

## **EXPLANATORY STATEMENT**

*Safety, Rehabilitation and Compensation Act 1988*

Issued by Comcare

### **Notice of Disallowable Instruments**

#### **Approved Guide: Guide to the Assessment of the Degree of Permanent Impairment**

The purpose of the instruments to which this Explanatory Statement relates is to bring into operation the second edition of the Guide setting out the criteria by which the degree of permanent impairment and non-economic loss suffered by an injured employee shall be assessed for the purposes of the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act).

Section 24 of the SRC Act provides that where an injury to an employee results in a permanent impairment, Comcare is liable to pay compensation to the employee in respect of that injury and the degree of permanent impairment shall be a percentage determined under the provisions of the approved Guide.

Section 28 provides that Comcare may prepare a written document, to be called the “Guide to the Assessment of the Degree of Permanent Impairment” and may, from time to time, vary or revoke the approved Guide. In accordance with subsections 28(2) and (3) of the SRC Act, the instruments revoke the first edition of the Guide and approve the second edition, commencing on 1 March 2006.

The instruments are disallowable instruments, subject in part, to the *Acts Interpretation Act 1901*.

In preparing the Guide, Comcare has, as required under subsection 28(6) of the SRC Act, had regard to medical opinion concerning the nature and effect (including possible effect) of the injury and the extent (if any) to which impairment resulting from the injury, or non-economic loss resulting from the injury or impairment, may reasonably be capable of being reduced or removed.

The first edition of the Guide was issued in 1989. It was based on the 2<sup>nd</sup> edition of the American Medical Association’s *Guides to the Evaluation of Permanent Impairment*. The content of the first edition of the Comcare Guide has fallen behind developments in medical assessment of permanent impairment and has been subject to judicial criticism.

The second edition has been devised in consultation with a range of Australian medical specialists and is based on the current edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, namely the 5<sup>th</sup> edition.

The second edition of the Guide is substantially more comprehensive than the first edition and will provide an accurate, clear and objective method for measuring all impairments likely to result from work related conditions. It provides calibrated impairment ratings across the various organ systems, more extensive and comprehensive tables with specific measurements of impairment, and detailed instructions on how ratings may be applied or combined. New impairment tables have also been added for specific conditions and in many tables the maximum levels of impairment have been increased.

While, non-economic loss ratings remain the same, there is more information on symptoms to assist in providing a more consistent and equitable way of rating non-economic loss.

Permanent impairment ratings determined under the first edition will be preserved unless that assessment would not have been made but for a false statement or misrepresentation.

The first edition chapter on psychiatric disorders has been preserved in the second edition. Comcare will continue to closely monitor developments in psychiatric impairment rating scales and the operation of the new edition generally.

Comcare has undertaken extensive consultation with all relevant stakeholders including medical and legal practitioners, employee representatives, SRC Act licensees and Ex-Service Organisations (ESOs).