

## What is CTP insurance?

Compulsory Third Party ('CTP') insurance is personal injury insurance that is mandatory for every motor vehicle registered in Australia.

CTP insurance indemnifies vehicle owners and drivers who are legally liable for personal injury caused to any other party in the event of a motor vehicle accident. It will cover you for personal injury claims made against you by other road users such as drivers, passengers, pedestrians, cyclists, motorcyclists and pillion passengers involved in a motor vehicle accident.

All personal and fatal injury claims resulting from motor vehicle crashes that involve an ACT registered vehicle are handled by third party insurers licensed to provide CTP insurance in the ACT. Currently, Insurance Australia Limited (trading as NRMA Insurance or 'NRMA') is currently the only CTP Insurer in the ACT. However, this is expected to change in the near future.

Vehicles which are owned by the Commonwealth of Australia or the Australian Capital Territory are not required to be insured but the governments involved meet claims under their own arrangements in the same way as an insurer would.

As the CTP insurer is named on the vehicle registration certificate, a separate CTP certificate does not need to be issued.

Since 1 October 2008, new CTP legislation applies in the ACT to all claims arising from accidents occurring from that date onwards. This legislation is the *Road Transport (Third-Party Insurance) Act 2008* and the *Road Transport (Third-Party Insurance) Regulation 2008*. This legislation is administered by the Department of Treasury. CTP claims are also subject to the *Civil Law (Wrongs) Act 2002* and the *Limitation Act 1985*, which are administered by the Department of Justice and Community Safety. The interpretation of legislation is a matter for the courts.

For claims arising from accidents before 1 October 2008, the relevant legislation is the *Road Transport (General) Act 1999* and the *Road Transport (Third-Party Insurance) Regulations 2000*.

Your vehicle is covered for CTP while it is registered (see the vehicle registration certificate).

## What does third party mean?

Third party means that there are three parties involved in a motor accident claim for personal injury.

- First party — this is the owner/driver of the vehicle 'at fault'.
- Second party — this is the CTP insurer of the vehicle 'at fault'.
- Third party — this is the injured person.

## Does CTP insurance cover damage to property or other vehicles?

No.

CTP insurance only covers personal injury to another person where a legal liability can be established.

If you have comprehensive or third party property car insurance this will cover any damage to property or other vehicles in the event of a motor accident.

### **I have comprehensive motor vehicle insurance. Why do I need CTP insurance?**

Comprehensive motor vehicle insurance only covers you for property damage. It does not cover you against personal injury caused to another party in a motor accident.

### **What if I don't have CTP insurance?**

CTP insurance is compulsory and a condition of motor vehicle registration. If an accident occurs involving a vehicle that is unregistered, the vehicle will also not be covered by CTP insurance and the driver and owner may ultimately be financially liable for the damages paid to the injured person. In addition, owners and drivers of unregistered and uninsured vehicles face hefty fines.

### **Am I still covered by CTP insurance if I forget to pay my registration before it expires?**

Possibly.

If you forget to pay your registration renewal, which includes your CTP premium, before your registration expires then you will only be covered if you pay your registration renewal, including your CTP premium within 14 days after your registration expired. This 14 days is a 'period of grace' that allows you to pay your registration renewal and CTP premium after your registration has expired but still maintain continuous CTP coverage for that period.

If you do not pay your registration renewal within the period of grace (14 days) then you will not be covered by CTP insurance until you pay your registration renewal, including your CTP premium.

### **What rights do I have if I'm injured in an accident?**

An injured person may claim compensation from the CTP insurer of the owner/driver of the 'at-fault' vehicle provided negligence can be established. You can still claim if you were partly at fault, but the compensation you are entitled to may be reduced. If you are injured you are also able to access money immediately to cover your medical expenses if you were not the main cause of the accident. This is known as an early payment of medical expenses.

You cannot make a claim if you:

- were the driver and totally at fault; or
- no-one was at fault, e.g. a collision with wildlife on the road.

If the at fault vehicle does not have CTP insurance or cannot be identified (e.g. a hit and run accident) you can claim compensation from the Nominal

Defendant. The Nominal Defendant can recover the cost of claims from the owner or driver of an unregistered vehicle.

## What should I do if I'm injured in an accident?

### **Fault must be established for a claim to succeed.**

**IMPORTANT:** The information below is general and should not be relied upon as legal advice or as a basis for action or decisions about making a claim or associated issues. Readers should seek their own legal advice about those matters.

### **Who can claim?**

A CTP personal injury claim form may be lodged by:

- any person who has sustained personal injury as a result of a motor vehicle accident in the ACT for which they were not at fault. This may include a driver, motorcyclist (or cyclist), passenger or pedestrian, but not the driver of the vehicle at fault.
- dependants or the estate of someone fatally injured as a result of a motor vehicle accident in the ACT for which the deceased person was not at fault.

If you are partly at fault you can still claim but your entitlement will be reduced by the extent of your contributory negligence.

### **How long do I have to make a claim?**

Notice of claim must be given in writing to the CTP insurer of the at-fault vehicle within 9 months after the motor vehicle crash or from the time when injury symptoms first appear.

If the at-fault vehicle cannot be identified or is not insured for CTP, notice of claim must be given to the Nominal Defendant within 3 months.

Failure to comply with time limits may prejudice your rights to pursue a claim.

### **How do I go about making a claim and what forms do I need to fill in and where do I get them?**

If you are in an accident, you should fill in a Motor Accident Notification Form (MANF). This form requires you to fill in information about the accident. If you need help to fill in this form, the CTP insurer can assist you. It is probably advantageous to contact the CTP insurer as soon as possible because most motor accident victims will qualify for payment or reimbursement of the first \$5,000 of their medical expenses without first having to establish that someone else is responsible for the accident so long as you notify the insurer within 28 days of the date of the accident. The CTP insurer will have additional information for you about treatment and rehabilitation options under the new CTP arrangements for the ACT.

You are also required to fill in Part 1 of the Motor Accident Medical Report (MAMR). Part 2 of this form is to be filled in by your doctor. The Motor Accident Medical Report needs to be completed by your doctor and sent to

the CTP insurer (or Nominal Defendant) with your Motor Accident Notification Form.

You should obtain copies of the forms from the CTP insurer or the Nominal Defendant (addresses and contact details are shown at the end of this document), or download them from the ACT CTP Website. You should complete them as fully as possible and either post or lodge them with the CTP insurer or the Nominal Defendant in person.

### **What happens after I return the Motor Accident Notification Form?**

After you return the form, the CTP insurer must then begin to evaluate your claim. The insurer may require you to be examined by a doctor of its choice and to complete the Notice of Claim and Additional Information Forms (NOCAIF) to enable it to investigate the crash and make an assessment of liability.

There is an obligation on all parties to share documents and information relevant to liability and the amount of damages. This includes copies of any reports about the accident, your medical condition and prospects for rehabilitation, and your cognitive, functional or vocational capacity. The insurer may also ask you to provide information such as the medical treatment or rehabilitation treatment you have sought or obtained for the injury, your medical history (where relevant), any other personal injury claims you have made, and information about your claim for past or future loss of income or in relation to gratuitous services.

When you have recovered, or medical reports confirm the maximum degree of recovery has been reached, the insurer will contact you to finalise your claim.

If you consider your claim has reached this stage, you should contact the insurer regarding settlement.

**The forms are mandated for use from and including 1 October 2008.**

### **Who pays the treatment accounts?**

If a Motor Accident Notification Form and a Motor Accident Medical Report are provided to the CTP insurer (or Nominal Defendant) within 28 days of the motor accident, the insurer is obliged to pay the first \$5,000 of your medical expenses incurred within 6 months of the accident (this does not constitute an admission of liability on the insurer's part). This is an early payment. In addition, the insurer may agree to pay for rehabilitation services without admitting liability.

Accounts paid by you are normally included in the final settlement; however, the insurer may consider interim reimbursement upon request. **You should ask your treating practitioner about treatment costs you pay, in case there are gaps between the charge and reimbursement, which the insurer may not pay.**

### **Can I claim for loss of earning capacity?**

Although a CTP insurer has no legal liability to pay for loss of earning capacity prior to settlement of the claim, it may consider pre-payment upon application.

### **What am I entitled to claim?**

You are entitled to make a claim for:

- Economic loss – this includes compensation for past and future loss of earning capacity and for past and future medical, treatment and care expenses.
- Non-economic loss (general damages) – this includes pain and suffering, loss of enjoyment of life and any loss of expectation of life experienced by you as a result of the injuries.

### **What happens if a lawyer lodges a claim for me?**

A lawyer can give you independent advice about whether you have a claim and about the amount of compensation you are likely to receive. The Law Society of the ACT can let you know their member firms and their areas of specialisation.

A lawyer must give the insurer written notice of your claim within 1 month of your first consultation with him or her. This applies in addition to the general 9 month time limit for notifying claims.

If you decide to lodge your claim through a lawyer, it is in your interests to ensure that the lawyer provides the Forms you and your doctor have completed to the CTP insurer in time for you to seek early payment or reimbursement of the first \$5,000 of your medical expenses if you qualify for payment. Your lawyer may obtain medical and other reports, collate details of your claim, negotiate with the insurer on your behalf and advise you about finalisation. A lawyer can bring court proceedings on your behalf should this be necessary.

Your lawyer may ask you to agree that all communication with the insurer concerning your claim should be made through your lawyer. However, if the CTP insurer admits liability, it becomes obliged to provide the cost of reasonably incurred medical expenses and reasonable and appropriate rehabilitation, amongst other things. You will need to ensure your lawyer provides you with timely notice of any of the insurer's requirements in this regard.

### **Is there a time limit?**

Yes. If your claim is not settled within 3 years, from the date of the crash (or when your injuries become apparent), you must ensure that Court proceedings have been issued on your behalf before the 3 years expire. If you were under 18 years of age at the time of the accident then a 6 year time limit applies. Time limits, usually running from the date of an accident, are fixed in legislation and it is therefore important to obtain legal advice as soon as possible if it becomes necessary to sue the CTP insurer.

If you are making a claim in relation to an interstate accident, a different time limit may apply in some States.

**This information should be treated as a guide only.**

**Further information can be obtained from:**

- NRMA Insurance
- The Law Society of the Australian Capital Territory
- Your solicitor

### **NRMA Insurance**

CTP Department  
NRMA Insurance  
3rd Floor  
92 Northbourne Avenue  
Canberra ACT 2601

Postal Address  
GPO Box 811  
Canberra ACT 2601

Phone 13 1123 (enquiries), (02) 6240 4700 or 13 2132 (claims)

Website <http://www.nrma.com.au>

### **Nominal Defendant**

ACT Insurance Authority  
Level 3  
Canberra Nara Centre  
1 Constitution Avenue  
Canberra ACT 2601

Postal Address  
GPO Box 158,  
Canberra ACT 2601

Phone (02) 6207 0131

Website <http://www.treasury.act.gov.au/actia/>

### **The Law Society of the Australian Capital Territory**

1 Farrell Place/GPO Box 1562,  
Canberra City ACT 2601

Phone (02) 6247 5700

Website <http://www.lawsocact.asn.au>

## What if I am injured in a motor accident and need money for medical expenses?

If you are injured in a motor accident, you may be able to access money immediately to cover your medical expenses if you were not the main cause of the accident. This is known as an 'early payment' of medical expenses. It is a legal requirement that CTP insurers make available early payments of medical expenses up to the value of \$5,000.

You are entitled to early payment of medical expenses if:

- you were injured in a motor accident; and
- you were not the main cause of the accident; and
- either a police officer attended the motor accident OR the motor accident was reported to a police officer by you or someone reported it for you.

To receive the early payment of medical expenses you need to complete:

- a motor accident notification form (MANF); and
- a motor accident medical report (MAMR).

\* Please note that the rtf version of the above forms will always be an "unauthorised" version due to the fact that it can be edited by persons other than the responsible person under section 276 of the *Road Transport (Third-Party Insurance) Act 2008*. The pdf version will always be the "authorised" version.

You have 28 days after the motor accident to give these completed forms to the CTP insurer of the other person who was the main cause of the accident, if known.

If you don't know the CTP insurer of the other person who was the main cause, then you may request their details from the ACT Road Transport Authority.

You will notice a new brochure in your registration renewal notice informing you about the early payment of medical expenses.

## What do I do if I am the Driver and have an accident?

As a driver of a motor vehicle involved in a crash where someone is injured or killed, you are required by law to stop and give any assistance that you are able to give.

You are also required by law to provide the following details to any other driver or person injured in the crash (or their representative):

- Your name and address.
- The name and address of the owner (registered operator) of the vehicle being driven by you.
- Your vehicle's registration number.
- Any other information necessary to identify your vehicle.

This information should be provided at the scene of the crash. If that is not possible, the law requires it to be provided as soon as possible. Except in exceptional circumstances, this means within 24 hours of the crash.

For any crash in the ACT, the law also requires the same information to be provided to a police officer, together with an explanation of the circumstances of the crash. The same time limit applies.

It is also helpful if you can let any other driver or person injured in the motor accident know the CTP insurer for the vehicle being driven by you.

If you receive any contact or correspondence from an injured person or his/her lawyer, you should immediately refer him/her to your CTP insurer so that they can deal with it as the third party insurer.

You should not admit liability or promise payment.

### **Who pays if I'm injured and there is no 'at-fault' vehicle?**

You will need to rely on sick leave, social security, Medicare and the public health system, unless you have other personal injury insurance and/or private health insurance.

If you are an employee covered by Workers' Compensation insurance you may be able to make a claim for an injury incurred during a work-related journey.

Motorists, particularly drivers, should consider having some form of personal insurance to cover those situations where they are the 'at fault driver' or no-one is at fault for the accident.

### **Is CTP insurance good value?**

Yes.

Unlike many other types of insurance, CTP provides unlimited indemnity to the insured. Benefits paid to the injured party depend on the extent of the injuries and can include the cost of ambulance, hospital and medical treatment, rehabilitation, loss of income and long-term care. Limits may apply with respect to loss of income (the upper limit being three times average weekly earnings per week) and limits may apply in certain circumstances to the payment of legal costs.

### **Can I change my CTP insurer?**

Not at the present time. Currently only NRMA Insurance offers CTP insurance in the ACT. However, this is expected to change in the near future. In the ACT, legislation allows any insurer licensed under the *Insurance Act 1973* (Cwth) to apply to the CTP regulator to offer CTP insurance.

## Who sets the CTP premiums?

Licensed CTP insurers are responsible for setting their own premiums. However, before an insurer can alter the premiums it charges, the new premiums must be submitted to the CTP regulator for approval.

The CTP regulator may reject premiums if they will not fully fund the insurer's liabilities, if they are excessive (in light of actuarial advice and other financial information available to the regulator) or if they do not comply with the CTP premium guidelines.

To fully fund an insurer's liabilities, premiums must be sufficient to pay for all of its policy acquisition and administration expenses and, along with the anticipated investment income, be able to meet the cost of claims when they are settled. They also need to allow for an adequate return on capital.

## CTP insurance may be cheaper in NSW/Victoria - why?

Although every Australian State and Territory has a CTP scheme, there are considerable differences between each of the schemes. While both the ACT and NSW have fault-based CTP schemes, in NSW there are restrictions on an injured person's eligibility for pain and suffering damages (general damages), and if eligible, the amount of damages payable for similar injuries is capped in NSW. This is reflected in the premiums motorists pay.

Unlike the ACT, the Victorian scheme is essentially a no-fault scheme with only very limited rights for injured person to sue for negligence.

Both NSW and Victoria are divided into zones for the purpose of setting CTP premiums, with motorists paying much higher premiums in Sydney and Melbourne than in country areas. NSW also risk-rates premiums, with insurers able to charge much higher premiums than in the ACT for motorists they consider to be high-risks (e.g. young drivers up to 25 years old). In the ACT, all motorists pay the same CTP insurance premium, which is a community-rated premium that applies to each vehicle class.

## Do GST credits apply to CTP?

Compulsory Third Party (CTP) insurance is provided by an authorised insurer and the applicable CTP insurance premium for your vehicle is listed on your renewal notice. This premium includes the Goods and Services Tax (GST).

For policies commencing on or after 1 July 2003, you may be entitled to claim an input tax credit on the GST component of your CTP premium, if the insured entity is GST registered.

Those entities which:

- (a) are registered for GST purposes, and
- (b) pay CTP insurance premiums for periods of cover commencing after 1 July 2003,

may be entitled to claim a tax credit on GST paid on their CTP premium if the insurance is business related.

GST credits cannot be claimed for CTP insurance premiums paid for periods commencing before 1 July 2003.

Premiums are priced differently depending on the GST registered status of the insured and are higher for those persons with an entitlement to claim an input tax credit. This is due to the increase in claims costs for CTP insurers on GST registered vehicles as a result of changes to the GST legislation.

The information above is not intended to give you advice about the legal position that will apply to you and whether or not you will be entitled to claim GST credits. If you require further information about the effect of the GST transitional rules on your CTP insurance, contact the Australian Taxation Office, Tax Reform Information Line on 13 24 78, or your tax adviser.

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