

EXPLANATORY MEMORANDUM

AUSTRALIAN CAPITAL TERRITORY

AMENDMENTS OF THE MOTOR VEHICLE (THIRD PARTY INSURANCE)  
REGULATIONS

No. 7 of 1959

The means by which injured persons may obtain redress under our third party insurance system are –

- (a) By taking action against the person causing the injury, if the identity of that person has been ascertained and he can be served with process;
- (b) By taking action against the insurer under section 41P(3) if the person causing the injury, being the holder of a third-party policy, is dead or cannot be served with process;
- (c) By taking action against the nominal defendant under section 41 AO when the injury is caused by or arises out of the use of an uninsured motor vehicle or by an unidentified motor vehicle.

If the injury is caused by or arises out of the use of a motor vehicle which is insured under any of the enactments listed in section 40AX (i.e. the vehicle comes from a part of Australia, the Third Party Insurance of which is recognised under the Ordinance) then action should be taken against the driver under (a) above. If, however the driver is dead or cannot be served with process, his insurer, being outside the Territory, cannot be made liable for damages under Territory law in the same way as an approved insurer under the Ordinance. For this reason, section 41P(3) gives to the injured person the right to take action against the nominal defendant, if the person causing the injury has a policy complying with the provisions of any Statute which is in force in any prescribed part of the Commonwealth.

The purpose of regulation 1 of these regulations is to give full effect to the operation of section 41(P)(3) in these instances. It prescribes as parts of the Commonwealth, the Northern Territory and those States, the Third Party Insurance of which is recognised under section 40AX of the Ordinance.

Regulation 2 of these regulations increases from 2/6 to 7/6 the surcharge payable to approved insurers on short term policies. This is being made in order to compensate the authorised insurers for extra costs in writing these policies. The sum of 2/6 was fixed originally in 1947. The Motor Traffic Ordinance was amended in May, 1958, to increase the surcharge payable on short term registrations and this proposed increase for short term policies is in line with that made for registrations.