

2017

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

**ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT
REGULATION 2017 (No 2)**

SL2017-19

EXPLANATORY STATEMENT

**Presented by
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Treasurer**

Road Transport (Third-Party Insurance) Amendment Regulation 2017 (No 2)

Preamble

This explanatory statement relates to the Road Transport (Third-Party Insurance) Amendment Regulation 2017 (No 2) (the regulation). It has been prepared to assist with the reading of the regulation.

It is to be read in conjunction with the regulation. It is not, and not meant to be, a comprehensive description of the regulation. The statement does not form part of the regulation and has not been endorsed by the Legislative Assembly.

Purpose

The main purpose of the regulation is to insert a new compulsory third-party insurance premium class. A new CTP class 25B is intended to cover personal share vehicles, which are privately-owned vehicles that have been made available on an online platform for sharing (peer-to-peer car sharing). It is the latest iteration of the sharing economy, following the commencement of ridesharing in the ACT. The regulation also includes amendments to revise and clarify certain provisions.

Regulatory impact statement

A regulatory impact statement is not required for this regulation as it does not impose appreciable costs on the community, or a part of the community.

Human Rights implications

The regulation does not engage the rights referred to in the *Human Rights Act 2004*.

Detail

Clause 1 names the regulation as the Road Transport (Third-Party Insurance) Amendment Regulation 2017 (No 2).

Clause 2 provides for the commencement of the regulation to be 14 days after the day of its notification on the Legislation Register.

Clause 3 provides for the regulation to amend the *Road Transport (Third-Party Insurance) Regulation 2008*.

Clause 4 amends section 8, definition of CTP premium class. This section establishes the meaning of CTP premium class and provides for the classes to be in Schedule 1, part 1.2. Before an insurer can charge a premium for a vehicle there needs to be a corresponding premium class.

The section has been amended to provide for a new column 2 in the schedule. This column provides for the class number that relates to a premium class. The column has been inserted to ensure consistency between the regulation and administrative usage. Prior to this amendment, the premiums in Schedule 1, part 1.2 were organised alphabetically. By reflecting their administrative use it is hoped to avoid confusion when referencing classes.

A new way to describe the input tax credit entitlement (ITCE) that some people may claim as part of paying their CTP premium has been included. Prior to this amendment, the ITCE was referred to as “business use” and those not entitled to claim an ITCE as “private use”. While most claims for ITCE would be related to a business it was not an accurate description. It will now be stated in the regulation as a person is “entitled” or “not entitled” to the ITCE.

Clause 5 inserts an example and note for section 10, *CTP premium if vehicle or plate in multiple classes*. Section 10 provides that if a vehicle or plate can fit into two or more CTP premium classes, then the maximum premium payable is the higher premium amount.

The example inserted explains how the section may operate in the event that a person has a vehicle that is both a personal share vehicle (class 25B) and a goods vehicle not over 4.5t (class 3). If the CTP premium for class 25B is higher than for class 3, then the premium payable would be that for class 25B. This is so even if the vehicle is a goods vehicle. The purpose of the section is to ensure the correct, higher premium is applied for the use of the vehicle.

Clause 6 removes the definition of *any other vehicle* from schedule 1 of the regulation (all the following amendments are to schedule 1). This class has been removed as the Road Transport Authority uses the *miscellaneous* class for any vehicle that does not fit into another vehicle class. There are no vehicles currently registered to this class and no insurer sets a premium for the class.

Clause 7 updates a reference to a class, *private hire car*, in the definition of a bus. This reference has been updated to reflect its use in the rego.act database and more closely aligns the term to the type of vehicles that would be hire cars. **Clause 12** omits the definition of *general hire car*, the previously used term.

Clause 8 omits the definition of ‘business use’.

Clause 9 inserts a definition of car rental service that relates to a new definition of drive-yourself vehicle that is inserted by clause 11. A car rental service has been defined as a business that operates five or more motor vehicles for hire. The fleet may be either under common ownership or management (essentially, within the control of the fleet manager). The term has been introduced so as to differentiate this class from the new class that also involves the hiring of motor vehicles - personal share vehicles.

Clause 10 omits the definition of drive-yourself hire vehicle, with a new term *drive-yourself vehicle* inserted at clause 11.

Clause 11 inserts a new term, *drive-yourself vehicle*, and defines the term to be a motor vehicle that is let for hire without the services of a driver by a car rental service. This class will not apply to a vehicle let for hire under a lease or hire-purchase agreement. *Without the services of a driver* has been inserted to associate that the hire of the vehicle is for self-driving. A similar distinction appears in the NSW CTP premium class for drive-yourself vehicle.

Clause 12 omits the definitions of general hire care and input tax credit from the regulation. A new definition for input tax credit entitlement is inserted by **Clause 13** (see the discussion at clause 4).

Clause 14 updates the definition of passenger vehicle to provide that drive-yourself vehicle, private hire car and personal share vehicle are not included within the definition.

Clause 15 provides for the new premium class, *personal share vehicle*, and updates general hire car to private hire car.

A personal share vehicle is where a privately owned vehicle is placed on an online platform for sharing with other people. The online platform facilitates the matching of a hirer to a vehicle located within the area that a person wishes to hire a vehicle from (ie. their local neighbourhood). Because the vehicle is being “hired” this requires a different premium to reflect the risk (of causing personal injury to a third party) that is involved with the vehicle’s use by a person other than the owner or their immediate family or close friends.

Following the establishment of the new class, ACT CTP insurers will file annual premiums for personal share vehicles for approval by the CTP regulator in accordance with part 2.6 of the Act, approval of CTP premiums, and the Premium Guidelines (a notifiable instrument).

The class will apply to certain vehicle types – a passenger vehicle, a goods vehicle with a GVM not over 4.5t or a motorcycle that is let for hire without the services of a driver. It excludes a vehicle let for hire by a car rental service.

Clause 16 omits the definition of ‘private use’. This term was used to describe non-availability of the input tax credit.

Clause 17 inserts a new schedule 1, part 1.2, CTP premium classes. The schedule reorganises premium classes according their class number, corrects references to the engine capacity of a motorcycle (from ml to cc) and provides for the input tax credit entitlement to be described as “entitled” or “not entitled” for each class.

Clause 18 inserts a new note to the dictionary for the term *registrable vehicle*, a term used in the *Road Transport (General) Act 1999*.

Clause 19 inserts a new definition of input tax credit and a reference to the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).