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Mr Tony Sievers MLA
Chair
Economic Policy Scrutiny Committee
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Dear Chair

Thank you for your correspondence of 4 April 2019, seeking further clarifications on a number of issues raised in relation to the Motor Accidents (Compensation) Amendment Bill 2019.

Responses to the issues raised are provided at Attachment A.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'N Manison', with a long horizontal flourish extending to the right.

NICOLE MANISON

- 8 APR 2019

ECONOMIC POLICY SCRUTINY COMMITTEE
Motor Accidents (Compensation) Amendments Bill 2019

Clause 4 – Section 13 amended (Compensation for loss of earning capacity)

1a. Could you please confirm that pension age is the only factor that limits duration of LOEC benefits under the current Act.

Yes, pension age is the only factor that limits duration of LOEC benefits under the *Motor Accidents (Compensation) Act 1979*.

An eligible person who exceeds the pension age remains entitled to receive all other benefits (including medical, rehabilitation and attendant care benefits) as prescribed by the *Motor Accidents (Compensation) Act 1979*, irrespective of age, and with no time limits.

1b. Under proposed new s13(5)(a) of the Bill, how would entitlements to LOEC benefits vary across the following ages: 45, 64, 67, 75 and 80?

Information in relation to LOEC entitlement across different ages is provided in Table 1 below.

Table 1: Access to LOEC benefits provided under the Motor Accidents (Compensation) (MAC) Scheme (based on a pension age of 67 years)

Age	Access to LOEC benefits
45	LOEC benefits are available to an injured claimant until Pension Age if required
64	LOEC benefits are available to an injured claimant until Pension Age if required.
67	LOEC benefits are available to an injured claimant for a maximum of 104 weeks if working at the time of the accident. If the injured person is not working at the time of the accident, there is no entitlement to LOEC benefits. However, other safety-nets are available such as superannuation and the aged pension.
75	LOEC benefits are available to an injured claimant for a maximum of 104 weeks if working at the time of the accident. If the injured person is not working at the time of the accident, there is no entitlement to LOEC benefits. However, other safety-nets are available such as superannuation and the aged pension.
80	LOEC benefits are available to an injured claimant for a maximum of 104 weeks if working at the time of the accident. If the injured person is not working at the time of the accident, there is no entitlement to LOEC benefits. However, other safety-nets are available such as superannuation and the aged pension.

2a. What factors informed the decision to use pension age as the criteria for limiting the amount of time a person can receive loss of earnings benefits?

LOEC benefits are paid by the MAC Scheme to approved claimants when their capacity to earn an income has been reduced as a result of a motor vehicle accident.

The LOEC exclusion for those who have reached or exceed the pension age has been in place since the commencement of the scheme in the 1970's, and was based on the premise that individuals who exceed the pension age were less likely to be employed and were likely to be receiving the aged pension, and therefore had a diminished requirement to LOEC compensation.

It should also be noted that the proposed amendments are more generous than LOEC benefits provided under interstate workers compensation and motor accidents schemes. In general, interstate schemes only extend access to LOEC benefits for 12 months post pension age (as opposed to two years under the proposed Bill).

Given that more people in the Territory are working for longer, the exclusion to LOEC benefits is out of step with more contemporary employment patterns.

The policy objective to extend benefits for up to two years post retirement age (where claimants were employed at the date of accident), is to ensure that people in these circumstances continue to receive LOEC payments while they recover and return to work or transition to retirement.

As a no-fault scheme, LOEC benefits are intended to be a safety net to support people back to work and health. For those that have reached or exceed the pension age, there are additional safety nets available that are not available to those who are younger than the Pension Age (including superannuation and the aged pension).

There is also a need to strike a balance between people being able to access LOEC and the financial viability of the MAC Scheme. To ensure that premiums remain affordable for Territory motorists, the scope of cover and benefits payable must be balanced with the cost to the scheme. To achieve this, the *Motor Accidents (Compensation) Act 1979* prescribes caps on benefits, including limiting the duration in respect of which claimants are entitled to receive LOEC benefits.

2b. Did the Department take into consideration factors such as the following:

- i. The average length of time on LOEC benefits**
- ii. The aggregate average benefits paid out for LOEC**
- iii. Driver risk by age**

No, the overall intention was to bring the MAC Scheme into alignment with the workers compensation scheme in the Northern Territory (by extending LOEC benefits for those who have reached or exceed pension age by up to two years), while also balancing the overall sustainability of the scheme and ensuring affordable premiums for Territory motorists.

As set out in Question 2a above, the amendments are more generous than LOEC benefits provided under interstate workers compensation and motor accident schemes.