

*Safety, Rehabilitation and Compensation Act 1988*

Section 28

I, Christopher Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations approve, under subsection 28(3) of the *Safety, Rehabilitation and Compensation Act 1988* ('the Act'), approve, with effect on and from 1 December 2011 the attached Variation to the Safety, Rehabilitation and Compensation Act 1988 - Guide to the Assessment of the Degree of Permanent Impairment Edition 2.1 prepared by Comcare under section 28(1) of the Act.

Dated: 29th November 2011

[signed]

CHRISTOPHER EVANS

Minister for Tertiary Education, Skills, Jobs and Workplace Relations

VARIATION TO SAFETY, REHABILITATION AND COMPENSATION ACT 1988  
– GUIDE TO THE ASSESSMENT OF THE DEGREE OF PERMANENT  
IMPAIRMENT EDITION 2.1

1. This instrument is prepared under subsection 28(1) of the *Safety, Rehabilitation and Compensation Act 1988* ('the SRC Act') and varies the *Safety, Rehabilitation and Compensation Act 1988 – Guide to the Assessment of the Degree of Permanent Impairment Edition 2.1* ('Edition 2.1 of the Guide').

NOTE: Edition 2.1 of the Guide is registered on the Federal Register of Legislative Instruments as F2011L02375 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 pages 10 and 11 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 Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees under section 28(1) of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* and approved by the Minister of State for Industrial Relations by notice in writing dated 27 July 1989 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The first edition of the guide was revoked and the second edition of the guide applied in relation to permanent impairment claims made under sections 24, 25 or 27 of the SRC Act on and from 1 March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 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, Part 1 of Edition 2.1 of the guide applies to permanent impairment claims under sections 24, 25 or 27 of the SRC Act received by the relevant authority on and from 1 December 2011.

Part 2 of this Guide applies to defence-related claims for permanent impairment under sections 24, 25 or 27 of the SRC

Act received by the relevant authority on and from 1 December 2011 for injuries related to defence service rendered before 1 July 2004.

Where a request by an employee pursuant to subsection 25(1) of the SRC Act (in respect of interim payment of permanent impairment compensation) is received by the relevant authority on or after 1 December 2011, but relates to a claim under section 24 of the SRC Act that was received by the relevant authority 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 25(1) of the SRC Act (in respect of interim payment of permanent impairment compensation) is received by the relevant authority on or after 1 December 2011, but relates to a claim under section 24 of the SRC Act that was received by the relevant authority 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 25(4) or 25(5) of the SRC Act (in respect of a subsequent increase in the degree of permanent impairment) is received by the relevant authority on or after 1 December 2012, 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 under this edition of the guide, the degree of permanent impairment or the degree of 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.

In this guide, 'relevant authority' and 'defence-related claims' have the same meaning as defined in section 4 and Part XI of the SRC Act.