1999

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC ACT 1936

MOTOR VEHICLE (THIRD PARTY INSURANCE) REGULATIONS AMENDMENT

Subordinate Law No. 32 of 1999

EXPLANATORY STATEMENT

Circulated by the Authority of Minister for Urban Services
Brendan Smyth MLA

Outline

Section 88 of the *Motor Traffic Act 1936* ("the Act") provides that the maximum rates of premiums which may be charged by an authorised insurer for compulsory third party (CTP) insurance policies shall be such rates as are prescribed. The *Motor Vehicle (Third Party Insurance) Regulations 1947* ("the Regulations") give effect to these provisions of the Act.

The *Motor Vehicle (Third Party Insurance) Regulations Amendment*, ("the amending Regulations") amend the Regulations to apply, with effect from 1 December 1999:

- the Goods and Services Act (GST) to the portion of policies (issued between that date and 30 June 2000) extending beyond 30 June 2000; and
- other *A New Tax System* (ANTS) impacts on CTP scheme costs for policies issued between those dates.

In the transitional period between 1 July 1999 and 30 June 2000 the ANTS tax reforms and the GST affect CTP premiums in several ways. Firstly, section 12 of the *A New Tax System (Goods & Services Tax) Transition Act 1999* (which relates to periodic supplies) provides that the GST is payable, on a gradually increasing pro-rata basis, to that part of the premium which relates to the portion of the policy coverage from 1 July 2000 onwards.

The supply of a service (such as CTP insurance) under an agreement or an enactment over a period commencing before 1 July 2000 and ending after that date is deemed to be made continuously and uniformly throughout the period of supply. This makes the insurer liable to pay GST on any policy taken out before 1 July 2000 in respect of that portion of the policy (calculated on a pro-rata basis) that relates to the policy coverage from that date onwards.

Secondly, the GST increases many of the insurer's costs of managing the CTP scheme. Due to the length of time taken to resolve claims, most costs incurred by the insurer in relation to vehicle crashes occurring in 1999/2000 will actually be paid after 30 June 2000. The insurer will (with the exception of medical and analogous costs) incur the GST on these expenses but will not be able to claim input credits in relation to claims for crashes occurring in 1999/2000.

Claim costs for crashes occurring on or after 1 July 2000 will also incur the GST (in addition to the GST on premiums); however, in this case these costs will be offset by the insurer's ability to claim GST input credits.

Costs affected by the GST include incident estimates and insurance company expenses (eg costs for investigations, expert reports, and the expenses of advisers and witnesses), domestic assistance for claimants, certain elements of ancillary costs and compensation to relatives (eg funeral expenses), and legal expenses for both claimants and the insurer.

Health services are GST-exempt. This includes the full range of medical costs arising from CTP claims (eg medical consultations, hospital accommodation, physiotherapy, chiropractic, speech and occupational therapy, optometry and pathology). This exemption extends to rehabilitation and modification costs (eg rehabilitation assessment and therapy, medical appliances and aids, and necessary modifications to motor vehicles) and attendant care, including nursing costs.

Court- awarded compensation for loss of earnings and loss of future earnings is based on the claimant's estimated net (ie after tax) earning capacity. As income tax rates are being reduced from 1 July 2000, in conjunction with the introduction of the GST, this will result in higher CTP awards for loss of earnings. Ernst & Young ABC, the Government's actuaries, estimate that this component of awards is likely to increase by approximately 6%.

Financial considerations

For CTP policies commencing between 1 December 1999 and 30 June 2000 the amending regulations provide for CTP premiums to be increased using a formula that applies the 10% GST to the post 30 June 2000 portion of the policy. The formula also adjusts the premium payable for pre-30 June 2000 and post 30 June 2000 GST and other ANTS tax system impacts by applying weighted averages that take account of the start and finish dates of each individual policy.

The premium adjustment formula has been assessed by the Government's actuaries who advise that it accurately reflects the impact of the GST and other ANTS tax changes on the ACT CTP scheme operated by NRMA Insurance Limited. In particular, Ernst & Young have verified that the NRMA is complying with the Australian Competition and Consumer Commission (ACCC) GST pricing guidelines and that it is not attempting to use the GST to increase its margins.

In the case of a private car (class 1 vehicle), the premium for a 12 month policy commencing on 1 December 1999 will increase by $16.15 (or approximately 4.6%) to $370.15. For a 12 month class 1 policy commencing on 30 June 2000 the premium will increase by $18.65 to $372.65 (approximately 5.3%). Premiums for three month and six month policies will increase by between 3.7% ($3.30 and $6.60, respectively - for policies expiring before 1 July 2000) and a maximum of 5.3% ($4.65 and $9.30, respectively. All premium amounts have been rounded down to the nearest five cents).

Premium relativities are unaffected, so premiums for other CTP vehicle classes will increase in direct proportion to the class 1 premium for a policy of the same duration. The $1.50 road safety contribution (paid to the NRMA - ACT Road Safety Trust to fund road safety initiatives) also remains unchanged for all motor vehicle CTP classes.

Details

Commencement and Interpretation

Regulations 1 and 2 provide that the amending Regulations will take effect on the day on which they are notified in the Gazette and that a reference in the amending Regulations to "Principal Regulations" means the *Motor Vehicle (Third Party Insurance) Regulations 1947.*

Insertion

Regulation 3 inserts a new regulation (*regulation 20*) in the Principal Regulations following regulation 19.

Subregulation 20 (1) provides that the maximum premium that may be charged for a CTP policy issued on or after 1 December 1999 and before 1 July 2000 shall be calculated by increasing the maximum premium which could otherwise be charged, using the following formula:

Current premium x (1 + [P2/P1 x A] + [P3/P1 x B]) x (1 + [P3/P1 x C])

Subregulation 20 (2) explains the terms used in the formula in subregulation (1).

In the formula, **A** is a constant with a value of 3.73%. Constant **A** represents that part of the premium impact on CTP claims costs from claims arising before 1 July 2000 as a result of the *A New Tax System* (ANTS) tax changes. The value of **A** is positive because input tax credits are not available for these claims.

B is a constant with a value of –4.29%. Constant **B** represents that part of the premium impact on CTP claims costs from claims arising on or after 1 July 2000 as a result of the *A New Tax System* (ANTS) tax changes. The value of **B** is negative because input tax credits are available for these claims.

C is a constant with a value of 10.0%. Constant **C** represents the 10% GST that applies to the post-30 June 2000 component of the total premium.

P1, **P2** and **P3** are variables.

P1 is the total number of days covered by the CTP policy.

P2 is the number of days covered by the CTP policy prior to 1 July 2000. In the formula, this number is multiplied by constant **A** and divided by **P1** to give a relative weighting for the ANTS impact from claims arising before 1 July 2000.

P3 is the number of days covered by the CTP policy on or after 1 July 2000. In the formula, this number is multiplied by constant **B** and divided by **P1** to give a relative weighting for the ANTS impact from claims arising on or after 1 July 2000.

P3 is also the number of days for which the 10% Goods and Services Tax (GST) is applicable to the premium. In the formula, **P3** is therefore multiplied by 10% and divided by **P1** to adjust the premium for the applicable amount of GST.

P1 also equals **P2** plus **P3**.

Individual premiums payable as a result of the application of the formula depend on the amount of premium that was previously payable for the relevant class of motor vehicle and the values given to the variables **P1**, **P2** and **P3**. An example showing how the premium is to be calculated is given at the end of the regulation.