

Application for exemption of a personal injury claim from claims assessment

Under section 92(1)(a) of the *Motor Accidents Compensation Act 1999*

This form is approved by the Authority in accordance with clause 8.1.1 of the Claims Assessment Guidelines.

Use this form only if:

In accordance with cl. 8.11 of the Claims Assessment Guidelines you are seeking an exemption from general assessment and the claim involves one or more of the following circumstances:

- *liability is expressly denied by the insurer, in writing, but only in circumstances where liability is denied because the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle is denied (cl. 8.11.1);*
- *the claimant or in a claim for an award of damages brought under the Compensation to Relatives Act 1897, one of the dependants is a person under a legal incapacity (cl. 8.11.3);*
- *the person against whom the claim is made is not a licensed or other CTP insurer (cl. 8.11.4);*
- *the insurer has notified the claimant, and the owner or driver of the motor vehicle against which the claim has been made under the third-party policy provided for in s 10 of the Act, in writing, that it declines to indemnify that owner or driver (cl. 8.11.5);*
- *the insurer alleges that the claim is a fraudulent claim in terms of the circumstances of the accident giving rise to the claim (cl. 8.11.6).*

Do not use this form if:

- you are seeking an exemption for a compensation to relatives claim – use **CARS Form 1A CTR**
- you are seeking a determination that a claim is not suitable for assessment by Claims Assessment and Resolution Service (CARS) under s 92(1)(b) of the Act – use **CARS Form 2A**

Instructions on completing the application form:

1. The applicant must complete this form and send it to:
 - a. The respondent, with a copy of all the material in support of the application that has not previously been supplied
 - b. CARS, with all material in support of the application.

How to lodge the application:

In person/Mail:

SIRA Dispute Resolution Services
Claims Assessment and Resolution Service
State Insurance Regulatory Authority
Level 19, 1 Oxford Street,
Darlinghurst NSW 2010

Document Exchange:

SIRA Dispute Resolution Services
Claims Assessment and Resolution Service
State Insurance Regulatory Authority
DX 10 Sydney

For assistance please contact:

DRS on 1800 34 77 88
Email DRSEnquiries@sira.nsw.gov.au
Visit www.sira.nsw.gov.au



If you need an interpreter to help you read this form, please contact:

إذا احتجت إلى مترجم لمساعدتك في قراءة هذه الإستمارة، يرجى الاتصال بـ:

如果您需要口译员帮助您阅读此表格，请联系:

如果您需要口譯員幫助您閱讀此表格，請聯絡:

이 양식을 읽는데 도움이 되는 통역사가 필요하시면 아래로 연락하십시오:

Nếu quý vị cần một thông dịch viên để giúp quý vị đọc mẫu đơn này, xin vui lòng liên lạc:

اگر به مترجم نیاز دارید که در خواندن این فرم کمکتان کند، لطفاً با ما تماس بگیرید:

Associated Translators & Linguists

Level 5, 72 Pitt Street, Sydney NSW 2000
Office hours: 8.30 am to 5.00 pm, Monday to Friday

Telephone: (02) 9231 3288 Fax: (02) 9221 4763
Email: atl@atl.com.au Website: www.atl.com.au

Section 1: Application

This application is made by the:

Claimant Claimant's legal representative Other/Non-CTP Insurer
Insurer's legal representative

Claimant name

Section 2: Details about the accident

Date of accident (DD/MM/YYYY) Location of accident

Name of owner of the vehicle against which this claim is made (if known)

Name of driver of the vehicle against which this claim is made (if known)

Registration number of the vehicle against which this claim is made (if known)

Section 2a: Details about the claim

If you are the claimant, the date the claim form sent to the insurer (DD/MM/YYYY)

If you are the insurer, the date the claim form received by the insurer (DD/MM/YYYY)

If you are the claimant:

Is this a fault based claim only?

OR

Is this a no-fault claim – a claim made under the blameless accident provisions (Part 1.2 Div 1 of the Act)?

OR

Do you make both a fault and no-fault claim in the alternative?

Section 3: Claimant information (details of the person who made this claim)

Title Surname/family name

Given name

If known by another name

Date of birth (DD/MM/YYYY) Gender
M F Other

Claimant contact details

Street address (include unit/street/property/Lot number if applicable – must not be a PO Box)

Suburb

State

Postcode

Country (if outside Australia)

Postal address (if different to Street address)

Suburb

State

Postcode

Country (if outside Australia)

Preferred daytime contact number

Mobile number

Email

Claimant personal information

Interpreter required? If yes, what language

Yes

No

Do you have a disability we should know about to help you during the application process?

Specify the disability

Contact authority (claimant to complete)

The claimant hereby gives permission for CARS and CTP Assist to contact the below named person who has been designated as an authorised contact person for this matter to discuss my claim if necessary.

Authorised contact name

Authorised contact number

Relationship to claimant (eg family, friend, lawyer)

Email

Claimant's legal representative details

Does this claimant have a legal representative? (If yes, provide details below).

Yes

No

Claimant's legal representative contact details

Firm

Postal address or DX address (NSW DX only)

Suburb

State

Postcode

Claimant's legal representative name

Reference

Business phone number

Email

Section 4: Insurer information

Including NSW CTP insurers, interstate insurers, the Nominal Defendant, other corporations or individuals against whom a claim is made (select only one).

Is the person/entity against whom the claim is made a NSW CTP insurer?

OR

Is the person/entity against whom the claim is made a non-NSW CTP insurer?

OR

Is the person/entity against whom the claim is made a corporation or an individual?

Details of CTP insurer (or non-NSW CTP insurer)

Name of insurer

Insurer claim number

Postal address or DX address (NSW DX only)

Suburb

State

Postcode

Is the insurer acting for the Nominal Defendant?

Yes

No

Details of claims officer

Title

Claims officer name

Business phone number

Email

Insurer's legal representative details

Does this insurer have a legal representative? (If yes, provide details below).

Yes No

Insurer's legal representative contact details

Firm

Postal address or DX address (NSW DX only)

Suburb

State

Postcode

Insurer's legal representative name

Reference

Business phone number

Email

Details of corporation/individual (complete this section if the claim is not made against a CTP insurer.
For example, a transport company, warehouse or employer.)

Name

Postal address or DX address (NSW DX only)

Suburb

State

Postcode

Country (if outside Australia)

Business phone number

Email

Corporation/individual's legal representative details

Does this corporation/individual have a legal representative? (If yes, provide details below).

Yes No

Corporation/individual's legal representative contact details

Firm

Postal address or DX address (NSW DX only)

Suburb

State

Postcode

Corporation/individual's legal representative name

Reference

Business phone number

Email

Section 5: Time limit information

Was this claim made on or after 1 October 2008?

Yes (go to section 6 – under s 91(2)(c), an application for certificate of exemption can be made at any time).

No (complete relevant part/s of this section).

Claims made before 1 October 2008 – How do you say the s 91 Time Limits are satisfied?

(if you do not satisfy one of the s 91 criteria the application may be rejected or dismissed)

s 91(1)(a) is satisfied

The insurer made a s 82 offer more than 2 months ago.

(if marked 'x' in the box enter 'date of offer' below, then go to section 6)

Date of offer (DD/MM/YYYY)

OR

s 91(1)(b) is satisfied

The period within which the insurer was required to make a s 82 offer has expired and the insurer has failed to do so.

(if marked 'x' in the box, enter both dates at i) and ii) then go to section 6)

s 82(1) says that an insurer is required to make a reasonable offer to the claimant (unless the insurer wholly denies liability for the claim) after the latest of the following:

i) Within 1 month after the claimant's injury has stabilised, as agreed by the parties or as determined by a medical assessor.

Date parties agree or CARS determined claimant's injuries stabilised

(Date agreement reached or date of CARS determination) (DD/MM/YYYY)

ii) Within 2 months after the claimant has provided to the insurer all relevant particulars of the claim (pursuant to s 82(5))

Date claimant provided all relevant particulars of the claim (DD/MM/YYYY)

OR

s 91(2) is satisfied

The claim can be referred to CARS at any time.

(if marked 'x' in this box, mark the box below which corresponds to the ground you say applies, then go to section 6)

s 91(2)(a) is satisfied

It is a claim in respect of which liability is wholly denied by the insurer.

(if box marked 'x', enter details (if necessary) below, then go to section 6)

s 91(2)(b) is satisfied

It is a claim in respect of the death of a person.

(if box marked 'x', enter details below, then go to section 6)

s 91(2)(c) is satisfied

It is a claim in respect of an injury which has not stabilised within 3 years after the motor accident.

(if box marked 'x', enter details below, then go to section 6)

Provide any additional details about compliance with the time limits of s 91:

Section 6: Exemption information (application for exemption under s 92(1)(a) of the Act)

Why are you seeking an exemption? (You may mark more than one box).

It is the circumstances of the claim **at the time of the assessment** that are relevant to the exemption.

- 6(a) Liability is expressly denied by the insurer, in writing, but only in circumstances where liability is denied because the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle is denied (cl. 8.11.1).**
Note: Only denials of liability where fault is denied will satisfy this requirement. Denials of liability for any other reasons, but where the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle is not denied, will not satisfy this requirement.
You must attach a copy of a notice issued under s 81 and/or all other notices or letters from the insurer to the claimant in which the insurer expressly denies liability because fault is denied.
- 6(b) The claimant or in a claim for an award of damages brought under the *Compensation to Relatives Act 1897*, one of the dependants is a child under the age of 18 years (cl. 8.11.3).**
You must attach proof of the claimant's age or the age of the dependants. For example, birth certificate, claim form etc.
- 6(c) The claimant or in a claim for an award of damages under the *Compensation to Relatives Act 1897*, one of the dependants is a 'person under a legal incapacity' (other reasons) (cl. 8.11.3).**
You must attach court/tribunal orders or other evidence in support of legal incapacity. Cl. 1.6.27 of the Claims Assessment Guidelines defines 'person under legal incapacity'.
- 6(d) The person against whom the claim is made is not a licensed or other CTP insurer (cl. 8.11.4).**
You must attach a copy of the claim form and a copy of the letter serving the claim form.
- 6(e) The insurer has declined to indemnify the owner or driver of the motor vehicle against which the claim is made under the third-party policy provided for in s 10 of the Act (cl. 8.11.5).**
You must attach a copy of correspondence from the insurer to its insured denying indemnity and a copy of any notice to the claimant informing the claimant that indemnity has been declined.
- 6(f) The insurer alleges that the claim is a fraudulent claim in terms of the circumstances of the accident giving rise to the claim (cl. 8.11.6).**
You must attach a copy of correspondence from the insurer alleging fraud.

Section 7: Agreement

Does the other party agree with you that the claim should be exempt? Yes No

If 'yes', you should attach correspondence from the other party indicating that they agree the claim is exempt.

Note: An indication of the other party's attitude is of assistance but is not determinative ie – exemption may not be granted unless the Principal Claims Assessor is satisfied that the claim is exempt in accordance with cl. 8.11 of the guidelines.

Section 8: Document information (documents that must be attached in support of the application (do not attach originals))

i The application may be rejected if the following are not listed below and attached:

- A copy of the claim form including the medical certificate.
- If you marked box 6(a) – a copy of the notice issued under s 81 and/or all other notices or letters in which the insurer expressly denies liability because fault is denied.
- If you marked box 6(b) – proof of the claimant’s age.
- If you marked box 6(c) – court/tribunal orders or other evidence in support of legal incapacity.
- If you marked box 6(d) – correspondence sending or serving the claim form on the person against whom the claim is made.
- If you marked box 6(e) – a copy of correspondence from the insurer denying indemnity as set out in cl. 8.11.5.
- If you marked box 6(f) – a copy of correspondence from the insurer alleging fraud.
- If you ticked yes to section 7 – a copy of correspondence from the other party agreeing that the claim is exempt.

i Documents **MUST** be provided to the other party. You must number the first page of the top right hand corner of each document in accordance with the list below.

No additional documents will be accepted unless compliant with cl. 17.14 of the Claims Assessment Guidelines.

Document number	Name of document (eg report Dr J Smith)	Date (eg 29/07/2018)
A1		
A2		
A3		
A4		
A5		
A6		
A7		
A8		
A9		
A10		
A11		
A12		
A13		
A14		
A15		
A16		
A17		
A18		
A19		

i You must send to CARS a copy of this application and all supporting documentation. You must send to the respondent a copy of this application and all supporting documentation that has not previously been supplied to the respondent.

If you need more space, you should use the ‘extra documents information’ page, continue the numbering from this page and attach it to your application.

Important facts about privacy

In handling personal and health information, the Authority is subject to the NSW *Privacy and Personal Information Protection Act 1998* and the NSW *Health Records and Information Privacy Act 2002*. The information we ask you to provide is required to enable the Authority to carry out its functions under the *Motor Accidents Compensation Act 1999*, in accordance with the Claims Assessment Guidelines.

If relevant information is not provided, the Authority may be unable to process your application.

The information collected by the Authority is for the purpose of dealing with your application. It will be used for this purpose and for any subsequent consideration of matters relevant to the claim. It may also be used for associated administrative purposes including the monitoring and review of the Motor Accidents Scheme.

Authority staff involved in these functions, any assessor(s) assigned to consider your application and their support staff will have access to the information.

You have rights to access personal and health information about you held by the Authority and to correct this information in certain circumstances. Further details about how to exercise these rights is available from the SIRA Privacy Officer on 1300 656 919.

The information will be held and stored by the State Insurance Regulatory Authority, Level 19, 1 Oxford Street, Darlinghurst NSW 2010.

Section 9: Signature section

The signature of person completing this form:

Claimant	Claimant's legal representative	Insurer	Insurer's legal representative	Other
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If other, relationship to claimant

Surname/family name

Given name

Signature

Date application form completed (DD/MM/YYYY)

Reason why claimant did not sign (if not legally represented)

Date application form sent to the respondent

Date application form sent to CARS

(DD/MM/YYYY)

(DD/MM/YYYY)