

2008

**The Legislative Assembly for
Australian Capital Territory**

**Road Transport (Third Party Insurance) Bill
2007**

Assembly Amendments

Explanatory Statement

**Circulated by authority of
Treasurer
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Road Transport (Third Party Insurance) Bill 2007

Assembly Amendments

Overview

The Road Transport (Third Party Insurance) Bill 2007 was introduced into the Assembly on 22 November 2007. The new legislation is expected to bring about cost savings flowing through to CTP premiums, without diminishing the compensation available for negligently injured persons.

Since the Bill was introduced and through discussions with Members of the Assembly, insurance companies and government agencies, a number of Assembly Amendments became necessary to refine and/or clarify certain sections of the Bill.

Detail

Clause 1 introduces a new Chapter 2A into the Bill to provide for early payment for treatment of injuries. New Part 2A.1 defines a person's **insurer**, the **motor accident notification form**, the **motor accident medical report** and **medical expenses**.

New Part 2A.2 entitles an injured person to early payment for expenses if they complete the necessary forms within 28 days or a police officer attended the scene or was informed of the accident. This will encourage claimants to start the claims process more quickly.

The insurer can then pay up to \$5,000 (or other determined amount) for medical expenses reasonably incurred within 6 months of the accident. This means the injured person can commence rehabilitation and other related medical services soon after the injury.

Importantly, new Part 2A.2 states that a payment of this kind is not an admission of liability of the insurer and does not affect any claim or proceeding.

Clause 2 clarifies the definition of **insurer** later in the Bill to only apply to the chapter in which it is housed.

Clause 3 states that the notice of claim must include the motor accident notification form and medical report, if not already provided to the respondent beforehand.

Clause 4 clarifies the notes to Clause 89(4) of the Bill in relation to an admission of liability under that Clause in the process of resolving a motor accident claim.

Clauses 5 and 6 omit the requirement for a claimant to give documents to the respondent, and the old definition of **medical expenses**, as these elements are included in the new Chapter 2A.

Clause 7 excludes the application of Clause 116 of the Bill "Respondent to pay injured person's medical expenses" to expenses already paid under the new Chapter 2A.

Clauses 8 to 13 exclude compensation for pain and suffering from the definition of “damages”. This will help to curtail legal costs in small awards of damages by bringing more claims under the \$30,000 and \$50,000 thresholds in Clauses 149 and 150 of the Bill.

Payments relating to pain and suffering will be itemised separately in the mandatory final offer so the claimant and respondent can fully assess the offer.

Clause 14 adds clarifying notes about costs to Clause 158 of the Bill. The new notes cross reference this Clause with medical and rehabilitation expenses and the early payment of expenses.

Clause 15 adds a new section to the Bill about its extraterritorial operation. This is to address a recent House of Lords case where a non-resident was injured in Australia then recovered damages under the more favourable jurisdiction of his home country.

This new clause clearly states the intention of the Assembly for the provisions of the Bill to apply outside Australia, and for the recovery of any damages above the maximum thresholds in the Bill.

Clause 16 removes a double negative from Clause 177 of the Bill. Clause 177 is about the CTP regulator’s decision to issue a CTP insurer licence (or otherwise).

Clause 17 adds the new Clause 67F “What kinds of expenses must be paid by the insurer?” to the list of licence conditions the insurer must comply with.

Clauses 18 to 20 update the disciplinary provisions in the Bill. Although it is not expected that this power will be invoked very often, the CTP regulator may apply to the consumer and trader tribunal to take action against the insurer for certain contraventions

Clause 21 omits Clause 209(2) of the Bill which had restricted insurers from entering reinsurance contracts of more than 15 per cent of total premiums without agreement from the CTP regulator. This provision is out of date with current guidance on reinsurance.

Clause 22 adds the *Consumer and Trader Tribunal Act 2003* and related Acts to the consequential amendments.

Clause 23 deletes the civil penalty power from the offences under the Bill, and Clause 24 removes **civil penalty and censure committee** from the dictionary. Clause 25 adds a new definition to the dictionary: **ground for disciplinary action**.

Clauses 26 and 27 clarify the dictionary definitions of **insurer** and **licensed insurer**. Clause 28 refers the definition of **medical expenses** to the new Clause 67D. Clause 29 adds new definitions of **motor accident medical report** and **motor accident notification form** to the dictionary.