



Australian Capital Territory

# Motor Accident Injuries (Insurer Information Collection) Regulation 2020

Subordinate Law SL2020-7

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The Australian Capital Territory Executive makes the following regulation under the *Motor Accident Injuries Act 2019*.

Dated 24 February 2020.

ANDREW BARR  
Minister

GORDON RAMSAY  
Minister

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made under the

[Motor Accident Injuries Act 2019](#)

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**1 Name of regulation**

This regulation is the *Motor Accident Injuries (Insurer Information Collection) Regulation 2020*.

**2 Commencement**

This regulation commences on 1 March 2020.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

**3 Dictionary**

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*monthly return*—see section 5.’ means that the term ‘monthly return’ is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

**4 Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

**5 Monthly returns for applications and claims—Act, s 462 (2) (b) (i) and (c) (i) and (4) (a)**

- (1) A licensed insurer must, not later than 7 days after the end of each month, give the MAI commission a return (a *monthly return*) for the month.

*Note* If a respondent's claim manager is acting for all respondents for the claim, the insurer may not need to provide information (see s 6).

- (2) A monthly return must be in a form approved by the MAI commission.
- (3) A monthly return must include the information set out in schedule 1 for each application for defined benefits and each motor accident claim received or managed by the licensed insurer in the month to which the return relates.

**6 Monthly returns and returns—respondent's claim manager—Act, s 462 (2) (b)**

- (1) This section applies if—
- (a) a respondent's claim manager is acting under the *Civil Law (Wrongs) Act 2002*, section 56 (Multiple respondents) for all respondents for a motor accident claim; and
- (b) another insurer has—
- (i) told the MAI commission about the respondent's claim manager for the claim; and
- (ii) given the required claim details for the claim under section 5.
- (2) The insurer need not provide other information required under section 5 about the claim.

**7 Information to be provided by licensed insurers—Act, s 462 (2) (d)**

- (1) If a licensed insurer receives an information request in relation to a matter that may have a material impact on the insurer's MAI insurance business, the insurer must, not later than 1 month after responding to the request, give a copy of the request and the licensed insurer's response to the request to the MAI commission.
- (2) If the MAI commission asks a licensed insurer for an actuarial report on the insurer's financial position, the insurer must give the report to the MAI commission not later than 3 months after receiving the request.
- (3) If a transaction happens that may affect control of a licensed insurer, the insurer must give complete details of the transaction to the MAI commission not later than 1 month after the transaction happens.
- (4) If the manager responsible for managing a licensed insurer's MAI insurance business changes, the insurer must give complete details of the change to the MAI commission not later than 1 month after the change happens.
- (5) In this section:

***Commonwealth financial regulator*** means an entity established under a Commonwealth law to regulate entities in the financial sector.

***information request***, received by a licensed insurer, means a request for information or explanation to the insurer from a Commonwealth financial regulator.

## Schedule 1 Information to be included in monthly returns

(see s 5)

### 1.1 Information relating to applications for defined benefits and motor accident claims

- (1) The following information about each application for defined benefits and each motor accident claim received or managed in the month:
  - (a) details about the applicant or claimant, including the following:
    - (i) full name;
    - (ii) date of birth;
    - (iii) home address, postal address (if any) and preferred email address (if any);
    - (iv) preferred telephone number;
    - (v) gender;
    - (vi) evidence of the applicant's or claimant's identity;

#### Examples

- driver licence number
- passport number
- Medicare number

- (b) details about each motor vehicle involved in the motor accident, including the following:
  - (i) details that identify the motor vehicle;  
**Example**  
make, model, type and year of manufacture of the motor vehicle
  - (ii) if the motor vehicle was registered—the registration number of the motor vehicle;



- (iii) if the motor vehicle had a valid trader's plate attached—the unique identifying number on the trader's plate;
- (c) if the nominal defendant is the relevant insurer for the application or managing insurer for the claim—the reason the nominal defendant is the relevant insurer for the application or managing insurer for the claim;
- (d) details about the motor accident, including the following:
  - (i) the date, time and place of the motor accident;
  - (ii) the unique identifying number (if any) for the motor accident assigned by the Australian Federal Police;
  - (iii) the involvement of each participant in the motor accident, including details about which motor vehicle the insurer considers to be most at fault;
- (e) if the applicant or claimant is represented by a lawyer—the lawyer's name and contact details, including email address;
- (f) an estimate of the costs associated with the application or claim, the date of the estimate and any revision of the estimate;
- (g) details of all payments made in relation to the application or claim, including the following:
  - (i) the name and contact details of each person to whom a payment was made;
  - (ii) the amount stated in the account to be paid;
  - (iii) when each payment was made;
  - (iv) for a payment of income replacement benefits—the period to which the payment relates;
  - (v) for a payment of treatment and care benefits that relates to a series of treatment and care or ongoing domestic services—the period to which the payment relates;

- (vi) if the applicant or claimant paid a medical provider directly for a service—details of the provider;
- (vii) for a payment made or received under an arrangement between insurers to share costs for the application or claim—the payment relating to the arrangement;
- (viii) for a recovery with an insurer or other party not covered by an arrangement mentioned in subparagraph (vii)—the date and amount of the payment made or received in relation to the application or claim.

(2) In this section:

*registration number*—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

## 1.2 Information relating to applications for defined benefits generally

- (1) The following information about each application for defined benefits received or managed in the month:
  - (a) whether an ambulance attended the motor accident;
  - (b) whether the applicant attended hospital after the motor accident and, if so, details of the attendance;
  - (c) the date the application was received;
  - (d) the date the receipt notice or late receipt notice was given to the applicant;
  - (e) for a late application—the reasons for accepting or rejecting the application;
  - (f) whether the insurer accepted liability for the application and the date the insurer made the decision about accepting or rejecting liability;

- (g) if the insurer rejected liability for the application—the reason for doing so;
- (h) whether the applicant has made a workers compensation application in relation to an injury sustained as a result of the motor accident;
- (i) whether the applicant was charged with a driving offence or serious offence in relation to the motor accident and, if so—
  - (i) the nature of the offence; and
  - (ii) the date the applicant was charged with the offence; and
  - (iii) the date and outcome of any decision in relation to the charge;
- (j) the defined benefits the applicant has applied for;
- (k) whether the applicant’s injury was an intentionally self-inflicted injury;
- (l) whether the applicant is a detainee or young detainee;
- (m) whether the applicant—
  - (i) is an Australian citizen or permanent resident; or
  - (ii) holds a temporary visa under the *Migration Act 1958* (Cwlth), section 30 (2);
- (n) whether the applicant receives a pension, allowance or benefit under the *Social Security Act 1991* (Cwlth);
- (o) whether the applicant has transferred from a workers compensation scheme;
- (p) the status of the application.

(2) In this section:

*detainee*—see the *Corrections Management Act 2007*, section 6.

*serious offence*—see the *Act*, section 48 (7).

*young detainee*—see the *Children and Young People Act 2008*, section 95.

### 1.3 Information relating to applications for income replacement benefits

The following information about each application for income replacement benefits received or managed in the month:

- (a) if the applicant was in paid work before the motor accident—details of the work the applicant was in, including—
  - (i) the applicant’s occupation; and
  - (ii) the applicant’s work status; and
  - (iii) whether the applicant was employed by someone else or self-employed and the name of the applicant’s employer or business; and
  - (iv) the number of hours the applicant worked each week;
- (b) the applicant’s pre-injury income;
- (c) the date the applicant stopped paid work after the motor accident;
- (d) if the applicant returned to paid work after the motor accident—details of their return to work;
- (e) if the applicant has given the insurer a fitness for work certificate—details of the certificate.

**1.4 Information relating to applications for treatment and care benefits**

The following information about each application for treatment and care benefits received or managed in the month:

- (a) details of the applicant's injury and treatment;
- (b) if the applicant has a recovery plan—the status of the plan.

**1.5 Information relating to quality of life benefits applications**

The following information about each quality of life benefits application received or managed in the month:

- (a) if the applicant has had 1 or more WPI assessments—the timing and outcome of each assessment;
- (b) if a private medical examiner carried out a second WPI assessment of the applicant—the outcome of the assessment;
- (c) if the insurer receives a second WPI report for the applicant—
  - (i) the final WPI; and
  - (ii) the date of the final WPI offer.

**1.6 Information relating to applications for death benefits**

The following information about each application for death benefits received or managed in the month:

- (a) the date the insurer received the application;
- (b) the date the dead person died;
- (c) the date the insurer applied to the ACAT for an order for the payment of death benefits to the dead person's dependants;
- (d) the date of the ACAT's decision about the payment of death benefits;

- (e) if an applicant is represented by a lawyer for the application to the ACAT for the payment of death benefits to the dead person's dependants—the lawyer's name and contact details, including email address;
- (f) the number of the dead person's dependants who received a payment of death benefits;
- (g) details of any order made by the ACAT under the [Act](#), section 177 (1) (a), including the amount of death benefits ordered for each dependant.

### **1.7 Information relating to disputes about benefits applications**

The following information about each application for review of an internally reviewable decision received or managed in the month:

- (a) the date and reason for the application;
- (b) whether the application is a late application and, if so, the reason for allowing the applicant to make the late application;
- (c) details of the insurer's decision in relation to the application, including the date of the decision and the reasons for the decision;
- (d) if an application is made for external review of an ACAT reviewable decision that relates to the matter—
  - (i) the date and reference number of the application for external review; and
  - (ii) if the applicant is represented by a lawyer for the external review—the lawyer's name and contact details, including email address; and
  - (iii) details of the decision made by the ACAT, including the date of and reasons for the decision; and

- (iv) whether costs were awarded in relation to the application and, if so, the amount awarded.

## 1.8 Information relating to motor accident claims

The following information about each motor accident claim received or managed in the month:

- (a) the date of the notice of claim;  
(b) the kind of claim made;

**Examples—kind of claim**

- damages for future treatment and care
- damages for loss of earnings
- quality of life damages

- (c) whether the insurer accepts liability for the claim and, if so, the date the insurer notified the claimant about accepting liability;  
(d) if the insurer rejects liability for the claim—the reason for rejecting liability;

**Example—reason for rejecting liability**

the claimant is not entitled to make a claim

- (e) the status of the motor accident claim;  
(f) if there was contributory negligence by the claimant—the reason and the percentage of contributory negligence;  
(g) the details of a settlement offer;  
(h) details of court proceedings in relation to the motor accident claim, including the following:  
(i) the date of each proceeding;  
(ii) the jurisdiction in which each proceeding was undertaken;  
(iii) the status of the proceeding;

- (iv) the amount of any award of damages;
- (v) whether costs were awarded in relation to the proceedings and, if so, the amount awarded.

**Examples—costs**

- 1 legal fees and disbursements
- 2 investigation fees including medical examinations and expert reports

**1.9 Other information**

The following information for each application for defined benefits received or managed in the month:

- (a) the details of any SOI assessment of the applicant, including—
  - (i) the date of the assessment; and
  - (ii) whether the assessment confirmed that the injured person's injury has a significant occupational impact on the person's ability to undertake employment;
- (b) the details of an application for a future treatment payment by the applicant, including—
  - (i) any agreement on the future treatment payment under the [Act](#), section 223 (Future treatment payment—assessment and calculation); and
  - (ii) any determination on the future treatment payment under the [Act](#), section 224 (No agreement on future treatment payment—application to ACAT).



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## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- Australian citizen
- Commonwealth
- home address
- in relation to
- lawyer
- must (see s 146).

*Note 3* Terms used in this regulation have the same meaning that they have in the [Motor Accident Injuries Act 2019](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Motor Accident Injuries Act 2019](#), dict:

- ACAT reviewable decision
- claimant
- defined benefits (see s 33)
- dependant
- driving offence (see s 41)
- future treatment payment
- insurer
- licensed insurer
- MAI commission
- MAI insurance business
- motor accident (see s 10)
- motor accident claim (see s 228)
- nominal defendant (see s 16)
- paid work
- permanent resident
- private medical examiner

- quality of life benefits application (see s 137)
- recovery plan
- relevant insurer
- second WPI report (see s 158)
- SOI assessment
- valid trader's plate
- workers compensation scheme
- WPI
- WPI assessment.

*Note 4* The [Road Transport \(General\) Act 1999](#) contains definitions relevant to this Regulation. For example, the following terms are defined in the [Road Transport \(General\) Act 1999](#), dict:

- driver
- jurisdiction
- motor vehicle
- trader's plate.

***monthly return***—see section 5.

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## Endnotes

**1 Notification**

Notified under the [Legislation Act](#) on 27 February 2020.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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