs.

The assessment of the suitability of the present system should include examination of the following matters, but not to the exclusion of any other matters considered appropriate:

- (a) Whether having regard to the continued rate of inflation the system can be stabilised and maintained in a financially viable state;
- (b) The probable long term effects of the benefits payable under the *Motor Accidents Act 1973* upon the costs of the existing tort system of liability under the *Motor Car Act 1958*;
- (c) The probable long-term effects on the costs of the existing tort system of liability if the system of compensation prescribed by the *Motor Accidents Act 1973* were to be extended by the removal of the present limits on payments for loss of

income both in respect of the amount of loss of income and the limit in terms of time, but with the cessation of payment at 65 years of age;

- (d) The present and probable effect on the costs of the existing system of the operation of the Medibank system;
- (e) Whether within the present tort system of liability there should be restrictions on amounts recoverable as general damages at common law with particular reference as to whether or not such damages for cosmetic injury, loss of future promotional prospects, and loss of conjugal amenities, should be excluded and whether a claim for common law general damages should exceed a specified amount before the claimant has a right to sue and whether damages for cosmetic injury should be payable on the basis of a pre-determined table of amounts;
- (f) Whether the present method of financing the operation of the motor vehicle accident compensation system is the most appropriate or whether some other method should be adopted and, if so, what method;
- (g) Whether the function of recommending rates of premium should continue to be undertaken by a Premiums Committee as now constituted under the *Motor Car Act 1958* comprising the Government Statist and Actuary, the Insurance Commissioner, representatives of authorised insurers and representatives of the owners of motor cars or the function should be undertaken by, for example, a committee of actuaries including the Government Statist and Actuary, or the Government Statist and Actuary acting alone, or another person, group of persons or agency;
- (h) Whether it is feasible to provide for automatic variation in premium rates according to an indexation system;
- (i) Whether the present method of differentiation between premium rates for urban and rural areas is appropriate and, if it is not considered to be appropriate, how it should be varied;
- (j) Whether the data used in the review of premium rates, and the methods employed in the estimating of appropriate rates, are adequate to provide the most accurate assessment of suitable premiums;

- (k) Whether monies held in reserve by authorised insurers to meet outstanding claims should be paid into a Trust Fund maintained in the Treasury until such funds are required for the settlement of claims with provision for the monies to be invested by the Treasurer and the interest, less a management fee, to be paid to the relevant insurer;
- (l) Whether it is feasible to adopt a system of penalties with the object of making the driver more responsible in the driving and use of a motor car and, if so, what system should be adopted;
- (m) Whether owners of motor cars should be required to obtain contracts of insurance as required by the *Motor Car Act 1958* from the State Insurance Office only or from insurers generally authorised for the purpose of the relevant provisions of the Act. If owners should be able to obtain such contracts from authorised insurers generally should those insurers be subject to a Government guarantee supported by a Guarantee Fund established in the Treasury by levies on motor car owners or drivers of motor cars or both;
- (n) Whether action should be taken in an effort to offset the loss situation experienced by the State Insurance Office as an authorised insurer under the provisions of the *Motor Car Act* by enabling the Office to operate in fields of insurance other than compulsory third party, comprehensive motor vehicle and workers compensation. If so, what would be the expected results of such extension of franchise.
2. What are the reasons for the differences in premium rates applying to the motor vehicle accident compensation systems operated by the various States.

3. Whether another system of compensation for victims of motor vehicle accidents should be adopted in Victoria and, if so, what form that system should take.

In the examination of this matter, attention should be directed, *inter alia*, to systems which:

- (a) Comprise a no-fault liability scheme only;
- (b) Provide under a no-fault liability scheme for payment of all loss of income and hospital, ambulance, medical, nursing, therapeutic, pharmaceutical and other reasonable expenses associated with the injury from current premium income and for the retention by the injured party of the right to sue at common law for restricted general damages payable from a separate pool of premium income;
- (c) Provide periodical payments by way of compensation in substitution for common law general damages.

And it is hereby directed that the said Sir John Patrick Minogue shall, with as little delay as possible, and at intervals if he considers such action to be appropriate, report under his hand to the Chief Secretary his opinions resulting from this inquiry:

Whereof the said Sir John Patrick Minogue and all other persons whom it may concern are to take notice and govern themselves accordingly.

And the Honorable Vance Oakley Dickie, Her Majesty's Chief Secretary for the State of Victoria, shall give the necessary directions herein accordingly.

TOM FORRISTAL,  
Clerk of the Executive Council.