

Seafarers Rehabilitation and Compensation Act 1992

Section 42

I, Christopher Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations approve, under subsection 42(3) of the *Seafarers rehabilitation and Compensation Act 1992* ('the Act'), approve, with effect on and from 1 December 2011 the attached Variation to the Seafarers rehabilitation and Compensation Act 1992 – Guide to the assessment of the Degree of Permanent Impairment (Edition 2.1) (02/11/2011) prepared by the Seafarers Safety, Rehabilitation and Compensation Authority under section 42(1) of the Act.

Dated: 29 November 2011

[signed]

CHRISTOPHER EVANS

Minister for Tertiary Education, Skills, Jobs and Workplace Relations

VARIATION TO SEAFARERS REHABILITATION AND COMPENSATION ACT 1992 – GUIDE TO THE ASSESSMENT OF THE DEGREE OF PERMANENT IMPAIRMENT (EDITION 2.1) (02/11/2011)

1. This instrument is prepared under subsection 42(1) of the *Seafarers Rehabilitation and Compensation Act 1992* ('the Seafarers Act') and varies the *Seafarers Rehabilitation and Compensation Act 1992 – Guide to the Assessment of the Degree of Permanent Impairment (Edition 2.1) (02/11/2011)* ('Edition 2.1 of the Guide').

NOTE: Edition 2.1 of the Guide is registered on the Federal Register of Legislative Instruments as F2011L02387 and commenced on 1 December 2011.

2. Edition 2.1 of the Guide is varied by repealing paragraph 3 (Application of this Guide) appearing on page 10 of Edition 2.1 and substituting the following provisions –

3. Application of this guide

The *Guide to the Assessment of the Degree of Impairment* prepared by the Seafarers Safety, Rehabilitation and Compensation Authority under subsection 42(1) of the Seafarers Act and approved by the Minister for Transport and Communications on 17 June 1993 is referred to as the 'first edition of the guide'.

The first edition of the guide was revoked and the second edition of the guide applied in relation to permanent impairment claims made under sections 39, 40 or 41 of the Seafarers Act on and from 1 March 2006. Claims under those sections received on or before 28 February 2006 continue to be determined under the provisions of the first edition of the guide.

The second edition of the guide is revoked on and from 1 December 2011 and edition 2.1 of the guide applies on and from that date. This edition varies the second edition by addressing medical ambiguities identified by medical practitioners using the second edition of the guide, addressing various errata and providing a 10% impairment rating for all tables within the guide. Edition 2.1 of the Guide does not change the structure of the second edition of the guide or the composition of benefits payable.

Except as provided below, Edition 2.1 of the guide applies to permanent impairment claims under sections 39, 40 or 41 of the Seafarers Act received by the employer on and from 1 December 2011.

Where a request by an employee (as defined in section 4 of the Seafarers Act) pursuant to subsection 40(1) of the Seafarers Act (in respect of interim payment of permanent impairment

compensation) is received by an employer on or after 1 December 2011, but relates to a claim under section 39 of the Seafarers Act that was received by the employer on or before 28 February 2006, that request must be determined under the provisions of the first edition of the guide.

Where a request by an employee pursuant to subsection 40(1) of the Seafarers Act (in respect of interim payment of permanent impairment compensation) is received by an employer on or after 1 December 2011, but relates to a claim under section 39 of the Seafarers Act that was received by the employer on or after 1 March 2006 but before 1 December 2011, that request must be determined under the provisions of the second edition of the guide.

Where a claim for compensation pursuant to subsections 40(4) or 40(5) of the Seafarers Act (in respect of a subsequent increase in the degree of permanent impairment) is received by the employer on or after 1 December 2011, that claim must be determined under the provisions of this edition of the guide, notwithstanding that the initial claim for compensation for permanent impairment may have been determined under the provisions of the previous editions of this guide.

However, where the initial claim for compensation for permanent impairment was determined under the provisions of the first or second edition of the guide, in determining whether or not there has been any subsequent increase in the degree of permanent impairment, the degree of permanent impairment or the degree on non-economic loss shall not be less than the degree of permanent impairment or degree of non-economic loss that was determined under the provisions of first or second edition of the guide unless that determination would not have been made but for a false statement or misrepresentation of a person.