Australian Capital Territory

Lifetime Care and Support (Catastrophic Injuries) Participants Living Overseas Guidelines 2026

Disallowable instrument DI2026 – 223

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 11) 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 numbered to match the corresponding 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 provides practical guidance on the care and support services that the LTCS Commissioner will fund as reasonable and necessary for participants living overseas.

It updates significantly the previous guidelines by setting out the methods and criteria the LTCS Commissioner applies when assessing support services required by participants in the LTCS Scheme (whether interim or lifetime), who live overseas permanently or on a long-term basis. It outlines, in particular, that the provision of support services are to be compatible with local service provision in the participant's country of residence; and service costs should not exceed what would be incurred if the participant were living in Australia.

The new Guidelines provide additional flexibility for a periodic payment to an overseas participant to self-manage the care and support services they need under the LTCS Scheme while they are living overseas.

In addition, it also provides guidance for section 30B of the LTCS Act, Lump sum payment – foreign national participant. A foreign national participant is a person who is a national of a foreign country who lives outside of Australia who was injured while in the ACT. Following their injury they have returned home. As an accepted participant (interim or lifetime), the LTCS Scheme has an obligation to provide support services in their home country.

The Guidelines set out it is the discretion of the LTCS Commissioner to consider offering an agreement to a lifetime foreign national participant. If an agreement is made, they will cease to be a participant in the LTCS Scheme.

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 cover for a person's lifetime care needs, while also allowing the Commissioner to assess needs against the individual circumstances of a participant. These guidelines recognise the importance of supporting participants living overseas and meeting their needs in a way that is compatible with local service provision and is available.

It is considered these guidelines positively engage with section 8, Recognition and equality before the law, and section 11, Protection of the family and children, of the *Human Rights Act 2004.*

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au