

Comments on the draft Motor Vehicles (Compulsory Third Party Insurance) (Miscellaneous) Variation Regulations 2021

Submission to the CTP Regulator

12 May 2021

Contents

Who we are.....	4
Introduction	5
Variation of regulation 5 and proposed medical certificate.....	5
Substitution of regulation 6, 7 and 8 and proposed authority to obtain information.....	6
Conclusion.....	7

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to comment on the draft Motor Vehicles (Compulsory Third Party Insurance) (Miscellaneous) Variation Regulations 2021, the proposed medical certificate and the proposed statement to give authority to obtain information.

Variation of regulation 5 and proposed medical certificate

2. ALA does not agree that the regulations should be changed to state that the medical certificate or opinion must be in a form determined by the CTP Regulator.
3. ALA also has concerns about the proposed compulsory form as it is onerous for a doctor to complete and a lot of the information is not necessary for all claims.
4. Requiring the form to be mandatory is likely to delay a number of claims unnecessarily, where alternative evidence is readily available.
5. The current system of being able to provide alternative medical evidence, such as a discharge summary or letter from a doctor should be able to be continued. This gives the insurer enough information in many cases to commence the claim.
6. A number of GPs already refuse to see people who have a CTP claim. Making this form compulsory is likely to lead to more GPs refusing to see CTP injured patients.
7. Making this form compulsory is also likely to lead to a longer delay in getting an appointment and require injured people to make special and separate appointments solely for the purpose of completing the form.
8. The functional ability assessment component will only be required in some matters and not all matters. It should only be used for relevant claims. If this was an optional form, it could be used where necessary.

Substitution of regulations 6, 7 and 8 and proposed statement giving authority to obtain information

9. ALA is concerned about the intention to prevent injured claimants from being able to revoke the authority to obtain information after a period of six months.
10. Claimants understand that they need to provide relevant material in support of their claim if they wish for funding to be approved for treatment.
11. An injured person should be given the choice to keep the authority in place if they wish, or to revoke it and provide necessary information themselves.
12. If the insurer requires information to be disclosed after the revocation of the authority, they can ask the injured claimant. If the injured claimant refuses to provide relevant information necessary to approve funding for treatment their individual claim will be impacted.
13. Many injured claimants are very concerned that the authority allows the insurer to contact their employer in relation to their injury. This can have a big impact upon the person's employment.
14. It can also allow the insurer to obtain information that is private and not relevant to the claim. There will be little recourse for the claimant when the information is already obtained.
15. Currently, where an authority has been revoked and there is disagreement about what material is relevant to the claim, this can be determined by the Court.
16. Whilst Regulator Rule 7.1.1 (d) may require CTP insurers to inform claimants when the authority is being used and for what purpose, this does not always occur. When it does occur, it does not necessarily occur in advance of the authority being used, and the claimant is not always given an opportunity to object to its use.

Conclusion

17. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the draft form. The ALA is available to assist with the further drafting of the form if required. We are also happy to meet to discuss our submissions in person.

A handwritten signature in blue ink that reads "S Vinal".

Sarah Vinal

SA President

Australian Lawyers Alliance