



ACT
Government
Treasury

COMPULSORY THIRD PARTY INSURANCE REGULATOR

ANNUAL REPORT

2010 - 11

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ACT
Government
Treasury

Mr Andrew Barr MLA
Treasurer
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Dear Treasurer, *Andrew*

I am pleased to present the Annual Report of the ACT Compulsory Third-Party Insurance Regulator for the year ended 30 June 2011. This Report has been prepared under section 5(1) of the *Annual Reports (Government Agencies) Act 2004*. This Annual Report is annexed to Treasury's Annual Report.

I hereby certify that, to the best of my knowledge, the attached Annual Report is an honest and accurate account, that all material information on the operations of the Regulator during the period 1 July 2010 to 30 June 2011.

Yours sincerely

Megan Smithies
CTP Regulator

20 September 2011

DESCRIPTION

The Australian Capital Territory Compulsory Third-Party Insurance Regulator ('CTP regulator') is an independent body established under section 14 of the *Road Transport (Third-Party Insurance) Act 2008* (CTP Act).

Governance amendments to the CTP Act made in 2010 envisaged that the CTP regulator, as an authority under section 54 of the *Financial Management Act 1996*, would produce an annual report. Prior to that, the responsibilities of the CTP regulator were vested in the statutory office of the Chief Executive of Treasury.

The functions of the CTP regulator are specified in Section 14A of the *Road Transport (Third-Party Insurance) Act 2008*.

HISTORY OF CTP

Third party insurance was first introduced in the Territory under a Commonwealth ordinance, the *Motor Traffic Ordinance 1947*, which commenced on 2 February 1948. It inserted provisions requiring vehicle owners to obtain compulsory third-party (CTP) insurance into the principal ordinance, the *Motor Traffic Ordinance 1936*. Before 1948, this insurance was voluntary. Actions for negligence were against vehicle owners and at-fault drivers personally. If they were not covered by insurance there was no guarantee the injured person would get any compensation.

At the inception of the 1948 scheme there were 16 insurers operating in the Territory. While there were multiple insurers there was no competition in terms of price as the CTP premium was decided by fee determination made by the Minister. By 1980, all CTP insurers except for Insurance Australia Limited (trading as NRMA Insurance) (NRMA) had withdrawn from the Territory.

Following self-government in 1989, the ACT inherited the 1948 third-party scheme. The 1936 motor traffic legislation was subsequently repealed by new road transport legislation, with effect from 1 March 2000 and the existing CTP provisions were transferred to part 10 of the *Road Transport (General) Act 1999*.

The first significant reforms to the CTP law in the ACT came with the introduction of the 2008 reforms made by the CTP Act. This Act introduced a first stage of reforms to the CTP scheme in the ACT, setting the foundation for future reforms consistent with reforms that have been occurring since 1988 in other Australian jurisdictions.

Currently, the law applying to CTP claims in the ACT is still based entirely on the common law as a fault-based scheme. The only restriction applying to damages comes from the *Civil Law (Wrongs) Act 2002* which limits future economic loss to three times average weekly earnings as defined in that Act.

THE ORGANISATION

The role of the CTP regulator is to regulate the compulsory third party (CTP) insurance scheme in the ACT under the CTP Act. The objectives of the Act under section 5A are to:

- continue improving compulsory third-party insurance in the ACT;
- promote competition for CTP premiums;
- keep the costs of insurance at an affordable level;
- provide for the licensing and supervision of insurers;
- encourage the speedy resolution of personal injury claims ;
- promote and encourage the rehabilitation of people injured in motor accidents;
- establish and keep a register of motor accident claims to help the administration of the statutory insurance scheme and the detection of fraud; and
- promote measures directed at eliminating or reducing causes of motor accidents and mitigating their results.

Under section 14 of the CTP Act, the CTP regulator is the Director-General. As the CTP Act is administered by the Treasury Directorate, the regulator is the Director-General of Treasury. The functions of the regulator are supported by the Legal and Insurance Policy Branch of the Investment and Economics Division.

Currently NRMA is the only provider of CTP insurance in the ACT. Following the 2008 reforms, all insurers operating in NSW and Queensland (the only two other privately underwritten CTP jurisdictions) were invited to enter the ACT.

The Nominal Defendant acts as the insurer in claims involving an unidentified vehicle or uninsured vehicle that is at-fault. The Nominal Defendant is the ACT Insurance Authority (ACTIA) under section 13 of the CTP Act. Accounts for the Nominal Defendant are required to be kept separate and audited under sections 163F and 163G. The annual report for the Nominal Defendant is included within the annual report for ACTIA.

OVERVIEW, HIGHLIGHTS AND ANALYSIS OF PERFORMANCE

- Introduction of the *Road Transport (Third-Party Insurance) (Governance) Amendment Act 2010* – which came into effect on 30 September 2010. This amendment provided for a long term structure for the CTP regulator with transparent responsibilities and functions.
- Consultation on the *Road Transport (Third-Party Insurance) Amendment Bill 2011* in October 2010 – November 2010, followed by introduction of the Bill in the Legislative Assembly on 17 February 2011. This Bill was designed to put the focus of CTP claims back on the health of claimants rather than maximising financial compensation. On 31 March 2011 the Bill was referred to the Standing Committee on Public Accounts, due to report to the Legislative Assembly in March 2012.

- Supported the 'Share the Road' advertising campaign developed by Roads ACT, Territory and Municipal Services Directorate, now the Road Safety Unit, Transport Regulation Branch, Office of Regulatory Services. This advertising is expected to occur late in 2011.
- The purchase of a personal injury register (PIR) database from the Motor Accidents Insurance Commission (MAIC), Queensland. The database went live from 12 April 2011. As claims data is progressively added to the PIR, this will allow data, scheme statistics and trends to be interrogated and analysed.
- Maintained the CTP website and responded to feedback from the public received via Canberra Connect and the CTP website at <http://www.treasury.act.gov.au/compulsorytpi/index.shtml>.

CTP AVERAGE ANNUAL RISK PREMIUM

Section 46A of the CTP Act requires that the regulator publish the average annual risk premium for CTP in the ACT. The risk premium represents the base risk amount that each insurer bears when providing CTP insurance in the ACT. Presently there is only one CTP insurer in the ACT, Insurance Australia Limited (trading as NRMA Insurance) (NRMA). As such, the risk premium has been derived using a weighted average of NRMA data and Nominal Defendant data to determine the average risk premium price per policy.

The average risk premium price per policy for 2010-11 is \$367.55.

OUTLOOK

- Progressing the changes proposed in the Road Transport (Third-Party Insurance) Amendment Bill 2011.
- Undertaking a three year review of the *Road Transport (Third-Party Insurance) Act 2008* as required by section 275 of the CTP Act.
- Securing entry of additional insurers to provide competition.
- Monitoring the effectiveness of the CTP scheme against the objectives of the CTP Act.
- Exploring no-fault coverage for those catastrophically injured in a motor crash in the ACT as has been proposed by the Productivity Commission report on Disability Care and Support.

Further Information Can Be Obtained From:

Megan Smithies	CTP regulator, Director-General, Treasury Directorate	(02) 6207 0260	megan.smithies@act.gov.au
Roger Broughton	Executive Director, Investment and Economics Division	(02) 6207 6082	roger.broughton@act.gov.au
Tom McDonald	Director, Legal and Insurance Policy Branch	(02) 6207 0284	tom.mcdonald@act.gov.au

LEGISLATION REPORT

Road Transport (Third-Party Insurance) Act 2008

FREEDOM OF INFORMATION

The following is provided in addition to the information provided in Treasury's annual report.

SECTION 7 STATEMENT

The CTP regulator was established in 2008 under the CTP Act. The regulator became an authority under the *Financial Management Act 1996* on 30 September 2010. The organisational functions and powers of the CTP regulator are outlined in section 14A of the CTP Act. The regulator invites feedback regarding the CTP scheme by clicking on the feedback link on the ACT's CTP website at <http://www.treasury.act.gov.au/compulsorytpi/index.shtml>.

FACILITIES FOR ACCESS TO DOCUMENTS

People seeking information are encouraged to seek access by first contacting the Treasury Directorate before resorting to the more formal FOI procedure.

THE CTP REGULATOR'S CONTACT FOR FOI REQUESTS

The FOI Coordinator
Treasury Directorate
GPO Box 158
Canberra ACT 2601
Telephone: (02) 6205 0623
Fax: (02) 6207 0304

PHYSICAL LOCATION

Level 1, Canberra Nara Centre, corner Constitution Avenue and London Circuit,
Canberra City ACT 2600

SECTION 8 STATEMENT

The CTP regulator's section 8 statement is found within the statement published by the Treasury Directorate, which is available on request made to the Directorate's FOI Coordinator.

Specifically, the CTP regulator received 2 requests for access to documents under the *Freedom of Information Act 1989* during 2010-11.

SECTION 79 STATEMENT

Of the requests received by Treasury, two were in relation to the CTP regulator. Both requests were made by the ACT Law Society. The first of these was a request dated 30 November 2010. By decision made on 23 December 2010, partial access to the information requested was granted. The ACT Law Society requested an internal review of this decision. Two interim decisions have been made regarding the internal review on 4 May 2011 and 10 May 2011 providing partial release of documents. The ACT Law Society subsequently applied to the ACT Civil and Administrative Tribunal (ACAT) and the outcome is pending that application.

A second FOI request was made by the ACT Law Society dated 3 June 2011, which was received by the Treasury Directorate on 8 June 2011. As at 30 June 2011, a decision had not been made yet on this request. The substantive part of the request relates to information that was withheld under the first FOI request and is the subject of the above application to ACAT.

Number of requests under section 18 and response times

Number of requests received	30 days or less	31-45 days	46-60 days	61-90 days	91 days or more	Not yet finalised
2	1					1

Access decisions

Full Access	Partial Access	Total exemption	Technical Refusal (no documents)	Withdrawn
-	1	-	-	-

Decisions Appealed

Request for internal review	Affirmed	Partial release	Overtured
1		1	

Referrals to ACT Civil and Administrative Tribunal

Requests to ACAT	Affirmed	Overtured	Ongoing
1	-	-	1

Fees and charges (for requests with >10 hours processing time)

Request for personal affairs remission		Request for financial hardship remission		Request for public interest remission	
Accepted	Refused	Accepted	Refused	Accepted	Refused
-	-	-	-	-	-

Applicant type

Member of public	Solicitor	Association/ Organisation	Politician	Company
-	-	2	-	-

Requests to amend personal records (section 48)

Requests	Affirmed	Overtured	Ongoing
-	-	-	-

STAFFING AND CORPORATE PROFILE

As indicated above, the CTP Act is administered by the Treasury Directorate and the CTP regulator is the Director-General of Treasury. The functions of the regulator are supported by the Legal and Insurance Policy Branch of the Investment and Economics Division.

The CTP regulator does not employ any staff or occupy its own separate office space.

The details of staffing and corporate reporting are subsumed within the Treasury Directorate's annual report.

FINANCIAL REPORTING

Appendix 1 provides the income and expenses of the activities of the CTP regulator for the financial year. The figures are an extract from Treasury's 2010-11 financial statements.

From 2011-12 the CTP Regulator will maintain separate financial arrangements from Treasury.

Appendix 1

COMPULSORY THIRD PARTY INSURANCE REGULATOR

INCOME AND EXPENSES STATEMENTS

**For the Year Ended
1 July 2010 to 30 June 2011**

CONTENTS

Independent Audit Report
Statement of Responsibility
Statement of Income and Expenses on Behalf of the Territory
Operating Statement



ACT AUDITOR-GENERAL'S OFFICE



INDEPENDENT AUDIT REPORT COMPULSORY THIRD PARTY INSURANCE REGULATOR

To the Compulsory Third Party Insurance Regulator

Report on the financial statements

The financial statements of the Compulsory Third Party Insurance Regulator for the year ended 30 June 2011 have been audited. The financial statements are comprised of the Statement of Income and Expenses on Behalf of the Territory and Operating Statement.

Responsibility for the financial statements

The Compulsory Third Party Insurance Regulator is responsible for the preparation and fair presentation of the financial statements. This includes responsibility for maintaining adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and the accounting policies and estimates used in the preparation of the financial statements.

The auditor's responsibility

I am responsible for expressing an independent audit opinion on the financial statements.

The audit was conducted in accordance with Australian Auditing Standards to provide reasonable assurance that the financial statements are free of material misstatement.

I formed the audit opinion following the use of audit procedures to obtain evidence about the amounts in the financial statements. As these procedures are influenced by the use of professional judgement, selective testing of evidence supporting the amounts in the financial statements, inherent limitations of internal control and the availability of persuasive rather than conclusive evidence, an audit cannot guarantee that all material misstatements have been detected.

Although the effectiveness of internal controls is considered when determining the nature and extent of audit procedures, the audit was not designed to provide assurance on internal controls.

No opinion is expressed as to whether the financial statements are appropriate to the needs of the Compulsory Third Party Insurance Regulator.

Independence

Applicable independence requirements of Australian professional ethical pronouncements were followed in conducting the audit.

Electronic presentation of the audited financial statements

Those viewing an electronic presentation of the financial statements should note that the audit does not provide assurance on the integrity of information presented electronically and does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements. If users of the financial statements are concerned with the inherent risks arising from the electronic presentation of information, they are advised to refer to the printed copy of the audited financial statements to confirm the accuracy of this electronically presented information.

Basis of accounting and restriction on distribution

Without modifying the opinion below, I draw attention to the basis for the preparation of the financial statements. The financial statements are prepared by the Compulsory Third Party Insurance Regulator to meet its reporting requirements. As a result, the financial statements may not be suitable for any other purposes.

This report is intended for the use of the Compulsory Third Party Insurance Regulator and should not be used by other parties.

Audit opinion

In my opinion, the financial statements fairly present the income and expenses of the Compulsory Third Party Insurance Regulator.

This audit opinion should be read in conjunction with the other information disclosed in this report.

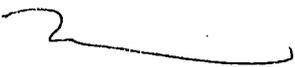


Bernie Sheville
Director, Financial Audits
21 September 2011

**COMPULSORY THIRD PARTY INSURANCE REGULATOR
INCOME AND EXPENSES
For the Year Ended 30 June 2011**

STATEMENT OF RESPONSIBILITY

In my opinion, the operating statements are in agreement with the Treasury's accounts and records and fairly reflect the financial operations for the Compulsory Third Party Insurance Regulator for the year ended 30 June 2011.


Megan Smithies
Under Treasurer
Compulsory Third Party Insurance Regulator
20 September 2011

Compulsory Third Party Insurance Regulator

**Statement of Income and Expenses on Behalf of the Territory
For The Year Ending 30 June 2011**

	Actual 2011 \$	Actual 2010 \$
Income		
Compulsory Third Party Administration and Research Levy	110,651	186,168
Total Income	<u>110,651</u>	<u>186,168</u>
Expenses		
Transfer to Government	110,651	186,168
Total Expenses	<u>110,651</u>	<u>186,168</u>
Operating Result	<u>-</u>	<u>-</u>

Notes to the financial statements

The above figures are an extract from Treasury's Territorial Financial Statement of transactions related to Compulsory Third Party Insurance Regulator activities.

Funds raised from the Compulsory Third Party Administration and Research Levy have been transferred to the Territory Banking Account.

Treasury received appropriation to fund its Compulsory Third Party Insurance Regulator activities.

Compulsory Third Party Insurance Regulator

**Operating Statement
For The Year Ending 30 June 2011**

	Actual 2011 \$	Actual 2010 \$
Income		
Appropriation - Compulsory Third Party Insurance Regulator	266,000	124,965
Appropriation - Other Treasury	19,690	-
Total Income	<u>285,690</u>	<u>124,965</u>
Expenses		
Consultants (Contract)	82,255	50,545
Consultants (Other)	67,749	-
Information and Communication Technology Project Staff	45,878	48,776
Computer - Software Maintenance Agreement Costs	14,318	-
Web Hosting Services	12,500	-
Publications	1,370	4,210
Travel Fares (Domestic)	616	-
Travel Accomodation	177	-
Work Related Conferences	822	-
Photocopying	5	3,230
General Advertising	60,000	8,310
Marketing Strategy Development	-	11,325
Work In Progress - Administration	-	1,431
Total Expenses	<u>285,690</u>	<u>124,965</u>
Operating Result	<u>-</u>	<u>-</u>

Notes to the financial statements

The above figures are an extract from Treasury's Controlled Financial Statement of transactions related to Compulsory Third Party Insurance Regulator activities.

The amount of Compulsory Third Party Insurance Regulator appropriation reflects the Compulsory Third Party Insurance Regulator Insurance expenditure patterns.

Appropriation and expenditure is higher in 2010-11 reflecting the rollover of unspent appropriation from 2008-09.