

Australian Capital Territory

# Motor Accident Injuries (ACAT Cost Orders) Regulation 2020

Subordinate law SL2020-10

made under

***Motor Accident Injuries Act 2019***

## EXPLANATORY STATEMENT

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### *Overview*

The *Motor Accident Injuries (ACAT Cost Orders) Regulation 2020* (the regulation) regulates the costs that the ACT Civil and Administrative Tribunal (ACAT) may order with respect to an application for external review of an ACAT reviewable decision under the *Motor Accident Injuries Act 2019* (the Act).

Under section 198(2) of the Act, an award of costs may not be made against an injured person if the person made the application for review in good faith and that they had an arguable basis for the application (i.e. represented themselves).

The Act established a new motor accident injuries insurance scheme (MAI scheme) which replaced the scheme that operated under the *Road Transport (Third-Party Insurance) Act 2008*.

The MAI scheme commenced on 1 February 2020. It provides defined benefits to people injured in a motor accident regardless of fault. Additional common law benefits are also available to people more seriously injured and their injury was caused by someone else's fault.

### *The regulation*

Section 198 of the MAI Act allows for a regulation to be made in relation to, amongst other things, the maximum amount of costs that can be awarded by the ACAT in respect of an application for external review by the ACAT of an MAI insurer's decision under division 2.10.3 of the Act. It applies to all applications for an award of costs.

The regulation provides a mechanism to assess the level of a costs order the ACAT can make in relation to an application for external review of an insurer's decision. It provides that the maximum amount of the costs order is \$2000.00 indexed annually by AWE plus the application fee (if paid) inclusive of GST. To make an award, the ACAT must form an opinion that the costs were incurred in the preparation and presentation of the application before the ACAT and that it is appropriate to make the order.

ACAT procedures are intended to be simple, quick, inexpensive and informal. The ACAT is also a resolution making jurisdiction which regularly employs alternative dispute resolution methods to assist parties to achieve outcomes. Many people choose to represent themselves before the ACAT and parties to a matter normally bear their own costs.

The regulation reflects these ACAT principles but recognises that some people may choose to be represented, or obtain advice for a matter before the ACAT, or incur expenses in advancing their application. The regulation provides that where the ACAT considers it appropriate, an amount of costs up to the regulated maximum can be awarded.