

# Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2021

## 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, Cameron Dick, Treasurer and Minister for Investment provide this human rights certificate with respect to the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2021* 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 2021*, 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 ND 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 2021* 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 2021-22.

## **Human Rights Issues**

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

The Regulation engages the following human rights:

#### 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. Property generally includes all real and personal property interests, including money.

While both these human rights may be engaged by the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2021*, the amendment regulation does not limit these rights.

**Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**

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 taking into account actuarial assessment and submissions received from relevant agencies involved in CTP insurance administration or delivering road trauma emergency services to Queensland road users.

From 1 July 2021, the total levies and administration fee, including the NIISQ levy of \$103.30, will be \$139.80 per Class 1 vehicle (cars and station wagons), representing a \$13.20 increase from the previous financial year. The levy increase is based on a 1.5% Consumer Price Index (CPI) factor, as forecast in the 2020-21 Queensland Budget, applied to the annual Class 1 premium as at 1 July 2020 of \$351.60. This represents an increase of \$5.27 to Queensland motorists as from 1 July 2021. Minor adjustments may be required to meet the requirements of the Department of Transport and Main Roads' registration system and Queensland Treasury rounding principles. As such, the levies for each class of vehicle may vary slightly above or below the CPI rate of 1.5%.

The increase in the overall cost of the levies and the administration fee to apply to CTP insurance premiums from 1 July 2021 does not impose a significant adverse impact on individual motor vehicle owners, nor does it result in a significant additional cost to Queensland motorists that will 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 NIISQ 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 2021* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

**CAMERON DICK**  
TREASURER  
MINISTER FOR INVESTMENT

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