

2000

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

ROAD TRANSPORT (GENERAL) ACT 1999

ROAD TRANSPORT (THIRD-PARTY INSURANCE) REGULATIONS 2000

Subordinate Law No. 6 of 2000

EXPLANATORY STATEMENT

**Circulated by the Authority of Minister for Urban Services
Brendan Smyth MLA**

Overview of Regulations

The *Road Transport Legislation Amendment Act 1999* provides for the repeal of the former *Motor Vehicle (Third Party Insurance) Regulations 1947* ('the former regulations').

Subsection 232 (1) of the *Road Transport (General) Act 1999* ('the Act') provides that the Executive may make regulations for the purposes of the Act.

The *Road Transport (Third-Party Insurance) Regulations 2000* ('the regulations') prescribe matters necessary to give effect to Part 10 (Compulsory Vehicle Insurance) of the Act.

The regulations are substantially the same in their effect as the former regulations. They have been simplified where possible compared with the former regulations and are drafted in accordance with contemporary legislative drafting practice.

Financial Implications

Maximum premiums payable in accordance with the Schedule to the regulations are unchanged from the premiums payable under the former regulations at the time of their repeal.

The \$1.50 road safety contribution allocated to the NRMA-ACT Road Safety Trust to fund road safety initiatives is also unchanged.

Details

Regulation 1 sets out the name of the regulations.

Regulation 2 provides for the regulations to commence when the *Road Transport (General) Act 1999* commences.

Regulation 3 provides that certain expressions and words used in the regulations have the meanings set out in the Dictionary at the end of the regulations.

Regulation 4 provides that notes included in the regulations are explanatory and do not form part of the regulations.

Regulation 5 prescribes the terms for a third-party policy for the purposes of paragraph 163 (b) of the Act. The terms of a third-party policy, as prescribed, require the insurer to insure the owner of the insured motor vehicle, and any other driver of the vehicle, against liability in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of the vehicle anywhere in Australia. The policy is not limited to the vehicle's use on a road or road related area. Terms used in the policy have the same meanings as in Part 10 of the Act.

Regulation 6 prescribes the terms for a public vehicle policy for the purposes of paragraph 217 (b) of the Act. The terms of a public vehicle policy, as prescribed, require the insurer to insure the owner of the public vehicle (and any other driver of the vehicle) against liability in relation to damage to property caused by, or arising out of the use of the vehicle anywhere in Australia. The policy must provide minimum coverage of \$5 million and is not limited to the vehicle's use on a road or road related area. Terms used in the policy have the same meanings as in Part 10 of the Act.

Regulation 7 requires an authorised insurer to provide the road transport authority with a return containing required insurance particulars for the year ending on 31 December by 30 April in the next year. The regulation specifies that these insurance particulars include details of premiums received, claims paid and persons insured in relation to third-party policies. The road transport authority must notify the insurer by 1 February as to the required particulars for the previous year. Subregulation 7 (1) is an offence provision with a maximum penalty of 20 penalty units.

Regulation 8 requires an insurer to replace a lost, stolen, destroyed or damaged third-party certificate of insurance or public vehicle policy on request.

[*Note: Under subsections 165 (3) and (4) of the Act, a nominated approved authorised insurer is deemed to have issued a third-party certificate of insurance if the vehicle owner pays the correct premium to the road transport authority when the vehicle is registered. Evidence of the payment of the third-party insurance premium is in this case included on the certificate of registration. Subregulation 40 (3) of the *Road Transport (Vehicle Registration) Regulations 2000* provides for the road transport authority to replace a certificate of registration if satisfied that the original is lost, stolen or damaged or has been destroyed.]

Regulation 9 requires the owner of vehicle not to use the vehicle for a different purpose not covered by the vehicle's third-party policy unless the owner pays any additional premium payable for the correct premium classification for that purpose. Subregulation 9 (2) is an offence provision with a maximum penalty of 20 penalty units.

Regulation 10 provides for the premium classifications set out and defined in columns 2 and 3 of the Schedule to be used to work out the maximum premium payable for a particular vehicle.

Regulation 11 provides for the premium payable for a vehicle classified in column 2 of the Schedule will be the applicable amount listed in column 5 of the Schedule for a one year policy. For a short term policy, a formula is provided for working out the amount payable on a pro-rata basis. (Premiums for short term policies were calculated in the same way under the former regulations.)

Regulation 12 provides for the higher premium to be payable where more than one premium classification applies to a vehicle.

Regulation 13 provides for an additional premium to be payable for the remainder of the term of the policy in accordance with a formula if a change the construction, use, ownership or garaging address of a vehicle puts it into a premium classification with a higher premium. (Additional premium amounts were calculated in the same way under the former regulations.)

Regulation 14 provides for the premium otherwise applicable to a third-party issued on or after 1 December 1999 and before 1 July 2000 to be increased to include:

- the Goods and Services Act (GST) to the portion of policies (issued on or after that date and 30 June 2000) extending beyond 30 June 2000; and
- other *A New Tax System* (ANTS) impacts on Third-Party Insurance (TPI) scheme costs for policies issued between those dates.

In the transitional period between 1 July 1999 and 30 June 2000 the ANTS tax reforms and the GST affect TPI premiums in several ways. Firstly, section 12 of the *A New Tax System (Goods & Services Tax) Transition Act 1999* (which relates to periodic supplies) provides that the GST is payable, on a gradually increasing pro-rata basis, to that part of the premium which relates to the portion of the policy coverage from 1 July 2000 onwards.

The supply of a service (such as TPI insurance) under an agreement or an enactment over a period commencing before 1 July 2000 and ending after that date is deemed to be made continuously and uniformly throughout the period of supply. This makes the insurer liable to pay GST on any policy taken out before 1 July 2000 in respect of that portion of the policy (calculated on a pro-rata basis) that relates to the policy coverage from that date onwards.

Secondly, the GST increases many of the insurer's costs of managing the TPI scheme. Due to the length of time taken to resolve claims, most costs incurred by the insurer in relation to vehicle crashes occurring in 1999/2000 will actually be paid after 30 June 2000. The insurer will (with the exception of medical and analogous costs, which are GST-exempt) incur the GST on these expenses but will not be able to claim input credits in relation to claims for crashes occurring in 1999/2000.

Claim costs for crashes occurring on or after 1 July 2000 will also incur the GST (in addition to the GST on premiums); however, in this case these costs will be offset by the insurer's ability to claim GST input credits.

Costs affected by the GST include incident estimates and insurance company expenses (eg costs for investigations, expert reports, and the expenses of advisers and witnesses), domestic assistance for claimants, certain elements of ancillary costs and compensation to relatives (eg funeral expenses), and legal expenses for both claimants and the insurer.

Health services are GST-exempt. This includes the full range of medical costs arising from TPI claims (eg medical consultations, hospital accommodation, physiotherapy, chiropractic, speech and occupational therapy, optometry and pathology). This exemption extends to rehabilitation and modification costs (eg rehabilitation assessment and therapy, medical appliances and aids, and necessary modifications to motor vehicles) and attendant care, including nursing costs.

Court-awarded compensation for loss of earnings and loss of future earnings is based on the claimant's estimated net (ie after tax) earning capacity. As income tax rates are being reduced from 1 July 2000, in conjunction with the introduction of the GST, this will result in higher TPI awards for loss of earnings. Ernst & Young ABC, the Government's actuaries, estimate that this component of awards is likely to increase by approximately 6%.

For TPI policies commencing between 1 December 1999 and 30 June 2000, regulation 14 provides for TPI premiums to be increased using a formula that applies the 10% GST to the post 30 June 2000 portion of the policy. The formula also adjusts the premium payable for pre-30 June 2000 and post 30 June 2000 GST and other ANTS tax system impacts by applying weighted averages that take account of the start and finish dates of each individual policy.

The premium adjustment formula has been assessed by the Government's actuaries who advise that it accurately reflects the impact of the GST and other ANTS tax changes on the ACT TPI scheme operated by NRMA Insurance Limited. In particular, Ernst & Young have verified that the NRMA is complying with the Australian Competition and Consumer Commission (ACCC) GST pricing guidelines and that it is not attempting to use the GST to increase its margins.

In the case of a passenger vehicle, the premium for a one year policy commencing on 1 December 1999 increased by \$16.15 (or approximately 4.6%) to \$370.15. For a one year commencing on 30 June 2000 the premium will increase by \$18.65 to \$372.65 (approximately 5.3%). Premiums for three month and six month policies will increase by between 3.7% (\$3.30 and \$6.60, respectively, for policies expiring before 1 July 2000) and a maximum of 5.3% (\$4.65 and \$9.30, respectively, for policies expiring after that date. All premium amounts have been rounded down to the nearest five cents).

Premium relativities are not affected, so premiums for other TPI premium classifications will increase in direct proportion to the passenger vehicle premium for a policy of the same duration. The \$1.50 road safety contribution (paid to the NRMA - ACT Road Safety Trust to fund road safety initiatives) also remains unchanged for all motor vehicle TPI classes.

Subregulation 14 (1) provides that the maximum premium that may be charged for a TPI policy issued on or after 1 December 1999 and before 1 July 2000 shall be calculated by increasing the maximum premium which could otherwise be charged, using the following formula:

Current premium x (1 + [P2/P1 x A] + [P3/P1 x B]) x (1 + [P3/P1 x C])

Subregulation 14 (2) explains the terms used in the formula in subregulation (1).

In the formula, **A** is a constant with a value of 3.73%. Constant **A** represents that part of the premium impact on CTP claims costs from claims arising before 1 July 2000 as a result of the *A New Tax System* (ANTS) tax changes. The value of **A** is positive because input tax credits are not available for these claims.

B is a constant with a value of -4.29%. Constant **B** represents that part of the premium impact on TPI claims costs from claims arising on or after 1 July 2000 as a result of the *A New Tax System* (ANTS) tax changes. The value of **B** is negative because input tax credits are available for these claims.

C is a constant with a value of 10.0%. Constant **C** represents the 10% GST that applies to the post-30 June 2000 component of the total premium.

P1, P2 and P3 are variables.

P1 is the total number of days covered by the TPI policy.

P2 is the number of days covered by the TPI policy prior to 1 July 2000. In the formula, this number is multiplied by constant **A** and divided by **P1** to give a relative weighting for the ANTS impact from claims arising before 1 July 2000.

P3 is the number of days covered by the TPI policy on or after 1 July 2000. In the formula, this number is multiplied by constant **B** and divided by **P1** to give a relative weighting for the ANTS impact from claims arising on or after 1 July 2000.

P3 is also the number of days for which the 10% Goods and Services Tax (GST) is applicable to the premium. In the formula, **P3** is therefore multiplied by 10% and divided by **P1** to adjust the premium for the applicable amount of GST.

P1 also equals **P2** plus **P3**.

Individual premiums payable as a result of the application of the formula depend on the amount of premium that was previously payable for the relevant class of motor vehicle and the values given to the variables **P1, P2** and **P3**. An example showing how the premium is to be calculated is included at the end of subregulation 14 (2).

Subregulation 14 (3) provides that regulation 14 will expire on 1 August 2000.

Schedule The Schedule lists TPI premium classifications, their definitions and the maximum premiums applicable under the regulations. These premium amounts are unchanged from those which applied under the former regulations at the time of their repeal.

The wording of certain of the TPI classification definitions has been significantly simplified in comparison with the former regulations. As part of the process of simplification, the former premium classifications of 'private motor car' and 'business car' have also been combined into a single new classification of 'passenger vehicle'. The premium rates for the new classification are identical to the premiums for the two former classifications at the time of the repeal of the former regulations.

The attached table compares the new premium classifications with those which applied to policies issued under the former regulations.

Dictionary The Dictionary contains definitions of words and expressions used in the regulations.

COMPARISON OF NEW THIRD-PARTY INSURANCE PREMIUM CLASSIFICATIONS WITH CLASSIFICATIONS UNDER THE FORMER REGULATIONS

New classification (former classification)	Former definition	New definition	Case (if relevant)	Maximum premium (unchanged)
Breakdown vehicle (Motor breakdown vehicle)	A motor lorry that is constructed to be used principally for the towing of vehicles that have broken down	Motor vehicle used mainly to tow broken-down vehicles		• \$355.50
Bus or tourist vehicle (Omnibus or tourist motor vehicle)	A motor car used for the conveyance of passengers for reward and which is authorised to convey passengers on a specified route only or to tourist resorts or on sight-seeing tours only	Motor vehicle (other than a taxi, restricted taxi, private hire car or restricted hire vehicle) used to carry paying passengers	<ul style="list-style-type: none"> if the vehicle has seating for not more than 16 adults (including the driver) if the vehicle has seating for more than 16 adults (including the driver) 	<ul style="list-style-type: none"> \$532.50 \$1629.50
Drive-yourself vehicle (Drive-yourself vehicle)	A motor vehicle which is let for hire (otherwise than under a hire purchase agreement) without the services of a driver	Motor vehicle let for hire (other than under a lease or hire-purchase agreement)		• \$1452.50
Firefighting vehicle	A motor vehicle used solely for fire fighting purposes	Motor vehicle used solely for firefighting		• \$355.50
Goods vehicle (Goods vehicle)	A motor vehicle constructed principally for the conveyance of goods, not being a primary producer's goods vehicle	Motor vehicle built mainly to carry goods (other than a primary producer's goods vehicle)	<ul style="list-style-type: none"> if the unladen weight is not over 975kg if the unladen weight is over 975kg but not over 2t if the unladen weight is over 2t 	<ul style="list-style-type: none"> \$355.50 \$514.50 \$1275.50
Historic vehicle (Historic vehicle)	A motor vehicle manufactured not later than 30 years before the date on which a third-party policy to be issued or renewed in respect of the vehicle will be expressed to commence	Motor vehicle (other than a veteran vehicle or vintage vehicle) built not less than 30 years before the day of issue of a third-party policy for the vehicle and registered concessionally as a historic vehicle		• \$36.50
Miscellaneous vehicle (Miscellaneous vehicle)	A motor tractor (other than a primary producer's tractor) or a motor vehicle that is constructed as a chaff-cutter, excavator, road grader, street flusher, tar boiler or other machinery or apparatus and is not constructed principally for the conveyance of persons or goods	Tractor (other than a primary producer's tractor) or implement		• \$567.50

COMPARISON OF NEW THIRD-PARTY INSURANCE PREMIUM CLASSIFICATIONS WITH CLASSIFICATIONS UNDER THE FORMER REGULATIONS

New classification (former classification)	Former definition	New definition	Case (if relevant)	Maximum premium (unchanged)
<i>Mobile crane (Mobile crane)</i>	<i>A motor vehicle that is constructed as a crane and is not a motor breakdown vehicle or a vehicle that is constructed principally for the conveyance of persons or goods</i>	<i>Motor vehicle built mainly as a crane (other than a breakdown vehicle or tractor)</i>		<ul style="list-style-type: none"> • \$709.50
<i>Motorcycle (Motor cycle)</i>	<i>A motor vehicle which has less than 4 wheels and is steered by means of a handle bar or a tiller</i>	<i>Motorbike or motortrike</i>	<ul style="list-style-type: none"> • <i>if the engine capacity is not over 300mL</i> • <i>if the engine capacity is over 300mL but is not over 600mL</i> • <i>if the engine capacity is over 600mL</i> 	<ul style="list-style-type: none"> • \$89.50 • \$302.50 • \$249.50

COMPARISON OF NEW THIRD-PARTY INSURANCE PREMIUM CLASSIFICATIONS WITH CLASSIFICATIONS UNDER THE FORMER REGULATIONS

New classification (former classification)	Former definition	New definition	Case (if relevant)	Maximum premium (unchanged)
<p>Passenger vehicle (1. -Business car) (2. Private motor car)</p>	<p>1. A motor car not otherwise classified in this part 2. A motor car which is used— i. for social, domestic or pleasure purposes; ii. by the owner for his or her own carriage in relation to his or her profession, business or calling other than the business or calling of commercial traveller, travelling salesperson, insurance agent, insurance canvasser, insurance inspector, insurance assessor, indent agent, manufacturer's agent, stock agent, station agent, land agent or estate agent; iii. by or on behalf of the owner, being a primary producer, in connection with his or her operations as a primary producer; or iv. in connection with the work of a hospital or a charitable, benevolent or religious institution, or a trade union, by or on behalf of the authority controlling the hospital, institution or union</p>	<p>Motor vehicle built mainly to carry people (other than a bus or tourist vehicle, drive-yourself vehicle, motorcycle, private hire car or taxi)</p>		<ul style="list-style-type: none"> • \$355.50
<p>Primary producer's goods vehicle (Primary producer's goods vehicle)</p>	<p>A motor vehicle which is constructed principally for the conveyance of goods and is used by a primary producer in connection with his or her operations as a primary producer</p>	<p>Goods vehicle used by a primary producer in conjunction with his or her operations as a primary producer</p>	<ul style="list-style-type: none"> • if the unladen weight is not over 2t • if the unladen weight is over 2t 	<ul style="list-style-type: none"> • \$319.50 • \$213.50

COMPARISON OF NEW THIRD-PARTY INSURANCE PREMIUM CLASSIFICATIONS WITH CLASSIFICATIONS UNDER THE FORMER REGULATIONS

New classification (former classification)	Former definition	New definition	Case (if relevant)	Maximum premium (unchanged)
Primary producer's tractor (Primary producer's tractor)	A motor tractor that is used by a primary producer in connection with his or her operations as a primary producer	Tractor used by a primary producer in connection with his or her operations as a primary producer		• \$143.50
Private hire car (Private hire car)	A motor car licensed, or intended to be licensed, as a private hire car	Motor vehicle licensed (or intended to be licensed) as a private hire car		• \$1063.50
Taxi (Taxi)	A motor car that is licensed, or intended to be licensed, as a taxi or restricted taxi	Motor vehicle licensed (or intended to be licensed) as a taxi or restricted taxi		• \$4955.50
Trailer's plates	A number-plate issued to the holder of a trader's licence under Part 4 of the Motor Traffic Act 1936	A number-plate issued by the road transport authority to a person engaged in a relevant trade to move unregistered registrable vehicles for short-term purposes		• \$107.50
Trailer (Trailer)	A trailer which is not drawn at the rear of another trailer	Vehicle built to be towed by a motor vehicle		• \$0.00
Undertaker's vehicle (Undertaker's vehicle)	A motor vehicle used solely as an undertaker's hearse	Motor vehicle used solely as an undertaker's hearse		• \$89.50
Veteran vehicle (Veteran vehicle)	A motor vehicle manufactured before 1 January 1919	Motor vehicle built before 1919		• \$36.50
Vintage vehicle (Vintage vehicle)	A motor vehicle manufactured in the period that commenced on 1 January 1919 and ended at the expiration of 31 December 1930	Motor vehicle built after 1918 and before 1931		• \$36.50