



TERRITORY OF COCOS (KEELING) ISLANDS

**Motor Vehicle (Third Party  
Insurance) Legislation  
Amendment Ordinance 2001  
(No. 1)**

**No. 3 of 2001<sup>1</sup>**

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance under the *Cocos (Keeling) Islands Act 1955*.

Dated 8 October 2001

PETER HOLLINGWORTH  
Governor-General

By His Excellency's Command

IAN MACDONALD  
Minister for Regional Services, Territories and  
Local Government

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**An Ordinance to amend the *Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)* and the *Motor Vehicle (Third Party Insurance) Regulations 1962 (WA) (CKI)*, and for related purposes**

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**1 Name of Ordinance**

This Ordinance is the *Motor Vehicle (Third Party Insurance) Legislation Amendment Ordinance 2001 (No. 1)*.

**2 Commencement**

This Ordinance commences on gazettal.

**3 Amendment of *Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)***

Schedule 1 amends the *Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)*.

2	<i>Motor Vehicle (Third Party Insurance) Legislation Amendment Ordinance 2001 (No. 1)</i>	2001, 3
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**4      Amendment of *Motor Vehicle (Third Party Insurance) Regulations 1962 (WA) (CKI)***

Schedule 2 amends the *Motor Vehicle (Third Party Insurance) Regulations 1962 (WA) (CKI)*.

**5      Amendment of *Applied Laws (Implementation) Ordinance 1992***

Schedule 3 amends the *Applied Laws (Implementation) Ordinance 1992*.

**Schedule 1      Amendments of *Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)***

(section 3)

**[1]      Subsection 3 (1), before definition of *Commission***

*insert*

*approved insurer* means an insurer approved, in writing, by the Minister under section 3AA.

**[2]      Subsection 3 (1), definitions of *Commission, Fund* and *Minister***

*omit*

**[3]      Subsection 3 (1), after definition of *motor vehicle***

*insert*

*nominal defendant* means the person appointed under section 3AC as the nominal defendant in the Territory.

**[4] After subsection 3 (1)**

*insert*

- (1A) For the application of sections 10, 11, 12, 27, 29, 29A, 30 and 33 to the death or bodily injury of a person caused directly by, or by the driving of, an uninsured or unidentified motor vehicle, the ***approved insurer***, or the ***relevant approved insurer***, means the nominal defendant.

**[5] After section 3**

*insert*

**3AA Approved insurer**

- (1) An insurer may apply, in writing, to the Minister to be an approved insurer for this Act.
- (2) Before the end of 21 days after receiving an application, the Minister must:
  - (a) approve or refuse to approve the insurer; and
  - (b) give the insurer written notice of the decision and, if the decision is a refusal, the reasons for that decision.
- (3) In deciding to approve or refuse to approve an insurer, the Minister must consider:
  - (a) the Territory's requirements for third party motor vehicle insurance; and
  - (b) the ability of the insurer to provide insurance of that kind in the Territory.
- (4) An approval is subject to any conditions that are prescribed by regulation.
- (5) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision of the Minister to refuse the approval of an insurer.

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### **3AB Revocation of approval**

- (1) The Minister may revoke the approval of an approved insurer if the insurer contravenes:
  - (a) a provision of this Act or of any regulations under this Act; or
  - (b) a condition to which the insurer's approval is subject.
- (2) In deciding whether to revoke an approval under subsection (1), the Minister must consider:
  - (a) the kind and seriousness of the contravention; and
  - (b) whether the insurer has previously contravened a provision of this Act or of any regulations under this Act, or a condition to which the insurer's approval is subject (as the case may be).
- (3) The revocation of an approval does not affect:
  - (a) a policy of insurance made with the approved insurer that is in force before the revocation; or
  - (b) any liability of the insurer under that policy, or this Act, that was incurred before the revocation.
- (4) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision of the Minister to revoke the approval of an insurer under subsection (1).
- (5) A revocation takes effect on the day on which:
  - (a) the Minister gives written notice to the insurer of the revocation, and the reasons for it; or
  - (b) if the insurer makes an application under subsection (4) — the insurer is given notice of a decision affirming the revocation.
- (6) Failure by the Minister to give the reasons for revocation does not make the revocation ineffective.

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**3AC Nominal defendant**

- (1) The Minister may, by writing, appoint an approved insurer as the nominal defendant in the Territory.
- (2) If more than one insurer has been approved under section 3AA, and a majority of the approved insurers nominates 1 of them to be the nominal defendant, only the nominated approved insurer may be appointed.
- (3) An appointment may only be made with the agreement, in advance, of the approved insurer.
- (4) When an appointment is made, notice of the appointment must be published in the *Government Gazette* of the Territory stating the nominal defendant's name and address for service.
- (5) If there is no nominal defendant, the Administrator is taken to be the nominal defendant.

**3AD Revocation of appointment of nominal defendant**

- (1) The Minister may, by notice in writing published in the *Government Gazette* of the Territory, revoke the appointment of an approved insurer as the nominal defendant if:
  - (a) the insurer asks the Minister, in writing, to do so; or
  - (b) the Minister thinks it appropriate in the circumstances.
- (2) If the Minister appoints a nominal defendant, a previous appointment of a nominal defendant is taken to have been revoked.
- (3) If the appointment of a nominal defendant is revoked, any action that has been commenced, but not concluded, against the former nominal defendant:
  - (a) is taken to continue; and
  - (b) is taken for all purposes to have been commenced against the new nominal defendant on the day it

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was commenced against the former nominal defendant.

**[6] Subsection 3R (4)**

*substitute*

- (4) The Director General must, whenever he or she is directed to do so by an approved insurer, remit to the approved insurer the total amount of all insurance premiums received by the Director General on account of insurance policies issued on behalf of the insurer under this Act, less any agreed commission, together with the prescribed documents and information (if any) in relation to those premiums.

**[7] Subsection 3R (5)**

*omit*

**[8] Section 3S**

*omit*

**[9] Section 3T**

*substitute*

**3T Premiums**

The regulations may prescribe maximum rates of premiums that an approved insurer may charge for insurance issued for this Act.

**[10] Paragraph 6A (2) (b)**

*omit*

**[11] Paragraph 7 (6) (b)**

*omit*

Act;

*insert*

Act in the Territory;

**[12] After section 7**

*insert*

**7A Payment by nominal defendant**

- (1) If the nominal defendant is an approved insurer, the nominal defendant may recover from the other approved insurers (if any) and the Commonwealth a proportion of:
  - (a) any amount paid in satisfaction of a claim made or judgment recovered against the nominal defendant; and
  - (b) the amount of any costs or expenses incurred by the nominal defendant in relation to the claim or the proceedings in which the judgment was obtained; and
  - (c) any amount necessary from time to time to meet costs and expenses incurred in the exercise of the functions of the nominal defendant.
- (2) If the nominal defendant is the Administrator, the nominal defendant may recover from the approved insurer or insurers a proportion of:
  - (a) any amount paid in satisfaction of a claim made or judgment recovered against the nominal defendant; and
  - (b) the amount of any costs or expenses incurred by the nominal defendant in relation to the claim or the proceedings in which the judgment was obtained; and

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- (c) any amount necessary from time to time to meet costs and expenses incurred in the exercise of the functions of the nominal defendant.
  - (3) The Minister must determine the proportion of any amounts mentioned in subsection (1) or (2) payable by each approved insurer and the Commonwealth.
  - (4) In making a determination under subsection (3), the Minister must have regard, so far as practicable, to:
    - (a) the premiums received by each approved insurer, during a period chosen by the Minister for the purpose; and
    - (b) the premiums that would have been payable for Commonwealth motor vehicles during the period if they had been insured under this Act.
  - (5) After making a determination under subsection (3), the Minister must tell each approved insurer, in writing:
    - (a) the amount the insurer must pay to the nominal defendant under the determination; and
    - (b) the time within which the insurer must pay that amount to the nominal defendant.

**[13] Section 8A, heading**

*substitute*

**8A Liability of approved insurers where spouse injured**

**[14] Section 11, heading**

*substitute*

**11 Power of approved insurers to deal with claims against insured persons**

**[15] Paragraph 12 (1) (b)**

*omit*

to the Commission within one month after the occurrence out of which the death or bodily injury arose, the Commission

*insert*

to the relevant approved insurer, or (if the vehicle is uninsured) the nominal defendant, within 1 month after the occurrence out of which the death or bodily injury arose, the relevant approved insurer or nominal defendant (as the case may be)

**[16] Section 15, heading**

*substitute*

**15 Right of approved insurers against unauthorised drivers**

**[17] Subsection 16 (1), definition of *proclaimed date***

*omit*

1972

*insert*

1972 (WA)

**[18] Section 19, heading**

*substitute*

**19 Approved insurer not to terminate policy**

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**[19] Section 25, heading**

*substitute*

**25 Information to be furnished by approved insurer**

**[20] After section 33**

*insert*

**34 Delegation**

The Minister may delegate any of his or her powers or functions under this Act, except a power vested in the Minister under subsection 8G (1) of the *Cocos (Keeling) Islands Act 1955*, to a person specified in subsection 8G (7) of that Act.

**35 Transitional**

- (1) If a policy of insurance under this Act was in force immediately before the commencement of the *Motor Vehicle (Third Party Insurance) Legislation Amendment Ordinance 2001 (No. 1)* (the **Ordinance**):
  - (a) that policy continues in force in accordance with its terms as if the Ordinance had not commenced; and
  - (b) any thing that may have been, or was required to be, done in relation to that policy (except an extension of the policy under section 21) may be done, or is required to be done, as the case may be, as if the Ordinance had not commenced; and
  - (c) the policy may be terminated in the same way as it could have been terminated if the Ordinance had not commenced.
- (2) CGU Insurance Ltd is taken to be approved under section 3AA immediately after the commencement of the Ordinance.

**[21] Further amendments**

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subsection 3 (1), definition of <i>contract of insurance</i>	the Commission	an approved insurer
Subsection 3R (2)	the Commission (each mention)	an approved insurer
Subsection 3R (3)	the Commission.	an approved insurer.
Paragraph 4 (8) (a)	Commission	relevant approved insurer
Paragraph 4 (9a) (a)	the Commission (first mention)	an approved insurer
Paragraph 4 (9a) (a)	the Commission (second mention)	the approved insurer
Paragraph 4 (9a) (b)	Commission	approved insurer
Paragraph 6 (1) (a)	the Commission;	an approved insurer;
Subsection 6A (3)	Commission	relevant approved insurer
Subsection 7 (1)	Commission (first mention)	relevant approved insurer
Subparagraph 7 (1) (i)	Commission	approved insurer
Subsection 7 (2)	Commission (first mention)	relevant approved insurer
Subsection 7 (2)	Commission (second and third mentions)	approved insurer
Subsection 7 (3)	Commission (each mention)	nominal defendant
Subsection 7 (4)	the Commission	an approved insurer
Subsection 7 (5)	Commission (each mention)	approved insurer
Paragraph 7 (6) (c)	the Commission	an approved insurer
Paragraph 7 (6) (c)	Commission.	approved insurer.
Subsections 8 (1), (3) and (5)	Commission (each mention)	nominal defendant

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subsection 8A (1)	Commission	nominal defendant
Subsection 8A (2)	Commission,	nominal defendant and any other relevant approved insurer,
Subsection 10 (1)	Commission	relevant approved insurer
Subsection 10 (3)	Commission (first mention)	relevant approved insurer
Subsection 10 (3)	Commission (second mention)	approved insurer
Subsection 10 (5)	Commission —	relevant approved insurer:
Subsection 10 (5)	Commission (second mention)	approved insurer
Subsection 10 (6)	Commission (each mention)	approved insurer
Subsection 11 (1)	The Commission	The relevant approved insurer
Subparagraph 11 (1) (d) (i)	Commission	approved insurer
Subsection 11 (2)	Commission	approved insurer
Subsection 11 (3)	Commission (first mention)	relevant approved insurer
Subsection 11 (3)	Commission (second mention)	approved insurer
Paragraph 12 (3) (b)	the Commission	the relevant approved insurer
Subsection 12 (3)	Commission (second mention)	relevant approved insurer or nominal defendant
Subsection 12 (5)	Commission	relevant approved insurer or nominal defendant

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Section 14	Commission (each mention)	nominal defendant
Paragraph 15 (a)	Commission	relevant approved insurer
Paragraph 15 (b)	the Commission (first mention)	an approved insurer
Paragraph 15 (b)	Commission (second mention)	approved insurer
Subsection 16 (1), definition of <i>action or proceedings</i>	Commission;	nominal defendant or another approved insurer.
Subsection 18 (1)	or the Commission may	may
Section 19	The Commission	An approved insurer
Subsection 23 (1)	the Commission	an approved insurer
Section 25	The Commission	An approved insurer
Subsection 27 (2)	the Commission	an approved insurer
Subsection 29 (1)	the Commission, (first mention)	an approved insurer,
Subsection 29 (1)	the Commission, (second mention)	the approved insurer,
Subsection 29 (2)	Commission	approved insurer
Subsection 29 (3)	Commission	approved insurer
Paragraph 29 (4) (b)	Commission	approved insurer
Section 29A	the Commission (first mention)	an approved insurer
Section 29A	the Commission (second mention)	the approved insurer
Subsection 30 (1)	the Commission (first mention)	an approved insurer
Subsection 30 (1)	the Commission (second and third mentions)	the approved insurer

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<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subsection 30 (3)	the Commission (first mention)	an approved insurer
Subsection 30 (3)	the Commission (second mention)	the approved insurer
Subsection 33 (3)	the Commission,	an approved insurer,
Schedule	<i>MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT 1943</i>	<i>MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT 1943 (WA) (CKI)</i>
Schedule	The INSURANCE COMMISSION OF WESTERN AUSTRALIA,	[The approved insurer],
Schedule	<i>Motor Vehicle (Third Party Insurance) Act 1943,</i>	<i>Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI),</i>
Schedule, Conditions, clause 3	The Commission	[The approved insurer]

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**Schedule 2 Amendments of *Motor Vehicle  
(Third Party Insurance)  
Regulations 1962 (WA) (CKI)***

(section 4)

**[1] Regulation 3, definition of *local authority***

*omit*

**[2] Regulation 23**

*omit*

sections

*insert*

provisions

**[3] Regulation 23, table**

*substitute*

<b>Provision of the Act</b>	<b>Instrument or document</b>	<b>Number of Form</b>
Subsection 7 (3)	Notice of claim	1
Subsection 8 (5)	Notice of claim to the nominal defendant	2
Subsection 10 (1)	Notice of happening of accident to be given to the approved insurer or nominal defendant	3
Subsection 10 (3)	Notice of claim by insured person to the approved insurer or nominal defendant	4

Provision of the Act	Instrument or document	Number of Form
Paragraph 12 (1) (b)	Notice of claim by medical practitioner, nurse or other person to the approved insurer or nominal defendant	5
Section 29	Notice of intention to make claim	7

**[4] Regulation 24**

*omit*

Every local authority

*insert*

The Director General

**[5] Regulation 24**

*omit the first mention of*  
the Trust

*insert*

each approved insurer

**[6] Paragraph 24 (a)**

*omit*

Trust

*insert*

approved insurer

**[7] Paragraph 24 (c)**

*omit*

**[8] Paragraph 24 (d)**

*omit*

Trust

*insert*

approved insurer

**[9] Regulation 26**

*substitute*

**26 Emergency treatment — ambulance**

For subparagraph 12 (1) (b) (iii) of the Act, the amount to be paid to an ambulance service that carries an injured person from an accident is the sum of:

- (a) \$45 as the call out fee; and
- (b) the amount calculated according to the following formula:

$$\$1.20 \times K$$

where **K** is the number of kilometres (except the first 10 kilometres) travelled by the ambulance.

**[10] Regulations 27, 28 and 29**

*omit*

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**[11] Regulation 30**

*substitute*

**30 Issue of licence is evidence that premium has been paid**

The issue of a licence for a motor vehicle by the Director General, under the provisions of the *Road Traffic Act 1974* and the regulations made under that Act, is conclusive evidence that, before, or at the time of, the issue of the licence, the appropriate premium determined by the relevant approved insurer for the vehicle and the period of the licence was paid to the Director General.

**[12] Regulation 30A**

*omit*

a local authority

*insert*

the Director General

**[13] Regulation 30B**

*omit*

a local authority

*insert*

the Director General

**[14] Regulation 30B**

*omit*

the local authority

*insert*

the Director General

**[15] Regulation 30B**

*omit*

Trust.

*insert*

relevant approved insurer.

**[16] Regulations 31 and 32**

*omit*

**[17] Appendix**

*omit each mention of*

Western Australia

*insert*

Cocos (Keeling) Islands

**[18] Appendix**

*omit each mention of*

*Motor Vehicle (Third Party Insurance) Act 1943*

*insert*

*Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)*

**[19] Appendix, Form 1**

*omit*

the Motor Vehicle Insurance Trust:

*insert*

the nominal defendant:

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**[20] Appendix, Form 2, heading**

*omit*

**NOTICE OF CLAIM BY INJURED PERSON TO THE TRUST**

*insert*

**Notice of claim by injured person to the nominal defendant**

**[21] Appendix, Form 2**

*omit*

the Motor Vehicle Insurance Trust:

*insert*

the nominal defendant:

**[22] Appendix, Form 3**

*omit*

the Motor Vehicle Insurance Trust:

*insert*

the approved insurer/nominal defendant:

**[23] Appendix, Form 4, heading**

*omit*

**NOTICE OF CLAIM TO THE TRUST BY INSURED PERSON**

*insert*

**Notice of claim to the approved insurer or nominal defendant by insured person**

**[24] Appendix, Forms 4 and 5**

*omit*

the Motor Vehicle Insurance Trust:

*insert*

the approved insurer/nominal defendant:

**[25] Appendix, Form 6**

*omit*

**[26] Appendix, Form 7**

*omit*

the Motor Vehicle Insurance Trust:

*insert*

the approved insurer/nominal defendant:

**[27] Appendix, Form 8**

*omit*

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**Schedule 3      Amendment of *Applied Laws*  
*(Implementation) Ordinance*  
**1992****

(section 5)

[1]      **Schedule 1, Part 19 (*Motor Vehicle (Third Party Insurance) Act 1943 (WA) (CKI)*)**

*omit*

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**Note**

1.      Notified in the *Commonwealth of Australia Gazette* on 15 October 2001.