

Australian Capital Territory

Road Transport (Third-Party Insurance) Early Payment Guidelines 2013 (No 2)

Disallowable instrument DI2013–88

made under the

Road Transport (Third-Party Insurance) Act 2008, s 75A (Early Payment Guidelines)

EXPLANATORY STATEMENT

These guidelines are issued in accordance with section 75A of the *Road Transport (Third-Party Insurance) Act 2008* (the CTP Act). The guidelines provide guidance regarding the early payment for medical expenses entitlement under Chapter 3 of the CTP Act.

The guidelines replace the Road Transport (Third-Party Insurance) Early Payment Guidelines 2013 (No 1). The only change to those guidelines is section 4.1 which has been amended to take account of minor amendments to section 72 of the CTP Act by the *Statute Law Amendment Act 2013*. The minor amendments have the effect of excluding a person entitled to the early payment under Chapter 3 of the CTP Act from the requirement to comply with the time limit under section 72 while the claimant is under a legal disability. This amendment brings Chapter 3 into line with Chapter 4 of the CTP Act.

Detailed explanation

Clauses 1-2

These clauses provide an introduction to the Guidelines, their purpose and the legislative framework which governs the early payment scheme.

Clause 3

Clause 3 outlines the objectives of the early payment scheme. Specifically, that the payment is designed to encourage people injured in motor accidents to seek medical treatment and rehabilitation services early by minimising monetary barriers. The goal being to facilitate a faster return to health for injured people.

Clause 4

Clause 4.1 provides details about the process for applying for the early payment including the forms required and the timeframes for submitting the required documentation. The injured person must provide a Motor Accident Notification Form and a police report within 30 working days unless they are under a legal disability, in which case the time limit starts from when they are no longer under the legal disability.

Clause 4.2 states that an insurer must pay the amount claimed by an injured person (up to \$5,000) upon verification of the account or receipt presented. This clause outlines what the person applying for the early payment must provide to satisfy the requirements of the account or receipt under the Road Transport (Third-Party Insurance) Regulation 2008.

An insurer has 10 working days to verify the account or receipt and make the payment. If the insurer decides not to pay the amount claimed, they must provide reasons and communicate the decision to the person applying for the payment.

Clause 4.2 makes it clear that an insurer is not entitled to restrict the type of treatment an injured person can claim for, as long as the injured person has shown a causal link between the accident and the medical expenses incurred or to be incurred.

Clause 4.3 states the maximum amount payable by an insurer and that in cases where two or more people were injured in a motor accident the amount is payable per person and should not be reduced by any payment made to the other injured people. Clause 4.3 also clarifies that an insurer is entitled to pay above the maximum amount prescribed.

Clause 5

Clause 5 discusses issues relating to liability and makes it clear that the intention is that any payment made by an insurer in relation to the early payment provisions is not an admission of liability in relation to the motor accident and does not in any way prejudice or affect a claim or proceeding arising out of the motor accident.

Clause 5.1 is intended to give guidance in relation to the criteria under section 72(1)(c) of the Act that the accident 'was not caused wholly or mainly by the fault of the person'. The intention is that the payment be made available to the majority of injured people with the exception of those charged with a *serious traffic offence* that contributed materially to their injury.

Clause 6

Clause 6 provides detail about what medical expenses insurers are required to pay. The key requirements are that the expenses are incurred within 6 months of the motor accident and that they are reasonably incurred.

This clause is designed to alleviate concerns that insurers may be treating applications for the early payment the same as ordinary claims by making it clear that an insurer cannot restrict or attempt to restrict the kind of medical treatment an injured person receives.

Clause 7

It is not anticipated that payment of the early payment for medical expenses would be a contested issue with the exception of disputes in relation to the causal link between the accident and the expenses incurred. In the unlikely event that a dispute does arise clause 7 of the Guidelines sets out the process an injured person should follow to resolve any dispute.

The CTP Regulator is able to utilise its licensing powers under Chapter 5 of the Act to assist a claimant in resolving a dispute with an insurer in relation to the early

payment. Section 185(1)(d) of the Act makes it a condition of a CTP licence that the licensed insurer comply with section 73 of the Act in relation to the early payment.

Clause 8

This clause confirms that an insurer may offset its costs in paying the \$5,000 early payment to a claimant against any subsequent award of damages to that claimant.

Clause 9

Clause 9 requires insurers to provide certain details to the CTP Regulator in relation to applications for the early payment. This clause is designed to provide greater transparency in relation to the operation of the early payment scheme.

Schedule 1

Schedule 1 provides a list of all the offences under the ACT road transport legislation that are punishable by imprisonment of six months or more. The schedule is provided for the purposes of defining a serious traffic offence under clause 5.1.