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# Update Summary

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**UPDATE 73**

**AUGUST 2014**

## **PERSONAL INJURY LAW MANUAL QUEENSLAND**

**G Murphy & S Jensen**

Currently updated by  
Lisa Blumke & Andrew Stobie

### **Highlights**

- Author Andrew Stobie's new commentary on Motor Accident Claims; Product Liability; and Civil Liability Act
- Complete revision of Forms and Precedents section, with insertion of several new precedents and forms
- Legislative amendments

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## New commentary

Author Andrew Stobie has provided new commentary to the following:

- Motor Accident Claims – New commentary has been added with reference to *Marien v Gardiner* [2013] NSWCA 396 and *Egan v Mangarelli* [2013] NSWCA 413, at **[3.1525]**;
- Product Liability – The entire chapter of **Product Liability** has been revised and updated to reflect changes in the *Australian Consumer Law*; and
- Civil Liability Act
  - (a) Causation – New commentary has been provided discussing factual causation (s 11), with reference to *McKenna v Fraser* [2014] QSC 14, and the onus of proving any issue of causation (s 12), at **[16.100]**,
  - (b) Assumption of risk – New commentary discussing the issue of “obvious risk” with reference to *State of Queensland v Kelly* [2014] QCA 27 has been included at **[16.120]**,
  - (c) Public and other authorities – Old commentary has been replaced with entirely new commentary discussing ss 34–37 of the Act, with reference to *Collins v Clarence Valley Council (No 3)* [2013] NSWSC 1682, at **[16.240]** and
  - (d) Economic loss – new commentary discussing s 54, with reference to *Taylor v The Owners-Strata Plan No 11564* [2014] HCA 9 has been included at **[16.302]**.

## Forms and Precedents

The Forms and Precedents section has been reviewed for the currency and usefulness of the material contained therein. Several precedents have been completely rewritten and new forms included in the service for the benefit of subscribers. Some forms and precedents that no longer provided value have been removed.

### New precedents

- Originating application – Supreme Court, at [14.120];
- Affidavit – Supreme Court, at [14.123];
- Supplementary Affidavit – District Court, at [14.126];
- Order – Supreme Court, at [14.130];
- Claim – District Court, at [14.140];
- Statement of Claim – Supreme Court, at [14.150];
- Product liability – *Australian Consumer Law* and negligence, at [14.580].

### New forms

- Employment Declaration — ATO, at [14.350];
- Claim Form, at [14.360];
- Claim Form - Asbestos Injury, at [14.365];
- Psychological and Psychiatry Injury Claim - Information Summary for Workers, at [14.375];
- Worker's Injury Claim Form - Harmonised Injury Claim Form, at [14.380];
- Administrative Release, at [14.381];
- Right to Information and Privacy Release, at [14.382];

- Form 132A - Application for Assessment of Permanent Impairment, at [14.383];
- Instructions for the Notice of Claim for Damages, at [14.400];
- Form 1 — PIPA 2002 Notice of Claim (Non-Health Care Claims), at [14.700];
- Form 2 — PIPA 2002 Notice of Claim (Health Care Claims), at [14.710]; and
- Form 3 — PIPA 2002 Notice of Claim (Dependency Claims), at [14.720].

### Legislative amendments

The *Motor Accident Insurance Regulation 2004* (Qld) has been amended as below by the *Motor Accident Insurance Amendment Regulation (No 1) 2014*, Act 98 of 2014, which commenced on 1 July 2014:

- s 27A – Prescribed limits for particular definitions — Act, s 4: amended.

The *Workers' Compensation and Rehabilitation Act 2003* (Qld) has been amended by the following:

- The *Public Safety Business Agency Act 2014*, Act 17 of 2014, which commenced on 21 May 2014 and amended s 13 – Particular persons under Disaster Management Act 2003 and s 14 – Rural fire brigade member; and
- The *Further Education and Training Act 2014*, Act 25 of 2014, which commenced on 21 May 2014 and amended s 22 – Students.

The *Workers' Compensation and Rehabilitation Regulation 2003* (Qld) has been amended by the *Workers' Compensation and Rehabilitation Amendment Regulation (No 1) 2014*, Act 104 of 2014, which commenced on 1 July 2014:

- s 112C – Prescribed amount of damages for loss of consortium or loss of servitium—Act, s 306M: amended;

- s 112E – General damages calculation provisions—Act, s 306P: amended;
- s 112 F – Prescribed amount of award for future loss—Act, s 306R: amended; and
- Schedule 12 – General damages calculation provisions: s 4 (General damages calculation provision—1 July 2013 to 30 June 2014) amended and s 5 (General damages calculation provision—1 July 2014) inserted.

The *Guardianship and Administration Act 2000* (Qld) has been amended by the *Public Guardian Act 2014*, Act 26 of 2014, which commenced on 1 July 2014:

- ss 12, 13A, 14, 29, 41, 42 and 43: amended; and
- Ch 8 – Adult guardian: repealed.

The *Civil Liability Regulation 2003* (Qld) has been amended by *Public Safety Business Agency Act 2014*, Act 17 of 2014, which commenced on 21 May 2014 and amended Schs 1 and 2.