

# Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020

## Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Jackie Trad, Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships provide this human rights certificate with respect to the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020* made under the *Motor Accident Insurance Act 1994* and the *National Injury Insurance Scheme (Queensland) Act 2016*.

In my opinion, the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020* as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

Section 14A of the *Motor Accident Insurance Act 1994* and section 99 of the *National Injury Insurance Scheme (Queensland) Act 2016* authorises the collection of a number of levies and an administration fee on Compulsory Third Party (CTP) insurance premiums which are payable by motor vehicle owners at the time of vehicle registration.

The funds raised by the levies and administration fee help cover the costs involved in delivering different components of Queensland's CTP insurance scheme, as well as administering and funding the National Injury Insurance Scheme Queensland (NIISQ).

The levies and administration fee applicable under these Acts are:

#### Statutory insurance scheme (SIS) levy

The SIS levy funds the operating costs of the Motor Accident Insurance Commission (MAIC). The SIS levy also provides funding for research into accident prevention and injury mitigation, aiming to reduce the number of motor vehicle accidents and the severity of injuries sustained in motor vehicle accidents.

#### Hospital and emergency services (HES) levy

The HES levy is to cover a reasonable proportion of the estimated cost of providing public hospital services and public emergency services to people injured in motor vehicle accidents who are, or may be, CTP claimants.

### Nominal defendant (ND) levy

The ND levy covers the estimated costs of the ND in managing and funding claims caused by uninsured or unidentified vehicles. In this way, people injured in motor vehicle accidents where the accident is caused by an uninsured or unidentified vehicle can still make a claim for compensation for their injuries, and access prompt and reasonable medical treatment and rehabilitation.

The Nominal Defendant is also legislatively required to meet the claims liabilities of a licensed CTP insurer in the event the insurer becomes insolvent.

### National injury insurance scheme Queensland (NIISQ) levy

The *National Injury Insurance Scheme (Queensland) Act 2016* also provides for the collection of a levy to cover the estimated costs of the NIISQ which provides necessary and reasonable lifetime treatment, care and support for anyone who sustains a serious eligible personal injury in a motor vehicle accident in Queensland, regardless of fault.

This levy is also referred to as the Injury Insurance Scheme levy.

### Department of Transport and Main Roads (DTMR) administration fee.

The administration fee is payable to DTMR for delivering administrative support to the CTP scheme.

Pursuant to the *Motor Accident Insurance Act 1994* and the *National Injury Insurance Scheme (Queensland) Act 2016*, the levies and administration fee to apply to CTP policies for the next financial year must be fixed by regulation before 1 April each year. Accordingly, the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020* amends the *Motor Accident Insurance Regulation 2018* and the *National Injury Insurance Scheme (Queensland) Regulation 2016* to set the CTP insurance levies, NIISQ levy and administration fee for 2020-21.

## **Human Rights Issues**

### **Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)**

#### Freedom of movement - Section 19 of the *Human Rights Act 2019*

Section 19 of the *Human Rights Act 2019* provides that every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave it, and has the freedom to choose where to live.

#### Property Rights - Section 24 of the *Human Rights Act 2019*

Section 24 of the *Human Rights Act 2019* provides that all persons have the right to own property (alone or in association with others) and must not be arbitrarily deprived of the person's property.

While both these human rights may be engaged by the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020*, the amendment regulation does not have an effect on, or limit these rights.

The amendment regulation varies the levies and administration fee to apply from 1 July 2020 by reducing the overall cost to Queensland motor vehicle owners.

If there were to be a significant increase in the CTP levies and administration fee, it could potentially affect Queensland motorists by limiting an individual's freedom of movement, or limiting an individual's property rights to the extent they may be deprived of their property (money) and may no longer be able to afford to register a vehicle. If they cannot afford to register a vehicle, they will not be able to drive it lawfully on the road. This potential limitation would only limit an individual's freedom of movement to the extent of being able to use a motor vehicle on public roads. The individual's freedom of movement would not be restricted in any other way.

The levies and administration fee have been determined based on actuarially determined assessment and submissions received from relevant agencies. The reduction in the overall cost of the levies and the administration fee to apply to CTP insurance premiums from 1 July 2020 does not impose a significant adverse impact on individual motor vehicle owners, nor does it result in an additional cost to Queensland motorists or limit their human rights.

The collection of levies and an administration fee on CTP premiums provides an efficient means of funding agencies which provide essential services to the public in delivering different components of the CTP and NISQ schemes which is consistent with a free and democratic society based on human dignity, equality and freedom.

## Conclusion

I consider that the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2020* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

**JACKLYN ANNE TRAD MP**  
DEPUTY PREMIER, TREASURER AND  
MINISTER FOR ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS