

PRACTICE DIRECTION NUMBER 11 OF 2013

SUPREME COURT OF QUEENSLAND

PROCEEDINGS FOR DAMAGES FOR PERSONAL INJURIES ARISING OUT OF MOTOR VEHICLE ACCIDENTS AGAINST SUNCORP METWAY INSURANCE LIMITED OR AUSTRALIAN ASSOCIATED MOTOR INSURERS LIMITED: SUBSTITUTION OF AAI LIMITED

1. Prior to 1 July 2013 Suncorp Metway Insurance Limited ABN 83 075 695 966 (“SMIL”) and Australian Associated Motor Insurers Limited ABN 92 004 791 744 (“AAMI”) each carried on compulsory third party insurance (CTP) businesses in Queensland and those businesses were regulated by the Motor Accident Insurance Commission (“the commission”) under the *Motor Accident Insurance Act 1994* (“the Act”).
2. On 2 April 2013, in accordance with s 63(5) of the Act, the commission determined to grant a licence to AAI Limited ABN 48 005 297 807 (“AAI”) under the Act. Notification of the grant of licence was published in the Queensland Government Gazette on 3 April 2013 and took effect from the date of that notification.
3. On 2 April 2013, in accordance with s 30 of the Act, the commission approved the transfer of the entire CTP businesses of SMIL and AAMI to AAI subject to the following conditions:
 - a. the schemes for transfer of the insurance business of SMIL and AAMI to AAI under Division 3 A of Part III of the *Insurance Act 1973* (Cth) described in the applications were approved and took effect;
 - b. the transfers of CTP business to AAI occur on 1 July 2013 or another date as agreed in writing by the Department of Transport and Main Roads and the commission.
4. On 2 May 2013, the Federal Court confirmed the schemes for the transfer of the insurance businesses of SMIL and AAMI to AAI pursuant to s 17F(1) of the *Insurance Act 1973* (Cth). The schemes took effect at 12.01am on 1 July 2013.
5. On 1 July 2013, notification of the transfers of business was published in the Queensland Government Gazette Vol. 363 No. 46 and the transfer took effect from 12:01am on that date.
6. An action for damages for personal injuries arising out of a motor vehicle accident must be brought against the insured person and the insurer as joint defendants: s 52(1) *Motor Accident Insurance Act 1994*. In such proceedings currently before the Court, it will therefore be necessary to substitute AAI Limited for SMIL or AAMI as the case

may be. Ordinarily, that would be done by application to the Court, preferably utilizing Rule 666 of the *Uniform Civil Procedure Rules 1999* but because of the large number of cases in this category, even though the substitution would likely be non-contentious, the numerous necessary applications would unduly consume resources.

7. Parties in these cases are encouraged to proceed if possible in the following way:
 - a. In the document next filed in the Court, the party filing the document should amend the title of the proceeding by deleting SMIL/AAMI and substituting AAI, and include a notation on the side of the document reading: “Amended pursuant to Practice Direction 11 of 2013”.
 - b. Before doing so, that party should notify the other party or parties of the intention to make that amendment.
 - c. When filing the amended document, the party doing so should attach to the document a written confirmation, which may be in the form of a letter, to the following effect: “On [insert date] by letter/telephone communication/email I advised [insert name] on behalf of the Plaintiff/AAI that I intended to amend these proceedings by substituting, in the title of the proceedings, AAI for SMIL/AAMI.”
 - d. If the Plaintiff is the party filing the document, the confirmation should also say: “I have received written confirmation from [insert name] on behalf of AAI that the claim is made under a policy in respect of which AAI has become the insurer in place of SMIL/AAMI”.
 - e. The Registrar is hereby authorized to receive and file such document recording AAI as substituted defendant on the basis that it records an effectual amendment of the proceedings.
 - f. The party filing the document should then furnish a copy of the document to all other parties and confirm that it has been filed.
8. In cases where no further document needs to be filed prior to judgment, where an appeal is pending, or where there is perceived difficulty in adopting the foregoing procedure, the parties should file a Consent Order providing for the substitution, utilizing Rule 666 of the *Uniform Civil Procedure Rules 1999*; and in the absence of consent, an application should be made to the Court.



Paul de Jersey
Chief Justice
25 July 2013