

Provisions of the *Safety, Rehabilitation and Compensation Act 1988*

Part II, Division 4—Injuries resulting in impairment

24 Compensation for injuries resulting in permanent impairment

- (1) Where an injury to an employee results in a permanent impairment, Comcare is liable to pay compensation to the employee in respect of the injury.
- (2) For the purpose of determining whether an impairment is permanent, Comcare shall have regard to:
 - (a) the duration of the impairment;
 - (b) the likelihood of improvement in the employee's condition;
 - (c) whether the employee has undertaken all reasonable rehabilitative treatment for the impairment; and
 - (d) any other relevant matters.
- (3) Subject to this section, the amount of compensation payable to the employee is such amount, as is assessed by Comcare under subsection (4), being an amount not exceeding the maximum amount at the date of the assessment.
- (4) The amount assessed by Comcare shall be an amount that is the same percentage of the maximum amount as the percentage determined by Comcare under subsection (5).
- (5) Comcare shall determine the degree of permanent impairment of the employee resulting from an injury under the provisions of the approved Guide.
- (6) The degree of permanent impairment shall be expressed as a percentage.
- (7) Subject to section 25, if:
 - (a) the employee has a permanent impairment other than a hearing loss; and
 - (b) Comcare determines that the degree of permanent impairment is less than 10%;an amount of compensation is not payable to the employee under this section.
- (7A) Subject to section 25, if:
 - (a) the employee has a permanent impairment that is a hearing loss; and
 - (b) Comcare determines that the binaural hearing loss suffered by the employee is less than 5%;an amount of compensation is not payable to the employee under this section.

- (8) Subsection (7) does not apply to any one or more of the following:
 - (a) the impairment constituted by the loss, or the loss of the use, of a finger;
 - (b) the impairment constituted by the loss, or the loss of the use, of a toe;
 - (c) the impairment constituted by the loss of the sense of taste;
 - (d) the impairment constituted by the loss of the sense of smell.
- (9) For the purposes of this section, the maximum amount is \$80,000.

25 Interim payment of compensation

- (1) Where Comcare:
 - (a) makes a determination that an employee is suffering from a permanent impairment as a result of an injury; and
 - (b) is satisfied that the degree of the impairment is equal to or more than 10% but has not made a final determination of the degree of impairment;Comcare shall, on the written request of the employee made at any time before the final determination is made, make an interim determination of the degree of permanent impairment under section 24 and assess an amount of compensation payable to the employee.
- (2) The amount assessed by Comcare under subsection (1) shall be an amount that is the same percentage of the maximum amount specified in subsection 24(9) as the percentage determined by Comcare under subsection (1) to be the degree of permanent impairment of the employee.
- (3) Where, after an amount of compensation has been paid to an employee following the making of an interim determination, Comcare makes a final determination of the degree of permanent impairment of the employee, there is payable to the employee an amount equal to the difference (if any) between the amount payable under section 24 on the making of the final determination and the amount paid to the employee under this section.
- (4) Where Comcare has made a final assessment of the degree of permanent impairment of an employee (other than a hearing loss), no further amounts of compensation shall be payable to the employee in respect of a subsequent increase in the degree of impairment, unless the increase is 10% or more.
- (5) If Comcare has made a final assessment of the degree of permanent impairment of an employee constituted by a hearing loss, no further amounts of compensation are payable to the employee in respect of a subsequent increase in the hearing loss, unless the subsequent increase in the degree of binaural hearing loss is 5% or more.

26 Payment of compensation

- (1) Subject to this section, an amount of compensation payable to an employee under section 24 or 25, shall be paid to the employee within 30 days after the date of the assessment of the amount.

- (2) Where an amount of compensation is not paid to an employee in accordance with subsection (1), interest is payable to the employee on that amount in respect of the period commencing on the expiration of the period of 30 days referred to in that subsection and ending on the day on which the amount is paid.
- (3) Interest payable under subsection (2) shall be paid at such rate as is from time to time specified by the Minister for the purposes of this section by notice in writing.
- (4) This section does not apply where:
 - (a) Comcare has been requested under Part VI to reconsider a determination under section 24 or 25, as the case may be; or
 - (b) a proceeding in respect of such a determination has been instituted under Part VI.

27 Compensation for non-economic loss

- (1) Where an injury to an employee results in a permanent impairment and compensation is payable in respect of the injury under section 24, Comcare is liable to pay additional compensation in accordance with this section to the employee in respect of that injury for any non-economic loss suffered by the employee as a result of that injury or impairment.
- (2) The amount of compensation is an amount assessed by Comcare under the formula:
$$[\$15,000 \times A] + [\$15,000 \times B]$$
where:
A is the percentage finally determined by Comcare under section 24 to be the degree of permanent impairment of the employee; and
B is the percentage determined by Comcare under the approved Guide to be the degree of non-economic loss suffered by the employee.
- (3) This section does not apply in relation to a permanent impairment commencing before 1 December 1988 unless an application for compensation for non-economic loss in relation to that impairment has been made before the date of introduction of the Bill for the Act that inserted this subsection.

