

Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2023

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, the Honourable Cameron Dick MP, Treasurer and Minister for Trade and Investment provide this human rights certificate with respect to the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2023* 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 2023*, 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

The *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2023* (Amendment Regulation) amends the *Motor Accident Insurance Regulation 2018* (MAI Regulation) and the *National Injury Insurance Scheme (Queensland) Regulation 2016* (NIISQ Regulation) to fix the levies and administration fee to be applied to Compulsory Third Party (CTP) insurance premiums from 1 July 2023 to 30 June 2024.

In respect of the MAI Regulation, the Amendment Regulation fixes several levies (CTP levies) and the administration fee to help support the cost of delivering Queensland's CTP scheme in the 2023–24 financial year. An overview of the CTP levies and administration fee are set out below.

Statutory insurance scheme levy: funds the cost of administering the *Motor Accident Insurance Act 1994*. This includes funding the operating costs of the Motor Accident Insurance Commission and research into motor vehicle accident prevention and injury mitigation.

Hospital and emergency services levy: funds a reasonable proportion of the estimated cost to relevant agencies of providing public hospital and emergency services to people injured in motor vehicle accidents who are, or may be, CTP claimants.

Nominal Defendant levy: funds the estimated cost to the Nominal Defendant in managing and funding compensation claims from people insured as a result of the negligent driving of an uninsured or unidentified vehicle.

Administration fee: payable to the Department of Transport and Main Roads for delivering administrative support to the CTP scheme.

In respect of the NIISQ Regulation, the Amendment Regulation also fixes the injury insurance scheme levy (also known as the National Injury Insurance Scheme Queensland (NIISQ) levy) for the 2023–24 financial year. The NIISQ levy funds the estimated cost of the NIISQ to provide necessary and reasonable lifetime treatment, care and support to people who sustain a serious eligible personal injury in a motor vehicle accident in Queensland, regardless of fault.

The CTP levies, administration fee and NIISQ levy are calculated each financial year on a flat fee basis relative to the applicable motor vehicle class, having regard to submissions received from agencies that deliver the CTP scheme components and actuarial assessment.

Human Rights Issues

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

The Amendment Regulation engages the following human rights under the *Human Rights Act 2019* (HR Act):

- Freedom of movement (section 19 of the HR Act)
- Property rights (section 24 of the HR Act)

Freedom of movement (section 19 of the HR Act)

The right to freedom of movement protects the right of every person lawfully within Queensland to move freely within Queensland, enter or leave Queensland and to choose where to live.

This right may be limited by the Amendment Regulation to the extent that increases in the levies and administration fee applied to CTP insurance premiums result in an individual no longer being able to afford to register a motor vehicle. If an individual is no longer able to afford to register a vehicle, the individual's freedom of movement may be limited to the extent of not being able to lawfully use a motor vehicle on a public road or in a public place.

Property rights (section 24 of the HR Act)

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property.

The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom. The right includes the protection from the deprivation of property.

In the human rights context, 'deprivation' is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use his or her property. Property includes all real and personal property interests, including money.

The right to property may be limited by the Amendment Regulation to the extent that increases in levies and the administration fee payable as part of a CTP premium has the effect of depriving a person of additional money (compared to the levies and administration fee applicable in 2022–23).

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

(a) The nature of the right

Section 19 (Freedom of Movement) of the HR Act provides that every person lawfully within Queensland has the right to move freely within Queensland, enter or leave Queensland and to choose where to live.

Section 24 (Property Rights) of the HR Act protects the right of all persons to own property and provides that people have a right not to be arbitrarily deprived of their property. Property includes all real and personal property interest recognised under general law, including money.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Any limitation on an individual's right to freedom of movement and property rights is for the purpose of funding the estimated cost (or a reasonable proportion of the estimated costs) of the following government services for the financial year commencing 1 July 2023:

- administration of the statutory insurance scheme
- public hospital and emergency services provided to people injured in motor vehicle accidents who are, or may be, CTP claimants
- the Nominal Defendant's management and funding of compensation claims from people injured as a result of the negligent driving of uninsured and unidentified vehicles
- transport administration work undertaken by the Department of Transport and Main Roads to administer the statutory insurance scheme
- providing lifetime treatment, care and support for people injured in motor vehicle accidents with serious eligible injuries under the NIISQ.

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

(c) the relationship between the limitation and the purpose, including whether the limitation helps to achieve the purpose

The Amendment Regulation has the effect of fixing the total levies and administration fees that apply to CTP insurance premiums for Class 1 vehicles (cars/station wagons) from 1 July 2023 at \$147.60. This represents an increase of \$3.60 from the previous financial year.

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.

The increase in the overall cost of the levies and the administration fee is necessary to achieve the purpose of continuing to appropriately resource and fund the cost of Government services delivered under the CTP scheme and the NIISQ, which in turn ensures that services can continue to be delivered to Queensland individuals.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive or reasonably available ways to achieve the purpose of the Amendment Regulation.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The Amendment Regulation provides for the total value of the levies and administration fee payable as part of an individual's CTP insurance premium to increase by \$3.60 from 1 July 2023 (compared to the previous year).

The amount of the increase is not considered to impose a significant adverse impact on individual motor vehicle owners to the extent that the increase would result in an individual no longer being able to afford to register a motor vehicle (therefore restricting their freedom of movement) or substantially deprive an individual of the use of property (i.e. money).

Any potential impact of the Amendment Regulation on an individual's right to freedom of movement and property rights is considered to be outweighed by the importance of the broader public benefits of providing an efficient means of funding entities to deliver different components of the CTP scheme and the NIISQ, including providing necessary and reasonable services to individuals who sustain serious eligible injuries in a motor vehicle accident.

Conclusion

I consider that the *Motor Accident Insurance and Other Legislation (Administration Fee and Levies) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

CAMERON DICK MP
TREASURER AND MINISTER FOR TRADE AND INVESTMENT

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