

2009

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Road Transport (Third-Party Insurance) Amendment Bill 2009

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(As presented)

(Treasurer)

Road Transport (Third-Party Insurance) Amendment Bill 2009

A Bill for

An Act to amend the *Road Transport (Third-Party Insurance) Act 2008*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2008-422

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

1 **1 Name of Act**

2 This Act is the *Road Transport (Third-Party Insurance) Amendment*
3 *Act 2009*.

4 **2 Commencement**

5 This Act commences on the 5th day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the *Road Transport (Third-Party Insurance)*
10 *Act 2008*.

11 *Note 1* This Act also amends the *Road Transport (Third-Party Insurance)*
12 *Regulation 2008* (see sch 2).

13 *Note 2* This Act also amends the following legislation (see sch 3):

- 14 • *Duties Act 1999*
15 • *Road Transport (Offences) Regulation 2005*
16 • *Road Transport (Public Passenger Services) Act 2001*
17 • *Road Transport (Vehicle Registration) Act 1999*.

18 **4 Sections 12 to 14**

19 *omit*

1 **5 What is an *insured motor vehicle*?**
2 **Section 15**

3 *substitute*

4 **15 What is an *insured motor vehicle*?**

5 In this Act:

6 *insured motor vehicle* means a motor vehicle, or other thing,
7 insured under a CTP policy.

8 *Note* The motor vehicles and other things insured under a CTP policy are
9 mentioned in s 19.

10 **6 Offence—using uninsured motor vehicle on road or road**
11 **related area**
12 **Section 17 (2)**

13 *substitute*

14 (2) This section does not apply to a person who uses a motor vehicle on
15 a road or road related area if—

16 (a) there is an unregistered vehicle permit in force for the vehicle;
17 or

18 (b) the registration provisions do not apply to the vehicle because
19 of the *Road Transport (Vehicle Registration) Regulation 2000*,
20 part 2.2 (Vehicles not subject to registration provisions); or

21 (c) the vehicle is exempted from this section by regulation.

1 **7 Section 19**

2 *substitute*

3 **19 What is insured under a CTP policy?**

4 A CTP policy has the following subjects:

- 5 (a) a registered motor vehicle;
- 6 (b) a motor vehicle with a valid trader's plate attached;
- 7 (c) a trailer or anything else that—
- 8 (i) is attached to a vehicle mentioned in paragraph (a) or (b);
- 9 or
- 10 (ii) becomes detached from a vehicle mentioned in
- 11 paragraph (a) or (b) and runs out of control;
- 12 (d) anything else prescribed by regulation.

13 **8 What risks are not covered by a CTP policy?**

14 **Section 22 (2)**

15 *omit*

16 the owner or driver of a motor vehicle

17 *substitute*

18 the responsible person for a motor vehicle, or the driver of a motor

19 vehicle,

20 **9 Section 22 (2) (c)**

21 *omit*

22 owner

23 *substitute*

24 responsible person

1 **10 Section 23**

2 *substitute*

3 **23 Who is the CTP insurer?**

4 In this Act:

5 **CTP insurer** means—

6 (a) for an insured motor vehicle—

7 (i) that is a registered motor vehicle—the licensed insurer
8 selected under section 28 (Selecting at first registration)
9 or section 29 (Selecting at renewal of registration) as the
10 CTP insurer for the motor vehicle; or

11 (ii) with a valid trader's plate attached—the licensed insurer
12 selected under section 30 (Selecting when applying for
13 trader's plates) as the CTP insurer for a motor vehicle to
14 which the trader's plate may be attached; or

15 (b) for a trailer or other thing that is—

16 (i) mentioned in section 19 (c) (What is insured under a
17 CTP policy?)—the insurer for the motor vehicle to which
18 the trailer or thing is attached or becomes detached; or

19 (ii) prescribed by regulation under section 19 (d)—the entity
20 prescribed by regulation; or

21 (c) for a CTP insured person—the CTP insurer for the CTP policy
22 under which the person is insured; or

23 (d) for a CTP policy—the CTP insurer that issued the policy.

1 **11 Section 26**

2 *substitute*

3 **26 CTP policy not affected by transfer etc of vehicle or**
4 **trader's plate**

5 (1) A CTP policy for an insured motor vehicle is not affected by a
6 change in who is the responsible person for the vehicle.

7 (2) A CTP policy for a registered motor vehicle is not affected by a
8 transfer of the registration of the vehicle.

9 *Note* Registration of a vehicle may be transferred under the *Road Transport*
10 *(Vehicle Registration) Regulation 2000*, pt 4.2.

11 (3) A CTP policy for a motor vehicle with a trader's plate attached is
12 not affected by a transfer of the trader's plate.

13 *Note* A trader's plate may be transferred under the *Road Transport (Vehicle*
14 *Registration) Regulation 2000*, s 100.

15 (4) If the road transport authority becomes aware of any of the
16 following changes in relation to an insured motor vehicle, the road
17 transport authority must tell the CTP insurer for the motor vehicle
18 about the change:

19 (a) a change in who is the responsible person for the vehicle;

20 (b) a change in registration details of the vehicle;

21 (c) a change of person to whom a trader's plate is issued.

22 **12 What is a registered motor vehicle?**
23 **Section 30**

24 *relocate as section 12*

- 1 **13** **New section 30**
- 2 *in part 2.3, insert*
- 3 **30** **Selecting when applying for trader's plates**
- 4 If a person applies to the road transport authority for a trader's plate,
5 the person must also—
- 6 (a) select, in a way approved by the road transport authority, a
7 licensed insurer to be the CTP insurer under a CTP policy for a
8 motor vehicle to which the trader's plate may be attached for
9 the period for which the trader's plate is issued; and
- 10 (b) pay to the road transport authority the CTP premium for the
11 CTP policy for the period for which the trader's plate is issued.
- 12 *Note 1* The road transport authority may issue a trader's plate to a person
13 under the *Road Transport (Vehicle Registration)*
14 *Regulation 2000*, s 88.
- 15 *Note 2* CTP premiums must be decided in accordance with pt 2.6.
- 16 **14** **Section 32 heading**
- 17 *substitute*
- 18 **32** **CTP policy in effect while insurer on risk—registered**
19 **motor vehicles**
- 20 **15** **Section 32**
- 21 *omit*
- 22 a motor vehicle
- 23 *substitute*
- 24 a registered motor vehicle

1 **16 Insurer on risk—period of registration**
2 **Section 33 (1)**

3 *omit*

4 a motor vehicle

5 *substitute*

6 a registered motor vehicle

7 **17 Section 33 (2)**

8 *omit*

9 if registration

10 *substitute*

11 if the registration

12 **18 Section 33 (3)**

13 *omit*

14 A CTP insurer

15 *substitute*

16 The CTP insurer

17 **19 New section 33 (3), note**

18 *insert*

19 *Note* Cancellation of CTP policies is dealt with in s 36.

20 New sections 34A and 34B

in part 2.4, insert

34A CTP policy takes effect on attachment of trader's plate

If the road transport authority issues a trader's plate to a person, a CTP policy comes into force for a motor vehicle to which the trader's plate is attached—

- (a) when the trader's plate is attached to the motor vehicle; and
- (b) only if the trader's plate is a valid trader's plate.

34B CTP policy in effect while insurer on risk—trader's plates

- (1) A CTP policy for a motor vehicle with a valid trader's plate attached is in force for the period for which the CTP insurer is on risk under this section.
- (2) The CTP insurer of the motor vehicle is on risk for the period for which the valid trader's plate is attached to the motor vehicle.
- (3) The CTP insurer ceases to be on risk if the trader's plate is detached from the vehicle.
- (4) The CTP insurer ceases to be on risk if the CTP policy is cancelled.

Note Cancellation of CTP policies is dealt with in s 36A.

21 Section 36

substitute

36 CTP policy cancellation—registered vehicles

A CTP policy for a registered motor vehicle is cancelled if the registration of the motor vehicle is cancelled.

- 1 **36A CTP policy cancellation—trader’s plates**
- 2 (1) A CTP policy for a motor vehicle with a trader’s plate attached is
- 3 cancelled if—
- 4 (a) the road transport authority requires the person to whom the
- 5 trader’s plate was issued to return the plate to the authority
- 6 under the *Road Transport (Vehicle Registration)*
- 7 *Regulation 2000*—
- 8 (i) section 89 (Recall of trader’s plates); or
- 9 (ii) section 101 (Return of trader’s plate); or
- 10 (b) the trader’s plate is surrendered to the road transport authority
- 11 under the *Road Transport (Vehicle Registration)*
- 12 *Regulation 2000*, section 102 (Surrender of trader’s plates).
- 13 (2) However, the CTP policy is not cancelled if the person returns the
- 14 trader’s plate and the road transport authority issues a replacement
- 15 trader’s plate to the person under the *Road Transport (Vehicle*
- 16 *Registration) Regulation 2000*, section 89 (3).

17 **22 Section 59 heading**

18 *substitute*

19 **59 Who is the *nominal defendant*?**

20 **23 Section 59 (as amended)**

21 *relocate as section 13*

24 **New section 59**

in part 2.7, insert

59 **Nominal defendant liable—unregistered vehicle permits**

- (1) This section applies if—
- (a) a personal injury is caused by a motor accident; and
 - (b) at the time of the motor accident, an unregistered vehicle permit is in force for the motor vehicle involved in the motor accident; and
 - (c) the motor accident happened anywhere in Australia.

Note **Motor accident** is defined in s 7.
Personal injury is defined in s 6.

- (2) The nominal defendant is liable in relation to the personal injury as if—
- (a) a CTP policy were in force for the motor vehicle; and
 - (b) the nominal defendant were the CTP insurer for the CTP policy.

Note **CTP policy** is defined in s 18.

- (3) However, the nominal defendant is not liable in relation to the personal injury—
- (a) if—
 - (i) the motor accident happened on an area that is not a road and is open to or used by the public for driving, riding or parking vehicles; and
 - (ii) at the time the motor accident happened, the person injured was a trespasser on the land; or

Note The area described in subpar (i) is a road related area (see dict, def **road related area** par (a) (iv)).

- 1 (b) if the motor vehicle is owned by—
- 2 (i) the Commonwealth, or an entity representing the
- 3 Commonwealth; or
- 4 (ii) the Territory, or an entity representing the Territory; or
- 5 (c) if at the time the motor accident happened—
- 6 (i) the motor vehicle was registered under either the law of a
- 7 place other than the ACT or under a law of the
- 8 Commonwealth; and
- 9 (ii) the motor vehicle was—
- 10 (A) covered under a policy of compulsory third-party
- 11 insurance; or
- 12 (B) subject to coverage under a compulsory motor
- 13 vehicle or trailer accident compensation scheme of
- 14 that place or of the Commonwealth; or
- 15 (d) if a regulation prescribes that, in the circumstances, the
- 16 nominal defendant is not liable in relation to the personal
- 17 injury.

18 *Note* The nominal defendant is also not liable for the risks mentioned in s 22.

19 **25 What is an *uninsured motor vehicle*?**

20 **Section 60 (1) (c)**

21 *substitute*

- 22 (c) includes anything else prescribed by regulation; but
- 23 (d) does not include a motor vehicle for which an unregistered
- 24 vehicle permit is in force.

1 **26 Nominal defendant may deal with motor accident claim**
 2 **Section 64 (1) (b), note, third dot point**

3 *omit*

4 owner

5 *substitute*

6 responsible person

7 **27 Section 64 (as amended)**

8 *relocate to part 4.1 as section 83A*

9 **28 Nominal defendant to pay motor accident claims from**
 10 **nominal defendant fund**
 11 **New section 65 (1) (a)**

12 *substitute*

13 (a) an amount payable in satisfaction of a motor accident claim
 14 made, or judgment obtained, under—

15 (i) section 59 (Nominal defendant liable—unregistered
 16 vehicle permits); or

17 (ii) section 61 (Nominal defendant liable—uninsured motor
 18 vehicle); or

19 (iii) section 63 (Nominal defendant liable—unidentified
 20 motor vehicle); or

21 **29 Section 65 (2), note**

22 *substitute*

23 *Note* The nominal defendant fund is established under s 163B.

24 **30 Section 65 (as amended)**

25 *relocate to part 4.10A as section 163A*

1 **31 Nominal defendant fund**
2 **Section 66 (2)**

3 *substitute*

- 4 (2) The following must be paid into the nominal defendant fund:
- 5 (a) any penalties or penalty interest imposed under this Act;
- 6 (b) amounts recovered by the nominal defendant under this Act;
- 7 *Note* The nominal defendant may recover amounts under:
- 8 • s 172 (Insurer may recover costs if motor vehicle defective)
 - 9 • s 173 (Insurer may recover costs if fraud)
 - 10 • s 174 (Nominal defendant may recover costs from
 - 11 responsible person or driver)
 - 12 • s 242 (Nominal defendant may recover from insolvent
 - 13 insurer).
- 14 (c) amounts collected under section 163C;
- 15 (d) UVP liability contributions paid under section 163E;
- 16 (e) interest from time to time accruing from the investment of the
- 17 nominal defendant fund;
- 18 (f) amounts required to be paid into the nominal defendant fund
- 19 under this or another Act.

20 **32 Section 66 (3) (a)**

21 *omit*

22 section 65

23 *substitute*

24 section 163A

25 **33 Section 66 (as amended)**

26 *relocate to part 4.10A as section 163B*

1 **34 Collections for nominal defendant fund**
2 **Section 67**

3 *relocate to part 4.10A as section 163C*

4 **35 Mandatory final offers**
5 **Section 141, new note 2**

6 *insert*

7 *Note 2* A mandatory final offer for \$50 000 or less must be exclusive of any
8 amount for costs (see s 144 (1)).

9 **36 Section 144**

10 *substitute*

11 **144 Working out costs for mandatory final offers**

- 12 (1) A mandatory final offer for \$50 000 or less must be exclusive of any
13 amount for costs.
- 14 (2) If a mandatory final offer is for \$50 000 or less but for more than
15 \$30 000, and is accepted, costs must be worked out and paid in the
16 way prescribed by regulation.
- 17 (3) If a mandatory final offer is for \$30 000 or less, and is accepted,
18 costs must be \$0.

1 **37 New part 4.10A**

2 *after section 163, insert*

3 **Part 4.10A Nominal defendant fund**

4 **163D CTP regulator must decide contribution for nominal**
5 **defendant liability**

6 (1) The CTP regulator must decide an amount (the *UVP liability*
7 *contribution*) to be paid to fund the present and likely future
8 liability of the nominal defendant under this Act for claims in
9 relation to unregistered vehicle permits.

10 (2) The CTP regulator must make guidelines for UVP liability
11 contributions (*UVP liability contribution guidelines*).

12 (3) Without limiting subsection (2), the guidelines may provide for the
13 following:

14 (a) how UVP liability contributions are to be worked out;

15 (b) the factors to be taken into account in working out UVP
16 liability contributions.

17 (4) A UVP liability contributions guideline is a disallowable instrument.

18 *Note* A disallowable instrument must be notified, and presented to the
19 Legislative Assembly, under the Legislation Act.

1 **163E UVP liability contribution to be paid with unregistered**
2 **vehicle permit**

3 If a person applies to the road transport authority for an unregistered
4 vehicle permit for a motor vehicle, the person must also pay to the
5 road transport authority the UVP liability contribution for the period
6 of the permit.

7 *Note 1* Unregistered vehicle permits are issued under the *Road Transport*
8 *(Vehicle Registration) Act 1999*, s 7.

9 *Note 2* UVP liability contributions paid to the road transport authority under
10 this section must be paid into the nominal defendant fund (see s 163B).

11 **38 CTP insurer may recover costs if no authority to use**
12 **vehicle**
13 **Section 169 (1) (b)**

14 *substitute*

15 (b) the CTP insured person was, at the time of the motor accident,
16 using the motor vehicle—

17 (i) without the authority of the responsible person for the
18 vehicle; and

19 (ii) without lawful justification or excuse; and

20 (iii) without reasonable grounds for believing that the
21 CTP insured person had the authority of the responsible
22 person, or lawful justification or excuse, for using the
23 motor vehicle.

1 **39 Section 174**

2 *substitute*

3 **174 Nominal defendant may recover costs from responsible**
4 **person or driver**

- 5 (1) This section applies if personal injury is caused by a motor accident
6 involving an uninsured motor vehicle or an unidentified motor
7 vehicle.

8 *Note* The nominal defendant is liable in relation to uninsured motor vehicles
9 (see s 61), and unidentified motor vehicles (see s 63).

- 10 (2) The nominal defendant may recover as a debt from the responsible
11 person for the vehicle, or the driver of the vehicle, or both, any costs
12 reasonably incurred by the nominal defendant for a motor accident
13 claim for the personal injury.

- 14 (3) It is a defence to a proceeding under this section against the
15 responsible person for the vehicle if the responsible person proves
16 that—

17 (a) the motor vehicle was driven without the authority of the
18 responsible person; or

19 (b) the responsible person believed on reasonable grounds that the
20 motor vehicle was insured.

- 21 (4) It is a defence to a proceeding under this section against the driver
22 for the driver to prove that the driver believed on reasonable
23 grounds that—

24 (a) the driver had the responsible person's consent to drive the
25 motor vehicle; and

26 (b) the motor vehicle was insured.

- 1 (5) The nominal defendant may bring a proceeding for recovery of costs
 2 under this section before the costs have been actually paid in full
 3 and, in that case, a judgment for recovery of costs may provide that,
 4 as far as the costs have not been actually paid, the right to recover
 5 the costs is contingent on payment.
- 6 (6) This section does not affect a right of recovery that the nominal
 7 defendant may have, apart from this section, against the insured
 8 person.
- 9 *Note* An amount recovered under this section must be paid into the nominal
 10 defendant fund (see s 163B).

11 **40 Offence—contravening licence condition**
 12 **Section 188 (2), notes 1 and 2**

13 *substitute*

14 *Note 1* Penalties imposed under this Act must be paid into the nominal
 15 defendant fund (see s 163B).

16 *Note 2* Contravention of a licence condition is also grounds for—

- 17 • suspension of the CTP insurer licence (see s 194)
- 18 • the CTP regulator to apply to the ACAT for an occupational
 19 discipline order in relation to the licensed insurer (see pt 5.4).

20 However, if a licensed insurer is convicted of an offence under this
 21 section, the ACAT must not order the licensed insurer to pay an amount
 22 to the Territory or someone else in relation to the same act or omission
 23 (see s 202 (3)).

24 **41 Grounds for licence suspension—contraventions**
 25 **Section 194 (1) (b)**

26 *substitute*

- 27 (b) a condition of the insurer's CTP insurer licence; or

1 **42 Section 194 (2), note 2**

2 *substitute*

3 *Note 2* The grounds in s (1) are also grounds for the CTP regulator to apply to
4 the ACAT for an occupational discipline order in relation to the licensed
5 insurer (see pt 5.4).

6 **43 Part 5.4**

7 *substitute*

8 **Part 5.4 Occupational discipline**

9 **198 Meaning of *licensed insurer*—pt 5.4**

10 In this part:

11 *licensed insurer* includes a former licensed insurer.

12 **199 CTP regulator may choose occupational discipline
13 instead of prosecution**

14 In regulating the operation of licensed insurers, the CTP regulator
15 may, but need not, choose to apply to the ACAT for an occupational
16 discipline order in relation to licensed insurers rather than pursuing
17 a prosecution under this Act if the CTP insurer believes on
18 reasonable grounds it would be in the public interest to do so.

19 *Note* The CTP regulator may apply to the ACAT under s 201.

20 **200 Grounds for occupational discipline**

21 (1) Each of the following is a *ground for occupational discipline* in
22 relation to a licensed insurer:

23 (a) the licensed insurer has contravened this Act;

24 (b) the licensed insurer has contravened a condition of the
25 insurer's CTP insurer licence;

- 1 (c) the licensed insurer has contravened the insurance industry
2 deed;
- 3 (d) the licensed insurer has contravened, or is contravening, an
4 occupational discipline order;
- 5 (e) the licensed insurer's licence was obtained by fraud or mistake;
- 6 (f) another ground prescribed by regulation.

7 *Note* A reference to an Act includes a reference to the statutory instruments
8 made or in force under the Act, including any regulation (see
9 Legislation Act, s 104).

- 10 (2) However, subsection (1) (a), (b) and (c) apply to a former licensed
11 insurer only in relation to anything that happened while the person
12 was licensed.

13 *Note* The grounds in s (1) (a), (b) and (c) are also the grounds for licence
14 suspension under s 194.

15 **201 Applications to ACAT for occupational discipline**

16 If the CTP regulator believes on reasonable grounds that a ground
17 for occupational discipline exists in relation to a licensed insurer, the
18 CTP regulator may apply to the ACAT for an occupational
19 discipline order in relation to the licensed insurer.

20 **202 Occupational discipline orders**

- 21 (1) This section applies if the ACAT may make an occupational
22 discipline order in relation to a licensed insurer.

23 *Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out
24 when the ACAT may make an order.

- 25 (2) In addition to any other occupational discipline order that the ACAT
26 may make, the ACAT may require the licensed insurer to pay an
27 amount to the Territory or someone else, of not more than—

- 28 (a) if the licensed insurer is an individual—\$10 000; or

- 1 (b) if the licensed insurer is a corporation—\$50 000.
- 2 *Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other
3 occupational discipline orders the ACAT may make.
- 4 (3) However, if a licensed insurer is convicted of an offence under
5 section 188 (Offence—contravening licence condition) in relation to
6 an act or omission, the ACAT must not make an occupational
7 discipline order requiring the licensed insurer to pay an amount to
8 the Territory or someone else in relation to the same act or omission.
- 9 (4) If the ACAT orders a licensed insurer to pay an amount, the amount
10 must be paid into the nominal defendant fund.

11 **44 Section 273 heading**

12 *substitute*

13 **273 Who is the CTP regulator?**

14 **45 New section 273 (4)**

15 *insert*

- 16 (4) The CTP regulator may delegate the CTP regulator's functions
17 under the road transport legislation to a public employee.

18 *Note* For the making of delegations and the exercise of delegated functions,
19 see the Legislation Act, pt 19.4.

20 **46 Section 273 (as amended)**

21 *relocate as section 14*

22 **47 Delegation of CTP regulator's functions**
23 **Section 274**

24 *omit*

1 **48** **Regulation-making power**
2 **Section 277 (2) and note**

3 *substitute*

4 (2) A regulation may deal with the CTP premium board.

5 *Note* The CTP premium board is established in s 47.

6 **49** **Section 277 (4)**

7 *omit*

8 **50** **New part 9.1 heading**

9 *insert*

10 **Part 9.1** **Transitional—Road Transport**
11 **(Third-Party Insurance) Act 2008**

12 **51** **Section 280 heading**

13 *substitute*

14 **280** **Definitions—pt 9.1**

15 **52** **Section 280**

16 *omit*

17 chapter

18 *substitute*

19 part

1 **53 Section 286**

2 *omit*

3 chapter

4 *substitute*

5 part

6 **54 Section 287 heading**

7 *substitute*

8 **287 Expiry—pt 9.1**

9 **55 Section 287**

10 *omit*

11 chapter

12 *substitute*

13 part

56 New part 9.2

after section 287, insert

**Part 9.2 Transitional—Road Transport
(Third-Party Insurance)
Amendment Act 2009**

288 Definitions—pt 9.2

In this part:

commencement day means the day the *Road Transport (Third-Party Insurance) Amendment Act 2009*, section 3 commences.

former CTP provisions means the *Road Transport (Third-Party Insurance) Act 2008* as in force immediately before the commencement day.

Note 1 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

Note 2 Under the *Road Transport (Third-Party Insurance) Regulation 2008*, s 101, the *Road Transport (General) Act 1999*, part 10 (repealed) as in force immediately before the commencement day continues to apply in relation to trader's plates as if the *Road Transport (Third-Party Insurance) Act 2008* had not been enacted.

third-party policy means an insurance policy issued under the former CTP provisions.

289 Transitional—personal injury claims

- (1) This section applies to a third-party policy, for a motor vehicle with a valid trader's plate attached, that was in force immediately before the commencement day.

- 1 (2) The third-party policy continues in force until the earlier of the
2 following:
- 3 (a) the policy is replaced by a CTP insurance policy;
- 4 (b) the motor vehicle no longer has a valid trader's plate attached.
- 5 (3) If personal injury arises out of a motor vehicle accident that
6 happened before the commencement day, a claim for the personal
7 injury must be dealt with as if the *Road Transport (Third-Party
8 Insurance) Amendment Act 2009* had not been enacted.
- 9 (4) To remove any doubt, if personal injury arises out of a motor
10 vehicle accident that happens on or after the commencement day, a
11 claim for the personal injury must be dealt with under this Act, even
12 if the accident happens while a third-party policy under the former
13 CTP provisions is in force in relation to the risk.

14 **290 Expiry—pt 9.2**

15 This part expires 1 year after the commencement day.

16 **57 Dictionary, note 2**

17 *insert*

- 18 • ACAT
- 19 • occupational discipline order

20 **58 Dictionary, definition of *ground for disciplinary action***

21 *substitute*

22 *ground for occupational discipline*—see section 200.

23 **59 Dictionary, definition of *licensed insurer*, paragraph (b)**

24 *substitute*

25 (b) for part 5.4 (Occupational discipline)—see section 198.

60 Dictionary, definition of *owner*

omit

61 Dictionary, new definitions

insert

responsible person, for a vehicle—see the *Road Transport (General) Act 1999*, section 10 and section 11.

trader's plate—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

unregistered vehicle permit—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

UVP liability contribution—see section 163D.

valid trader's plate means a trader's plate that—

- (a) is issued by the road transport authority to a person; and
- (b) the road transport authority has not required the person to return to the authority under the *Road Transport (Vehicle Registration) Regulation 2000*—
 - (i) section 89 (Recall of trader's plates); or
 - (ii) section 101 (Return of trader's plate); and
- (c) has not been surrendered to the road transport authority under the *Road Transport (Vehicle Registration) Regulation 2000*, section 102 (Surrender of trader's plates).

1 **Schedule 1 Road Transport (Third-Party**
2 **Insurance) Act 2008—Other**
3 **amendments**

4 (see s 3)

5 **[1.1] Section 17, note**

6 *omit*

7 s 66

8 *substitute*

9 s 163B

10 **[1.2] Section 263 (c)**

11 *omit*

12 *Magistrates Court Act 1930*, section 132

13 *substitute*

14 *Road Transport (General) Act 1999*, section 51

15 **[1.3] Section 263 (c) (i)**

16 *omit*

17 section 132

18 *substitute*

19 section 51

- 1 **[1.4] Dictionary, definition of *CTP regulator***
- 2 *omit*
- 3 section 273
- 4 *substitute*
- 5 section 14
- 6 **[1.5] Dictionary, definition of *nominal defendant***
- 7 *omit*
- 8 section 59
- 9 *substitute*
- 10 section 13
- 11 **[1.6] Dictionary, definition of *nominal defendant fund***
- 12 *omit*
- 13 section 66
- 14 *substitute*
- 15 section 163B
- 16 **[1.7] Dictionary, definition of *registered motor vehicle***
- 17 *omit*
- 18 section 30
- 19 *substitute*
- 20 section 12

1 **[1.8] Further amendments, mentions of s 66**

2 *omit*

3 s 66

4 *substitute*

5 s 163B

6 *in*

- 7 • section 112, note
- 8 • section 116, note
- 9 • section 172, note
- 10 • section 173, note
- 11 • section 180, note
- 12 • section 190, note
- 13 • section 197, note
- 14 • section 221, note
- 15 • section 222, note
- 16 • section 225, note
- 17 • section 229, note
- 18 • section 233, note
- 19 • section 234, note
- 20 • section 235, note
- 21 • section 236, note
- 22 • section 242, note
- 23 • section 243, note
- 24 • section 244, note
- 25 • section 245, note
- 26 • section 253, note
- 27 • section 277 (3), note 1

1 **Schedule 2 Road Transport (Third-Party**
2 **Insurance) Regulation 2008—**
3 **Consequential amendments**

4 (see s 3)

5 **[2.1] Section 8, definition of *CTP premium class*, paragraph (a)**

6 *substitute*

- 7 (a) a kind of motor vehicle or trader's plate mentioned in column 2
8 for the item; and

9 **[2.2] Sections 10 to 13**

10 *substitute*

11 **10 CTP premium if vehicle or plate in multiple classes**

- 12 (1) This section applies if a motor vehicle or trader's plate fits into 2 or
13 more CTP premium classes.
14 (2) The maximum CTP premium payable for a CTP policy for the
15 vehicle or plate is the higher of the maximum premiums that apply
16 to the vehicle or plate.

17 **11 CTP premiums for policies for less than 1 year**

- 18 (1) This section applies if a person—
19 (a) registers a motor vehicle for less than 1 year; or
20 (b) renews the registration of a motor vehicle for less than 1 year;
21 or
22 (c) is issued with a trader's plate for less than 1 year.

23 *Note* A CTP premium for a CTP policy must be paid when—

- 24 (a) registering a vehicle (see Act, s 28); and

Amendment [2.3]

- 1 (b) renewing the registration of a vehicle (see Act, s 29); and
2 (c) when applying for a trader's plate (see Act, s 30).
- 3 (2) The maximum CTP premium payable for a CTP policy for the
4 vehicle or plate must be worked out in accordance with the
5 CTP premium guidelines.
- 6 **12 Additional CTP premium payable if change in**
7 **construction or use of vehicle**
- 8 (1) This section applies if—
- 9 (a) a CTP premium (the *original premium*) has been paid for a
10 CTP policy for a motor vehicle; and
- 11 (b) a change is made in the construction or use of the motor
12 vehicle; and
- 13 (c) because of the change, a higher CTP premium than the original
14 premium would be payable if a new CTP policy were issued
15 for the motor vehicle.
- 16 (2) The owner of the motor vehicle is liable to pay an additional
17 CTP premium, starting on the day the change happens, worked out
18 in accordance with the CTP premium guidelines.

19 **[2.3] Section 15 heading**

20 *omit*

21 **s 67 (1)**

22 *substitute*

23 **s 163C (1)**

- 1 **[2.4] Section 15**
- 2 *omit*
- 3 section 67 (1)
- 4 *substitute*
- 5 section 163C (1)
- 6 **[2.5] Section 15 (as amended)**
- 7 *relocate to part 6 as section 30A*
- 8 **[2.6] Section 16 heading**
- 9 *omit*
- 10 **s 67 (1) (b)**
- 11 *substitute*
- 12 **s 163C (1) (b)**
- 13 **[2.7] Section 16 (1)**
- 14 *omit*
- 15 section 67 (2)
- 16 *substitute*
- 17 section 163C (2)
- 18 **[2.8] Section 16 (as amended)**
- 19 *relocate to part 6 as section 30B*

Amendment [2.9]

- 1 **[2.9] Section 17 heading**
- 2 *omit*
- 3 **s 67 (1) (b)**
- 4 *substitute*
- 5 **s 163C (1) (b)**
- 6 **[2.10] Section 17 (1)**
- 7 *omit*
- 8 section 16
- 9 *substitute*
- 10 section 30B
- 11 **[2.11] Section 17 (as amended)**
- 12 *relocate to part 6 as section 30C*
- 13 **[2.12] Section 18 heading**
- 14 *omit*
- 15 **s 67 (1) (b)**
- 16 *substitute*
- 17 **s 163C (1) (b)**
- 18 **[2.13] Section 18 (as amended)**
- 19 *relocate to part 6 as section 30D*

1 **[2.14] Section 32 (5), definition of *required further claim details*,**
2 **paragraphs (b) and (c)**

3 *substitute*

4 (b) the make, model, type and year of manufacture of each motor
5 vehicle involved in the motor accident for the claim;

6 (ba) for each registered motor vehicle involved in the motor
7 accident for the claim—the registration number of the motor
8 vehicle;

9 (bb) for each motor vehicle with a valid trader's plate attached that
10 is involved in the motor accident for the claim—the unique
11 identifying number on the trader's plate;

12 (c) the name and address of—

13 (i) the responsible person for each motor vehicle involved in
14 the motor accident for the claim; and

15 (ii) the driver of each motor vehicle involved in the motor
16 accident for the claim;

17 **[2.15] Part 20**

18 *omit*

19 **[2.16] Schedule 1, clause 1.1, definition of *any other vehicle***

20 *substitute*

21 ***any other vehicle*** means a vehicle that—

22 (a) must be registered under the *Road Transport (Vehicle*
23 *Registration) Act 1999*; and

24 (b) is not a vehicle mentioned in part 1.2, table.

Amendment [2.17]

1 **[2.17] Schedule 1, clause 1.1, definition of *business use***

2 *substitute*

3 *business use*—a vehicle, or trader’s plate is for *business use* if there
4 is an entitlement to claim an input tax credit in relation to the
5 CTP policy for the vehicle or plate.

6 **[2.18] Schedule 1, clause 1.1, definition of *private use***

7 *substitute*

8 *private use*—a vehicle, or trader’s plate, is for *private use* if there is
9 no entitlement to claim an input tax credit in relation to the
10 CTP policy for the vehicle or plate.

11 **[2.19] Schedule 1, part 1.2, column 2 heading**

12 *substitute*

column 2 kind of motor vehicle or trader’s plate

13 **[2.20] Schedule 1. part 1.2, items 17.1 to 20.2**

14 *substitute*

17.1	trader’s plate		private
17.2	trader’s plate		business
18.1	undertaker’s vehicle		private
18.2	undertaker’s vehicle		business
19.1	veteran vehicle		private
19.2	veteran vehicle		business
20.1	vintage vehicle		private

20.2	vintage vehicle		business
21.1	any other vehicle		private
21.2	any other vehicle		business

1 **[2.21] Schedule 20**

2 *omit*

3 **[2.22] Dictionary, note 3**

4 *omit*

- 5
 - CTP regulator (see s 273)

6 *substitute*

- 7
 - CTP regulator (see s 14)

8 **[2.23] Dictionary, note 3**

9 *omit*

- 10
 - nominal defendant (see s 59)

11 *substitute*

- 12
 - nominal defendant (see s 13)

13 **[2.24] Dictionary, note 3**

14 *insert*

- 15
 - trader's plate
 - unregistered vehicle permit
 - valid trader's plate

18 **[2.25] Dictionary, definition of *collection notice***

19 *omit*

20 section 17

21 *substitute*

22 section 30C

Schedule 2 Road Transport (Third-Party Insurance) Regulation 2008—Consequential amendments

Amendment [2.26]

- 1 **[2.26] Dictionary, definition of *due date***
- 2 *omit*
- 3 section 17
- 4 *substitute*
- 5 section 30C
- 6 **[2.27] Dictionary, definition of *prescribed person***
- 7 *omit*
- 8 section 15
- 9 *substitute*
- 10 section 30A

1 **Schedule 3** **Other amendments**

2 (see s 3)

3 **Part 3.1** **Duties Act 1999**

4 **[3.1]** **Section 175, definition of *third-party insurance*, new**
5 **example**

6 *insert*

7 **Example**

8 Third-party insurance under the *Road Transport (Third-Party Insurance)*
9 *Act 2008*.

10 *Note* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 Legislation Act, s 126 and s 132).

1 **Part 3.2 Road Transport (Offences) Regulation 2005**

2 **[3.2] Schedule 1, part 1.10, new items 26A and 26B**

3 *insert*

26A	111 (1)	accredited operator not maintain required public passenger vehicle policy	50	494	
26B	112 (2)	accredited operator not produce evidence public passenger vehicle policy in force	20		

1 **[3.3] Schedule 1, part 1.13A**

2 *substitute*

3 **Part 1.13A Road Transport (Third-Party Insurance) Act 2008**

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
1	17 (1)	use uninsured motor vehicle on road or road related area	50	484	
2	112	party not give document/information as required	100		
3	116 (1)	knowingly make false/misleading statement	100pu/1 year prison/both		

Schedule 3 Other amendments
Part 3.2 Road Transport (Offences) Regulation 2005

Amendment [3.3]

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
4	116 (2)	recklessly make false/misleading statement	50pu/ 6 months prison/both		
5	180 (1)	issue CTP policy while not licensed insurer	100		
6	180 (2)	purport to issue CTP policy while not licensed insurer	100		
7	188	licensed insurer contravene condition of CTP insurer license	100		
8	190	engage in conduct that would, if licensed insurer, contravene condition of CTP insurer licence	100		
9	197	licensed insurer issue CTP policy while license suspended	100		

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
10	221 (1) (a)	licensed insurer not keep records prescribed by regulation	100		
11	221 (1) (b)	licensed insurer not keep records directed by CTP regulator	100		
12	222 (1) (a)	licensed insurer not give records prescribed by regulation to CTP regulator	100		
13	222 (1) (b)	licensed insurer not give records directed by CTP regulator to CTP regulator	100		
14	222 (2) (a)	licensed insurer not give returns as prescribed by regulation	100		
15	222 (2) (b)	licensed insurer not give returns as directed by CTP regulator	100		

Schedule 3 Other amendments
Part 3.2 Road Transport (Offences) Regulation 2005

Amendment [3.3]

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
16	222 (3) (a)	licensed insurer not include in return details prescribed by regulation	100		
17	222 (3) (b)	licensed insurer not include in return details directed by CTP regulator	100		
18	222 (4) (a)	licensed insurer not include with return document prescribed by regulation	100		
19	222 (4) (b)	licensed insurer not include with return document directed by CTP regulator	100		
20	222 (5) (a)	licensed insurer not give return to CTP regulator not later than 6 weeks after end of quarter	100		
21	222 (5) (b)	licensed insurer not give return to CTP regulator not later than other stated time	100		

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
22	225	licensed insurer not provide all reasonable assistance requested by auditor	100		
23	229 (1)	licensed insurer/former licensed insurer not comply with request for information etc	100		
24	233	contravene court order made to protect interests of CTP policy holders	20 pu/ 6 months prison/both		
25	234	licensed insurer/former licensed insurer not tell CTP regulator about event/thing in writing within 21 days	100		
26	235	licensed insurer not tell CTP regulator about decrease/proposed decrease in issued capital of the insurer in writing within 21 days	100		

Schedule 3 Other amendments
Part 3.2 Road Transport (Offences) Regulation 2005

Amendment [3.3]

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
27	236 (1)	licensed insurer not tell CTP regulator about receiving bidder's statement or target's statement in writing within 21 days	100		
28	243	liquidator of insolvent insurer not give motor accident claim about CTP policy issued by insolvent insurer to nominal defendant	20		
29	244	liquidator of insolvent company not give information to nominal defendant within 45 days after request	20		
30	245	liquidator of insolvent insurer not allow person authorised by Minister to inspect documents within 45 days after request	20		

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
31	253 (2)	not take all reasonable steps to comply with requirement of authorised person	50		
32	269 (3)	licensed insurer not give CTP regulator periodic return/information required by CTP regulator	150		
33	271 (2) (a)	make record of protected information about someone else	50pu/ 6 months prison/both		
34	271 (2) (b)	divulge protected information about someone else	50pu/ 6 months prison/both		

1 **Part 1.13B Road Transport (Third-Party Insurance) Regulation 2008**

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
1	30D	licensed insurer not pay amount in collection notice on/before due date	20		

1 **Part 3.3** **Road Transport (Public**
2 **Passenger Services) Act 2001**

3 **[3.4] New part 8A**

4 *insert*

5 **Part 8A** **Additional public passenger**
6 **vehicle insurance**

7 **110** **Definitions—pt 8A**

8 In this part:

9 *accredited operator*, of a public passenger vehicle, means a person
10 who is accredited to operate the public passenger service for which
11 the vehicle is operated.

12 *public passenger vehicle policy* means a policy that—

- 13 (a) is issued (or renewed) by a corporation authorised under the
14 *Insurance Act 1973* (Cwlth); and
15 (b) insures the accredited operator of the public passenger vehicle
16 to which the policy applies against liability in relation to
17 damage to property caused by, or arising out of the use of, the
18 vehicle anywhere in Australia (whether or not on a road or
19 road related area).

20 **111** **Public passenger vehicle insurance compulsory**

21 (1) The accredited operator of a public passenger vehicle commits an
22 offence if—

- 23 (a) the accredited operator operates the public passenger vehicle;
24 and

1 (b) there is no public passenger vehicle policy for at least
2 \$5 000 000 for the vehicle.

3 Maximum penalty: 50 penalty units.

4 (2) To remove any doubt, it is irrelevant that a public passenger vehicle
5 policy also insures the accredited operator against other risks.

6 **112 Police officer or authorised person may require evidence**
7 **of public passenger vehicle insurance**

8 (1) A police officer or authorised person may require the accredited
9 operator of a public passenger vehicle to produce evidence that a
10 public passenger vehicle policy is in force for the vehicle.

11 (2) The accredited operator must not fail to produce the evidence when
12 required to do so.

13 Maximum penalty: 20 penalty units.

14 (3) It is a defence to an offence against subsection (2) if—

15 (a) the accredited operator has a reasonable excuse for failing to
16 produce the evidence when required to do so; and

17 (b) within 3 days after being required to produce the evidence,
18 produces the evidence at a place prescribed by regulation or as
19 directed by the police officer or authorised person.

20 **Part 3.4 Road Transport (Vehicle**
21 **Registration) Act 1999**

22 **[3.5] Section 7 (d), new note**

23 *insert*

24 *Note* If a person applies to the road transport authority for an unregistered
25 vehicle permit, the person must, in addition to any fee for the permit,
26 pay the UVP liability contribution for the period of the permit (see the
27 *Road Transport (Third-Party Insurance) Act 2008*, s 163E).

1 **[3.6] Section 31**

2 *substitute*

3 **31 Vehicles with unregistered vehicle permits taken to be**
4 **registered**

5 (1) If an unregistered vehicle permit is in force for an unregistered
6 registrable vehicle, the vehicle is taken to be a registered vehicle
7 for—

8 (a) this Act; and

9 (b) any other law about the registration or licensing of vehicles.

10 *Note* A reference to an Act includes a reference to the statutory instruments
11 made or in force under the Act, including any regulation (see
12 Legislation Act, s 104).

13 (2) However, subsection (1) does not apply to the *Road Transport*
14 *(Third-Party Insurance) Act 2008*.

15 **Part 3.5 Road Transport (Vehicle**
16 **Registration) Regulation 2000**

17 **[3.7] Section 88 (1), new note**

18 *insert*

19 *Note* If a person applies to the road transport authority for a trader's plate, the
20 person must also select a CTP insurer for a CTP policy for motor
21 vehicles to which the trader's plate may be attached and pay the
22 CTP premium for the CTP policy (see the *Road Transport (Third-Party*
23 *Insurance) Act 2008*, s 30).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2009.

2 Notification

Notified under the Legislation Act on 2009.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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