

Lifetime Care and Support (Catastrophic Injuries) Medical Treatment Including Pharmaceuticals Guidelines 2025

Disallowable instrument DI2025–280

made under the

Lifetime Care and Support (Catastrophic Injuries) Act 2014, section 93 (Making of Guidelines)

EXPLANATORY STATEMENT

These guidelines are made under the *Lifetime Care and Support (Catastrophic Injuries) Act 2014* (LTCS Act).

Section 93 of the LTCS Act allows the Lifetime Care and Support Commissioner of the Australian Capital Territory (LTCS Commissioner) to make Guidelines.

The LTCS Act was modelled on the *NSW Motor Accidents (Lifetime Care and Support) Act 2006*. This was to assist the ACT to enter into an arrangement with NSW to provide administration services and so provide consistent treatment and care for persons catastrophically injured in motor accidents and work injuries in the Capital Region. The LTCS Guidelines largely adopt the NSW guidelines, with minor changes made as necessary to reflect matters contained in the LTCS Act. As part of the adoption of the NSW guidelines, the ACT's guidelines are divided into parts that are numbered to match the NSW guidelines. To assist readers, the titles of the guidelines also include their subject matter.

The LTCS Scheme is part of the National Injury Insurance Scheme (NIIS), which is a federated model of state and territory based no-fault schemes providing lifetime care and support for people who have sustained a catastrophic motor accident or work injury. Under NIIS eligible persons suffering catastrophic injuries have a minimum level of entitlement to receive reasonable and necessary treatment and care. The support and levels of treatment and care to be provided are specified by the LTCS Act and Guidelines.

Medical treatment including pharmaceutical is included within section 9 of the Act as a treatment and care need. Part 22 has been drafted to mirror the NSW guidelines on medical treatment and pharmaceuticals. It provides for what is reasonable and

necessary medical treatment, including pharmaceuticals and assisted fertility treatment benefits. It outlines the benefits and how the LTCS Commissioner may assist their eligibility for certain treatment.

The LTCS Commissioner is making these guidelines to provide more detail and method of assessment on the criteria used to assess reasonable and necessary treatment and care needs as they relate to medical treatment and pharmaceuticals. In addition, the guidelines provide for when assisted fertility treatment may be reasonable and necessary.

Consistency with human rights

The guidelines are considered to promote human rights, by providing guidance on the reasonable and necessary treatment and care needs available to a participant in the LTCS Scheme. It is to be noted the Scheme provides universal cover for a person's lifetime care needs, while also allowing the Commissioner to assess needs against the individual circumstances of a participant.

It is considered these guidelines positively engage with a number of rights recognised by the *Human Rights Act 2004* (HRA). The guidelines provide for the protection of the family and children recognised by section 11 by providing for when it may be reasonable and necessary for assistance with fertility treatment because a participant's fertility status is affected by their injury.

Before the LTCS Commissioner is to approve medical treatment, the participant and their treating doctor are to be consulted. This protects the participant from medical treatment without their free consent, recognised by section 10(2) of the HRA. The guidelines also positively engage with section 8, Recognition and equality before the law.