

# Motor Accident Injuries (Premiums and Administration) Amendment Regulation 2025 (No 1)

Subordinate law SL2025–4

made under the

***Motor Accident Injuries Act 2019*** (s 492)

***Road Transport (General) Act 1999*** (s 233)

## EXPLANATORY STATEMENT

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### Overview

The *Motor Accident Injuries (Premiums and Administration) Amendment Regulation 2025 (No 1)* is made under section 492 of the *Motor Accident Injuries Act 2019* and section 233 of the *Road Transport (General) Act 1999*.

The amendment regulation provides for a strict liability offence for a registered operator who uses, or to permit or allow use by another person an uninsured motor vehicle on road or road related area. The new offence will attract a maximum penalty of 20 penalty units, with an infringement notice penalty of \$640.

The new offence will enable appropriate and timely regulatory action to be taken in instances where a registered operator uses, allows or permits the use of an uninsured vehicle on ACT roads. In the ACT, an MAI insurance policy is paid for as part of the one-stop transaction process for registration and renewal.

Consequential amendments will be made to the *Road Transport (Offences) Regulation 2005* to remove an infringement notice penalty of \$1,009 for an existing offence in section 289 of the *Motor Accident Injuries Act 2019* as it is not stated to be strict liability. The offence in section 289 is similar to the proposed offence though applies to a broader range of persons. That is, the proposed offence is restricted to registered operators of motor vehicles.

## Human rights Implications

### ***Strict liability offence - clause 4***

The regulation provides for a new offence that is strict liability. The absence of proof of intention for a strict liability offence may limit the right to the presumption of innocence under section 22 of the *Human Rights Act 2004*.

Generally, strict liability offences arise in a regulatory context where for reasons such as consumer protection and public safety, the public interest in ensuring that regulatory schemes are observed, requires the sanction of criminal penalties. The use of a strict liability offence is appropriate and justified for a regulatory scheme where there is a general awareness of the requirement of vehicle registration and compulsory MAI insurance. The mistake of fact defence under the Criminal Code is available.

### **Clause Notes**

#### **Clause 1      Name of regulation**

This clause names the regulation as the *Motor Accident Injuries (Premiums and Administration) Amendment Regulation 2025 (No 1)*.

#### **Clause 2      Commencement**

Clause 2 provides for the commencement of the amendment regulation on the day after its notification day.

#### **Clause 3      Legislation amended**

Clause 3 provides that the amendment regulation amends the *Motor Accident Injuries (Premiums and Administration) Regulation 2019* (the Regulation). It also includes a note that Schedule 1 of the amendment regulation amends the *Road Transport (Offences) Regulation 2005*.

#### **Clause 4      New Part 3D**

Clause 4 inserts Part 3D (MAI insurance) and section 13D into the regulation. New section 13D creates an offence for a person who is the registered operator for a motor vehicle and uses, or permits or allows another person to use, the motor vehicle on a road or road related area and the motor vehicle does not have MAI insurance. The offence is a strict liability offence with a maximum penalty of 20 penalty units.

The offence will not apply if an unregistered vehicle permit is in force for the motor vehicle, if it is a Territory or Commonwealth-owned vehicle, or the vehicle registration provisions do not apply under the registration regulations.

The new section 13D is similar to section 289 of the *Motor Accident Injuries Act 2019*, with one key difference. Section 289 is an offence that applies if a person uses, or allows another

person to use, a motor vehicle on a road or road related area if the vehicle is not insured. Its application is not restricted to registered operators of a motor vehicle. The offence has a fault element and has a maximum penalty of 50 penalty units.

While section 289 applies to every person who uses or allows another person to use an uninsured vehicle on a road or road related area, new section 13D is narrower and the offence only applies to registered operators of the motor vehicle.

**Clause 5      Section 21 (4), definition of *commonwealth authority***

Clause 5 omits the definition of a “commonwealth authority” in section 21(4) as the term is already defined in the *Motor Accident Injuries Act 2019*, dictionary.

**Clause 6      Section 21 (4), definition of *commonwealth government vehicle***

Clause 6 corrects a reference to the term “commonwealth authority” in section 21 (4), so that Commonwealth is capitalised.

**Clause 7      Section 21 (4), definition of *territory government vehicle*, note**

Clause 7 omits the note that follows section 21 (4) as the term “territory authority” is already defined in the *Motor Accident Injuries Act 2019*, dictionary.

**Clause 8      Dictionary, note 3, new dot points**

Clause 8 inserts a new example into note 2 of the Dictionary to clarify that the term “territory authority” is defined in the *Legislation Act 2001*, dictionary.

**Clause 9      Dictionary, note 3, new dot points**

Clause 9 inserts a new example into note 3 of the Dictionary to clarify that the term “insured motor vehicle” and “unregistered vehicle permit” is defined in the *Motor Accident Injuries Act 2019*, dictionary.

**Clause 10      Dictionary, note 4, new dot points**

Clause 10 inserts a new example into note 4 of the Dictionary to clarify that the term “registered operator” is defined in the *Road Transport (General) Act 1999*, dictionary.

**Schedule 1      Consequential amendments – Road Transport (Offences) Regulation 2005**

**Item 1.1 – Schedule 1, part 1.2D, item 3 column 5**

Schedule 1 of the *Road Transport (Offences) Regulation 2005* contains tables setting out short descriptions, penalties, infringement notice penalties and demerit points for road transport offences. The *Motor Accident Injuries Act 2019* is listed as road transport legislation in section 6 of the *Road Transport (General) Act 1999*.

Item 1.1 removes the infringement notice penalty of \$1,009 from item 3 in Part 1.2D (Motor Accident Injuries Act 2019) which refers to the offence in section 289 of the Motor Accident Injuries Act (Offence – use uninsured motor vehicle on road or road-related area). This is consistent with section 289 not being specified as a strict liability offence. While it is not

unlawful to have an infringement notice offence against an offence not listed as strict or absolute liability, ACT Government policy provides infringement notices should be limited to offences that are stated to be strict liability.

**Item 1.2 – Schedule 1, part 1.2E, new item 1A**

Item 1.2 inserts item 1A into the table in Part 1.2E of Schedule 1 of the regulation. This reflects the new offence created at Section 13D and sets the amount of the infringement penalty at \$640.

This is consistent with existing government policy that an infringement penalty should not be more than 20 per cent of the maximum penalty for an offence.