

# Motor Accident Injuries (ACAT Costs Orders) Amendment Regulation 2025 (No 1)

Subordinate law SL2025–30

made under the

***Motor Accident Injuries Act 2019***

## EXPLANATORY STATEMENT

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### *Overview*

The *Motor Accident Injuries (ACAT Costs Orders) Amendment Regulation 2025 (No 1)* is made under section 492 of the *Motor Accident Injuries Act 2019* (the Act).

Section 198 of the Act allows for a regulation to be made in relation to, amongst other things, the maximum amount of costs that can be awarded by the ACT Civil and Administrative Tribunal (ACAT) in respect of an application for external review by the ACAT of an insurer's decision under the Act. The Motor Accident Injuries (ACAT Costs Orders) Regulation 2020 (the current regulation) is made for the purposes of section 198 of the Act.

The current regulation sets the maximum amount of the costs order as \$2,000 AWE indexed plus the ACAT application fee, inclusive of GST. The amending regulation resets the maximum amount of a costs order to \$4,000 AWE indexed plus the ACAT application fee, inclusive of GST. The increased dollar amount applies to applications lodged with ACAT from after the commencement of the regulation. The amount will then be adjusted in line with any change in average weekly earnings (AWE) on 1 October each year thereafter.

The reset is an interim measure in response to feedback to a 2023 Three-year review action item, and subsequent MAI Commission stakeholder consultation on options on behalf of the government. The Commission proposed options in relation to the dollar amount. Submissions were received seeking alternative approaches, including a move away from the cap on costs. The Commission also notes that a recent Standing Committee Inquiry into insurance costs also made a recommendation on legal costs across personal injury insurance schemes.

Cost controls are relevant in personal injury insurance schemes. The Commission advised the Minister for Finance that a two stage process may thus be appropriate, allowing time for a broader analysis to be taken to inform the government on

possible alternatives. This Regulation allows for an increase in the interim so this second stage can be undertaken.

### *Human Rights Implications*

The amending regulation has been considered in relation to compatibility with human rights as set out in the *Human Rights Act 2004* and the terms of reference of the Scrutiny Committee.

The increase in the amount of costs that may be awarded by ACAT will further facilitate an individual's opportunity to obtain legal assistance in making an external review application to ACAT. The amount may not cover all the legal costs that may arise in relation to the ACAT matter. The cap is to ensure that costs are not excessively incurred, especially as ACAT is generally a bear your own costs jurisdiction.

A balance is thus being made between the competing elements that go towards keeping the MAI scheme affordable for the Canberra community, while providing some support through allowing costs to be ordered by the ACAT for individuals in dispute with an MAI insurer.