

Seafarers Rehabilitation and Compensation (Catastrophic Injury) Rules 2018

I, CRAIG LAUNDY, Minister for Small and Family Business, the Workplace and Deregulation, make the following rules.

Dated 22/8/18

CRAIG LAUNDY

Minister for Small and Family Business, the Workplace and Deregulation

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1 Name

This instrument is the *Seafarers Rehabilitation and Compensation (Catastrophic Injury) Rules 2018*.

2 Commencement

This instrument commences the day after it is registered on the Federal Register of Legislation.

3 Authority

This instrument is made under section 144 of the Act.

4 Application

This instrument applies to an injury suffered by an employee whether the injury was suffered before, on, or after the commencement of this instrument.

5 Definitions

In this instrument:

***Act***means the *Seafarers Rehabilitation and Compensation Act 1992.*

***injury*** means an injury for which compensation is payable under the Act.

6 Conditions of a catastrophic injury

For the purposes of the definition of ***catastrophic injury*** in section 3 of the Act, an injury is a catastrophic injury if one or more of the following conditions are satisfied:

(a) the injury is a catastrophic spinal cord injury; or

(b) the injury is a catastrophic brain injury; or

(c) the injury is a catastrophic amputation injury; or

(d) the injury is a catastrophic burn injury; or

(e) the injury is a catastrophic blindness injury.

7 Catastrophic spinal cord injury

An injury is a ***catastrophic spinal cord injury*** if it is a lesion of the spinal cord or cauda equina which results in one or more of the following:

(a) sensory deficit; or

(b) motor deficit; or

(c) bladder dysfunction; or

(d) bowel dysfunction.

8 Catastrophic brain injury

An injury is a ***catastrophic brain injury*** if it is a brain injury which results in:

(a) impairment of cognitive, physical or psychosocial functions; and

(b) impairment assessed at a score of 5 or less on any of the items on the FIMTM score sheet at Schedule 1; and

(c) one or both of the following:

(i) a period of post traumatic amnesia of at least 7 days; or

(ii) a significant brain imaging abnormality.

Note: The FIMTM (Functional Independence Measure) is a basic indicator of severity of functional limitation.

9 Catastrophic amputation injury

Single injury

(1) An injury is a ***catastrophic amputation injury*** if:

(a) the injury results in at least one of the following:

(i) a forequarter amputation; or

(ii) a shoulder disarticulation; or

(iii) if the injury is a brachial plexus avulsion injury—no residual functioning in the upper extremity; or

(iv) a hindquarter amputation; or

(v) a hip disarticulation; or

(vi) if the injury is a lumbar plexus avulsion injury—no residual functioning in the lower extremity; or

(vii) an amputation involving the loss of 65% or more of the length of the femur; or

(b) the injury results in at least two of the following:

(i) loss of 50% or more of the length of the tibia of the left leg; or

(ii) loss of 50% or more of the length of the tibia of the right leg; or

(iii) loss of the thumb of the left hand at or above the first metacarpophalangeal joint; or

(iv) loss of the thumb of the right hand at or above the first metacarpophalangeal joint.

Multiple injuries

(2) An injury is a ***catastrophic amputation injury*** if:

(a) the injury results in any one of the losses specified in paragraph (1)(b); and

(b) prior to the employee suffering the injury, the employee suffered an injury to a different limb or limbs (the ***earlier injury***); and

(c) the earlier injury:

(i) satisfies the conditions for a ***catastrophic amputation injury*** in subsection (1); or

(ii) results in any one of the losses specified in paragraph (1)(b).

(3) For the avoidance of doubt, the earlier injury mentioned in subparagraph (2)(c)(ii) is not a ***catastrophic amputation injury*** unless the earlier injury satisfies the conditions for a ***catastrophic amputation injury*** in subsection (1) or (2).

10 Catastrophic burn injury

An injury is a ***catastrophic burn injury***if it results in impairment assessed at a score of 5 or less on any of the items on the FIMTM score sheet at Schedule 1, and the injury is one or both of the following:

(a) full thickness burns:

(i) for an employee aged 16 years or above at the time of the injury—greater than 40% of the total body surface area; or

(ii) for an employee aged under 16 years at the time of the injury— greater than 30% of the total body surface area; or

(iii) to the hands, face or genital area; or

(b) inhalation burns resulting in vital capacity or forced expiratory volume in one second which is less than 50% of that predicted for the employee’s age, height and ethnicity.

Note: The FIMTM (Functional Independence Measure) is a basic indicator of severity of functional limitation.

11 Catastrophic blindness injury

An injury is a ***catastrophic blindness injury*** if it results in one or more of the following:

(a) visual acuity after correction by suitable lenses of less than 6/60 in both eyes; or

(b) constriction to within 10 degrees of fixation in the better eye irrespective of corrected visual acuity; or

(c) a combination of visual defects resulting in the same degree of visual impairment as that specified in subsection (a) or (b).

Note: An employee would have visual acuity of 6/60 if the employee is only able to see at a distance of 6 metres a symbol which a person with normal vision could see at a distance of 60 metres.

Schedule 1—FIMTM score sheet

|  |  |  |  |
| --- | --- | --- | --- |
| Patient’s name: | | | Date of birth: |
| Type of injury:  Brain injury  Burn | | | Date of injury: |
| Hospital / unit: | | | Date of assessment: |
| Method of administration:  Direct observation  Interview with: | | | |
|  |  |  |  |
| Item | Score | Is score due to the injury? | Reasons for score |
| SELF CARE | | | |
| 1. Eating |  | Yes  No |  |
| 1. Grooming |  | Yes  No |  |
| 1. Bathing |  | Yes  No |  |
| 1. Dressing – upper body |  | Yes  No |  |
| 1. Dressing – lower body |  | Yes  No |  |
| SPHINCTER CONTROL | | | |
| 1. Toileting |  | Yes  No |  |
| 1. Bladder management |  | Yes  No |  |
| 1. Bowel management |  | Yes  No |  |
| Self-care subtotal |  |  | |
| TRANSFERS | | | |
| 1. Bed / Chair / Wheelchair |  | Yes  No | Mode: W – Walk  C – Wheelchair  B – Both |
| 1. Toilet |  | Yes  No |  |
| 1. Bath / Shower |  | Yes  No |  |
| LOCOMOTION | | | |
| 1. Walk / Wheelchair |  | Yes  No | Mode: W – Walk  C – Wheelchair  B – Both |
| 1. Stairs |  | Yes  No |  |
| Mobility subtotal |  |  | |
| COMMUNICATION | | | |
| 1. Comprehension |  | Yes  No | Mode: A – Auditory  V – Visual  C – Both |
| 1. Expression |  | Yes  No | Mode: A – Auditory  V – Visual  C – Both |
| SOCIAL COGNITION | | | |
| 1. Social interaction |  | Yes  No |  |
| 1. Problem solving |  | Yes  No |  |
| 1. Memory |  | Yes  No |  |
| Cognition subtotal |  |  | |
| FIM™ TOTAL SCORE |  |
|  | | |  |
| Administered by: | | | FIM™ credentialed:  Yes  No |
| Qualification: | | |  |
| Date of assessment: | | |  |
|  | | |  |
| **FIM™ LEVELS**  ***No helper***  **7** Complete independence (Timely, Safely)  **6** Modified independence (Device)  ***Helper – Modified Dependence***  **5** Supervision (Subject = 100%)  **4** Minimal assistance (Subject = 75% or more)  **3** Moderate assistance (Subject = 50% or more)  ***Helper – Complete Dependence***  **2** Maximal assistance (Subject = 25% or more)  1 Total assistance (Subject less than 25%) | | | |

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