Australian Capital Territory

Motor Accident Injuries (Defined Benefits Application) Guidelines 2025

Disallowable instrument DI2025-159

made under the

Motor Accident Injuries Act 2019, section 487 (MAI guidelines)

EXPLANATORY STATEMENT

Section 487 of the *Motor Accident Injuries Act 2019* (MAI Act) enables the MAI Commission to make guidelines (the MAI guidelines) about any matter required or permitted by the MAI Act to be included in guidelines.

The guidelines set out requirements for making and handling applications for defined benefits under parts 2.3, 2.7 and 2.8 of the MAI Act. This includes guidelines about an insurer providing information and support to applicants for defined benefits, accepting applications and administering payments for treatment and care, income replacement and funeral and death benefits.

The preamble to the guidelines has been updated to clarify that the guidelines are a legislative requirement. The guidelines have also been updated to provide consistency with application form requirements, including consents, authorisations and declarations.

A new section has been added to make provision for matters an insurer must consider in deciding to administratively close a defined benefits personal injuries application, the procedure to be followed by the insurer before an application is closed and information to be given to an applicant about closing an application. Administrative closure does not end entitlements to defined benefits. If there is no activity on an application, or the injured person does not require anything and no longer requires contact by the insurer, it can be appropriate to make the application inactive. An injured person can reactivate an application if they identify a need for further benefits.

The 2021 guidelines will be revoked on the commencement of the new guidelines.

Human rights

Noting that the guidelines have previously been made, during the development of the guidelines the right to privacy (section 12, *Human Rights Act 2004*) was again

considered. Personal information and health information needs to be provided to commence a defined benefits application, and these guidelines give effect to the type of information that is collected for the forms that are made by the MAI Commission.

The additional section, administrative closure, is also directed at protecting the right to privacy, by outlining a process an insurer is to follow if a person no longer wants contact with an insurer on their defined benefits application.

Consultation on the proposed approach

Consultation was undertaken with relevant stakeholders in updating the guidelines. Comments were incorporated where appropriate.