

2008

**The Legislative Assembly for
Australian Capital Territory**

**Road Transport (Third-Party Insurance)
Amendment Bill 2008 (No 2)**

Explanatory Statement

**Circulated by authority of
Treasurer
Katy Gallagher MLA**

Road Transport (Third-Party Insurance) Amendment Bill 2008 (No 2)

Overview

The *Road Transport (Third-Party Insurance) Amendment Bill 2008 (No 2)* amends the *Road Transport (Third-Party Insurance) Act 2008* (“the Act”) to address the issue of non-compliance in the delay of giving a notice of claim to the nominal defendant. Section 86 (3) of the Act is amended to allow the claimant a reasonable excuse for delay in the giving of the notice of claim to the nominal defendant under subsection (2). Previously, failure to notify the nominal defendant meant that a claim could not proceed. In addition, section 95 of the Act is amended to give the court discretion to authorise a claimant to proceed in the interests of justice.

Detail

Sections 1, 2 and 3 are formal clauses specifying the name of the Act, when it commences and the principal Act that is amended.

Section 4

Section 4 amends section 85 of the Act by inserting a new note regarding waiver of compliance which refers to section 95 of the Act.

Section 5

Section 5 amends section 86 (3) by allowing a claimant, who fails to give the notice of claim as required under subsection (2), to proffer a reasonable excuse for the delay in the notice of claim. Alternatively, this can be achieved if a claimant provides a separate written notice to the nominal defendant. The regulation may prescribe what constitutes a reasonable excuse in addition to section 86 (3). A note referring to waiver of compliance under section 95 is also added.

Section 6

Section 6 omits the note from section 95 (2) (b).

Section 7

Section 7 omits the note to section 95 (2) (c).

Section 8

Section 8 amends section 95 of the Act by substituting a new subsection (3) which gives the court discretion to authorise the claimant to proceed under subsection (2) (c) (ii) for noncompliance under sections 85 and 86 on the condition that it is in the interests of justice to proceed further with the matter.