

Australian Capital Territory

Lifetime Care and Support (Catastrophic Injuries) Eligibility Guidelines 2026

Disallowable instrument DI2026 - 174

made under the

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

EXPLANATORY STATEMENT

These guidelines update and remake the LTCS Guidelines (Part 1) made under the *Lifetime Care and Support (Catastrophic Injuries) Act 2014* (LTCS Act).

Section 93 of the LTCS Act provides that the Lifetime Care and Support Commissioner of the Australian Capital Territory (LTCS Commissioner) may make Guidelines to give effect to the operation of the LTCS Scheme.

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. The NSW Lifetime Care and Support Authority undertake regular reviews of their guidelines to resolve inconsistencies or ambiguity. The LTCS Commissioner is progressively updating guidelines following NSW's review process.

The ACT's guidelines continue to be divided into parts where were numbered to match the NSW guidelines. The updated guidelines include within their heading the subject matter of the guidelines to assist identification while maintaining the part number within the instrument. This is to assist with administration when NSW is applying the ACT guidelines.

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.

Description of the Part

This Part reorders the previous eligibility guidelines and provides further detail on the application process. This includes the information required for the LTCS Commissioner to determine eligibility, including the ability to request additional information within specified timeframes and to require assessments to inform consideration of relevant injury criteria. It also provides administrative flexibility by allowing the LTCS Commissioner to treat incomplete applications as complete in appropriate circumstances, bring forward decisions about lifetime participation before the end of the interim period, and withdraw and remake decisions where an error of law or fact has affected an interim eligibility determination.

The Part clarifies the evidentiary requirements for eligibility, including that a suitably qualified medical specialist must, having examined the person, certify that the injured person meets the criteria and considered any relevant assessment scores required by the guidelines.

It also provides additional clarification on the application of eligibility criteria, including for persons with impairments equivalent to amputation, and for young children with brain injuries or burns where standard assessment approaches may not be appropriate.

The Guidelines provide guidance by when to make an application and allows the LTCS Commissioner to extend the timeframe if an explanation is made that fully and satisfactorily explains the delay.

Consistency with Human Rights

The guidelines are considered to promote human rights, by providing guidance on eligibility criteria that the LTCS Commissioner is to consider for an application to participate in the LTCS Scheme. In addition, the guidelines set out the types of information that is to be authorised to be provided to the LTCS Commissioner to determine eligibility. The Act has provisions that allow for information to be shared between the LTCS Commissioner, insurers, hospitals and the NSW Lifetime Care and Support Authority, the administration partner for the ACT Scheme.

The collection of the information may engage an injured person's or interim participant's right to privacy and reputation recognised by section 12 of the *Human Rights Act 2004*. By clearly setting out the expectation of the information to be provided or collected and who it may be lawfully shared with, the injured person is informed and assisted with the application.