



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010

Act No. 24 of 2010



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Workers' Compensation and Rehabilitation Act 2003	
3	Act amended	8
4	Amendment of s 54 (Setting of premium)	8
5	Replacement of s 67 (Employer may insure against payment for the excess period)	9
	67 Employer may not insure against payment for the excess period	9
6	Amendment of s 86 (Reinsurance)	9
7	Amendment of s 185 (Insurer to give notice of assessment of permanent impairment)	10
8	Amendment of s 202 (Workers under 21)	10
9	Amendment of s 220 (Insurer's responsibility for worker's rehabilitation)	10
10	Amendment of s 221 (Authority's responsibility for rehabilitation)	11
11	Amendment of s 231 (Worker must mitigate loss)	11
12	Amendment of s 233 (Definitions for ch 5)	11
13	Amendment of s 235A (Date of doctor's consultation taken to be date of injury)	12
14	Amendment of s 238 (Worker with terminal condition)	12
15	Amendment of s 267 (Mitigation of loss)	12
16	Amendment of s 290A (Exchange of material for compulsory conference)	13
17	Replacement of ss 292 and 292A	13

Contents

	292	Parties to make written final offers if claim not settled at compulsory conference	13
18		Omission of ch 5, pt 8 (Structured settlements)	15
19		Omission of ch 5, pt 9 hdg (Particular matters affecting assessments of liability)	15
20		Omission of s 306 (Absolute defences not reintroduced).	15
21		Insertion of new ch 5, pts 8 and 9	15
	Part 8	Civil liability	
	Division 1	Interpretation	
	305	Definitions for pt 8.	15
	305A	Provisions not to apply to particular injuries.	16
	Division 2	General standard of care	
	305B	General principles	16
	305C	Other principles	17
	Division 3	Causation	
	305D	General principles	17
	305E	Onus of proof	18
	Division 4	Contributory negligence	
	305F	Standard of care in relation to contributory negligence	18
	305G	Contributory negligence can defeat claim	19
	305I	Meaning of obvious risk for s 305H	19
	305J	Presumption of contributory negligence if person who suffers injury is intoxicated	20
	Part 9	Assessment of damages	
	Division 1	Interpretation	
	306	Definitions for pt 9.	21
	306A	Provisions not to apply to particular injuries.	21
	Division 3	Assessment of damages	
	Subdivision 2—Other provisions		
	306I	Damages for loss of earnings.	22
	306J	When earnings can not be precisely calculated.	22
	306L	Discount rate to be applied in calculating the present value of future loss	23
	306M	Damages for loss of consortium or loss of servitium	23
	306N	Interest	24
	306O	Assessment by court of injury scale.	24

	306P	Calculation of general damages	25
	Division 4	Structured settlements	
	306Q	Definition for div 4	25
	306R	Court required to inform parties of proposed award . .	26
	306S	Court may make consent order for structured settlement	26
	306T	Obligation of legal practitioners to provide advice . . .	26
	306U	Offer of structured settlement—legal costs	26
	Division 5	Indexation provisions	
	306V	Indexation of particular amounts	27
22		Amendment and relocation of s 307 (Contributory negligence) . .	28
23		Amendment and relocation of ch 5, pt 10 (No right to damages for particular services)	29
24		Amendment and relocation of ch 5, pt 11 (Exemplary damages)	29
25		Amendment of s 311 (Principles about orders as to costs)	30
26		Amendment of s 312 (Costs if written final offer by claimant) . . .	30
27		Amendment of s 313 (Costs if written offer by insurer)	30
28		Amendment of s 316 (Principles about orders as to costs)	31
29		Insertion of new ch 5, pt 12, div 2A	31
	Division 2A	Costs when offers made for a contribution claim	
	316A	Principles about order as to costs	31
30		Omission of s 317 (Application of div 3)	32
31		Amendment of s 318 (Costs if proceedings could have been brought in a lower court)	32
32		Insertion of new ss 318A–318E	33
	318A	General application of costs provisions in part	33
	318B	Court may make an alternative order in particular circumstances	33
	318C	Costs order under div 2 for an interlocutory application	34
	318D	Order for costs if more than 1 person liable for the same costs	34
	318E	Order for costs if an entity was not a party at the compulsory conference	34
33		Insertion of new ch 26	34
	Chapter 26	Transitional provisions for the Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010	

Contents

	663	Definitions for ch 26	35
	664	Existing excess period insurance protected	35
	665	Reinsurance	35
	666	Compensation on death of worker under 21	35
	667	Responsibility for worker's rehabilitation.	36
	668	Provisions about conferences, offers and costs	36
	669	Provisions about, civil liability and assessment of damages	37
	670	Amendment of regulations under Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010.	37
34		Amendment of sch 6 (Dictionary).	38
Part 3		Amendment of Workers' Compensation and Rehabilitation Regulation 2003	
35		Regulation amended	39
36		Amendment of s 3 (Definitions)	39
37		Replacement of s 16 (Excess period—Act, s 65).	40
	16	Excess period—Act, s 65	40
38		Omission of ss 17 and 18.	40
39		Amendment of s 77 (Appointment of actuarial arbiter).	40
40		Insertion of new pt 7A.	41
	Part 7A	Assessment of damages	
	112C	Prescribed amount of damages for loss of consortium or loss of servitium—Act, s 306M	41
	112D	Rules for assessing injury scale value—Act, s 306O(1)(c)(i)	41
	112E	General damages calculation provisions—Act, s 306P	41
	112F	Prescribed amount of award for future loss—Act, s 306R	42
41		Insertion of new pt 10, div 4	42
	Division 4	Provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010	
	128	Excess period	42
42		Insertion of new schs 8–13.	42
	Schedule 8	Matters to which court is to have regard in the application of schedule 9	
	Schedule 9	Ranges of injury scale values	

	Schedule 10	Matters relevant to PIRS assessment by medical expert	
	Schedule 11	Psychiatric impairment rating scale	
	Schedule 12	General damages calculation provisions	
	Schedule 13	Dictionary	
Part 4	Amendment of Workplace Health and Safety Act 1995		
43	Act amended		225
44	Insertion of new pt 3, div 5		225
	Division 5	Effect of Act on civil liability	
	37A	No civil cause of action based on contravention of Act	225
45	Insertion of new pt 17, div 7		225
	Division 7	Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010	
	197	Retrospective extinguishing of statutory cause of action	225
Part 5	Other amendments		
46	Legislation amended in schedule		226
Schedule	Legislation amended		227
		Civil Liability Regulation 2003	227
		Workers' Compensation and Rehabilitation Act 2003	227
		Workers' Compensation and Rehabilitation Regulation 2003	233



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010

Act No. 24 of 2010

An Act to amend the Workers' Compensation and Rehabilitation Act 2003, the Workers' Compensation and Rehabilitation Regulation 2003, the Workplace Health and Safety Act 1995 and the Civil Liability Regulation 2003 for particular purposes

[Assented to 17 June 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010*.

2 Commencement

This Act, other than section 13, commences on 1 July 2010.

Part 2 Amendment of Workers' Compensation and Rehabilitation Act 2003

3 Act amended

This part and the schedule amend the *Workers' Compensation and Rehabilitation Act 2003*.

4 Amendment of s 54 (Setting of premium)

(1) Section 54—

insert—

‘(3A) Without limiting subsection (2), the gazette notice may state a method or rate that provides for a premium payable by an employer in the event that the employer’s premium rate repeatedly exceeds the relevant industry rate.’

(2) Section 54—

insert—

‘(10) In this section—

employer’s premium rate means the premium rate calculated for the employer by using a formula that takes into account the number and cost of claims made against the employer’s policy during previous financial years.

relevant industry rate, in relation to an employer, means the industry or business classification rate applying to the industry or business classification—

- (a) stated in the gazette notice under subsection (2) for the employer’s industry or business; or
- (b) as decided by Workcover under subsection (3)—for the industry or business that most closely describes the employer’s industry or business.’.

5 Replacement of s 67 (Employer may insure against payment for the excess period)

Section 67—

omit, insert—

‘67 Employer may not insure against payment for the excess period

‘An employer may not insure with WorkCover against the employer’s liability to pay for the excess period.’.

6 Amendment of s 86 (Reinsurance)

- (1) Section 86(2), ‘\$1m’—

omit, insert—

‘the set limit’.

- (2) Section 86(3), ‘The contract’—

omit, insert—

‘The approved insurer’s liability under the contract’.

[s 7]

(3) Section 86(6)—

insert—

'*set limit* means an amount of \$1m or more set by the Authority's board on application in the approved form by the self-insurer.'

7 Amendment of s 185 (Insurer to give notice of assessment of permanent impairment)

Section 185(3)(c), '50%'—

omit, insert—

'30%'.

8 Amendment of s 202 (Workers under 21)

Section 202(1)(b)—

omit, insert—

'(b) is survived by a parent ordinarily resident in Australia but left no dependants.'

9 Amendment of s 220 (Insurer's responsibility for worker's rehabilitation)

Section 220—

insert—

'(3) Subsection (4) applies if an injured worker is unable to return to work with the worker's former employer when the entitlement of the worker to weekly payments of compensation under chapter 3, part 9 stops.

'(4) The insurer must notify the Authority in the way decided by the Authority.

'(5) In this section—

former employer means any employer of the worker at or after the time the worker was injured.'

10 Amendment of s 221 (Authority's responsibility for rehabilitation)

- (1) Section 221(a), after 'rehabilitation'—

insert—

'and return to work'.

- (2) Section 221—

insert—

- '(2) If the worker consents, the Authority must refer a worker for whom a notice has been given under section 220(4) to programs that may help return the worker to work.

Examples of programs—

vocational assessments, re-skilling or retraining, job placement, host employment'.

11 Amendment of s 231 (Worker must mitigate loss)

- (1) Section 231(3)—

renumber as section 231(4).

- (2) Section 231—

insert—

- '(3) Without limiting subsection (2), a worker must satisfactorily participate in any return to work program or suitable duties arranged by the insurer or the Authority.'

12 Amendment of s 233 (Definitions for ch 5)

Section 233—

insert—

'**contribution claim** means a claim for contribution or indemnity made against another person by an insurer who adds the person as a contributor under section 278A.

offer, in relation to written final offers at a compulsory conference, includes a nil offer of settlement.

[s 13]

Example—

An insurer may make a nil offer of settlement to a worker when it intends to allege fraud by the worker.’.

13 Amendment of s 235A (Date of doctor’s consultation taken to be date of injury)

(1) Section 235A, heading, ‘doctor’s’—

omit, insert—

‘relevant health practitioner’.

(2) Section 235A(1), ‘doctor’—

omit, insert—

‘relevant health practitioner’.

(3) Section 235A—

insert—

‘(4) In this section—

relevant health practitioner means a doctor, nurse practitioner or dentist authorised under section 132 to issue a certificate under the section.’.

14 Amendment of s 238 (Worker with terminal condition)

Section 238(2)(a), after ‘267(2)—

insert—

‘or (3).’.

15 Amendment of s 267 (Mitigation of loss)

(1) Section 267(3)—

renumber as section 267(4).

(2) Section 267—

insert—

- ‘(3) Without limiting subsection (2), a worker must satisfactorily participate in any return to work program or suitable duties arranged by the insurer or the Authority.’.

16 Amendment of s 290A (Exchange of material for compulsory conference)

- (1) Section 290A(3)(d)(iii), before ‘the amount of’—
insert—
‘the claim is dismissed, the court makes no award of damages or’.
- (2) Section 290A(5)—
omit.

17 Replacement of ss 292 and 292A

Section 292 and 292A—
omit, insert—

‘292 Parties to make written final offers if claim not settled at compulsory conference

- ‘(1) This section applies to the following (each a *claim*)—
- (a) a claim made by the claimant against another party;
 - (b) a contribution claim relating to the claim made by the claimant.
- ‘(2) If a claim is not settled at a compulsory conference, each party that has legal capacity to settle the claim must ensure that it makes a written final offer or written final offers at the conference to another or other parties at the conference that would dispose of the claim if the offer or offers were accepted.
- ‘(3) Any 2 or more parties may make a joint written final offer to another party.
- ‘(4) Before a joint written final offer is made, the parties making the offer must give the party to whom the offer is to be given

[s 17]

sufficient notice of the fact that a joint written final offer will be made to enable the party to appropriately respond.

- '(5) Also, if more than 1 claim is the subject of the compulsory conference, a written final offer may be a consolidated written final offer for all the claims made by the claimant.
- '(6) A consolidated written final offer must cover all contribution claims relating to all the claims made by the claimant to the extent the party making the offer has legal capacity to settle the contribution claims.
- '(7) A consolidated written final offer must detail the portion of the offer applicable to each claim.
- '(8) A consolidated written final offer can only be accepted or rejected in full.
- '(9) A written final offer must remain open for 10 business days and proceedings must not be started while the offer remains open.
- '(10) If the claimant or insurer brings a proceeding in a court for a claim, the claimant or insurer must, at the start of the proceeding, file at the court a sealed envelope containing a copy of the claimant's or insurer's written final offer for the claim.
- '(11) A party to proceedings for a claim, other than the party who starts the proceedings, within 10 business days after being served with the legal process that starts the proceeding, must file at the court a sealed envelope containing a copy of the party's written final offer for the claim.
- '(12) The court must not read an offer filed under subsection (10) or (11) until it has decided the claim relating to the offer.
- '(13) The court must have regard to the filed offer in making a decision about whether it should order that a party to whom an offer was given should pay all or part of—

- (a) the costs of a party who made the offer; and
- (b) if the claim is a contribution claim—any costs the party who was given the offer is liable to pay to the claimant.’.

18 Omission of ch 5, pt 8 (Structured settlements)

Chapter 5, part 8—

omit.

19 Omission of ch 5, pt 9 hdg (Particular matters affecting assessments of liability)

Chapter 5, part 9, heading—

omit.

20 Omission of s 306 (Absolute defences not reintroduced)

Section 306—

omit.

21 Insertion of new ch 5, pts 8 and 9

After section 304—

insert—

‘Part 8 Civil liability

‘Division 1 Interpretation

‘305 Definitions for pt 8

‘In this part—

duty means any duty giving rise to a claim for damages, including the following—

- (a) a duty of care in tort;

[s 21]

- (b) a duty of care under contract that is concurrent and coextensive with a duty of care in tort;
- (c) another duty under statute or otherwise that is concurrent with a duty of care mentioned in paragraph (a) or (b).

duty of care means a duty to take reasonable care or to exercise reasonable skill (or both duties).

'305A Provisions not to apply to particular injuries

- '(1) The provisions of this part other than division 4, do not apply in relation to deciding liability for injury if the injury resulting from the breach of duty is or includes—
 - (a) an injury that is a dust-related condition; or
 - (b) an injury resulting from smoking or other use of tobacco products or exposure to tobacco smoke.
- '(2) To remove any doubt, it is declared that a breach of duty mentioned in subsection (1) includes a breach of duty giving rise to a dependency claim.

'Division 2 General standard of care

'305B General principles

- '(1) A person does not breach a duty to take precautions against a risk of injury to a worker unless—
 - (a) the risk was foreseeable (that is, it is a risk of which the person knew or ought reasonably to have known); and
 - (b) the risk was not insignificant; and
 - (c) in the circumstances, a reasonable person in the position of the person would have taken the precautions.
- '(2) In deciding whether a reasonable person would have taken precautions against a risk of injury, the court is to consider the following (among other relevant things)—

-
- (a) the probability that the injury would occur if care were not taken;
 - (b) the likely seriousness of the injury;
 - (c) the burden of taking precautions to avoid the risk of injury.

'305C Other principles

'In a proceeding relating to liability for a breach of duty—

- (a) the burden of taking precautions to avoid a risk of injury includes the burden of taking precautions to avoid similar risks of injury for which the person may be responsible; and
- (b) the fact that a risk of injury could have been avoided by doing something in a different way does not of itself give rise to or affect liability for the way in which the thing was done; and
- (c) the subsequent taking of action that would (had the action been taken earlier) have avoided a risk of injury does not of itself give rise to or affect liability in relation to the risk and does not of itself constitute an admission of liability in connection with the risk.

'Division 3 Causation

'305D General principles

'(1) A decision that a breach of duty caused particular injury comprises the following elements—

- (a) the breach of duty was a necessary condition of the occurrence of the injury (*factual causation*);
- (b) it is appropriate for the scope of the liability of the person in breach to extend to the injury so caused (*scope of liability*).

[s 21]

- ‘(2) In deciding in an exceptional case, in accordance with established principles, whether a breach of duty—being a breach of duty that is established but which can not be established as satisfying subsection (1)(a)—should be accepted as satisfying subsection (1)(a), the court is to consider (among other relevant things) whether or not and why responsibility for the injury should be imposed on the party in breach.
- ‘(3) If it is relevant to deciding factual causation to decide what the worker who sustained an injury would have done if the person who was in breach of the duty had not been so in breach—
- (a) the matter is to be decided subjectively in the light of all relevant circumstances, subject to paragraph (b); and
 - (b) any statement made by the worker after suffering the injury about what he or she would have done is inadmissible except to the extent (if any) that the statement is against his or her interest.
- ‘(4) For the purpose of deciding the scope of liability, the court is to consider (among other relevant things) whether or not and why responsibility for the injury should be imposed on the party who was in breach of the duty.

‘305E Onus of proof

‘In deciding liability for a breach of a duty, the worker always bears the onus of proving, on the balance of probabilities, any fact relevant to the issue of causation.

‘Division 4 Contributory negligence

‘305F Standard of care in relation to contributory negligence

- ‘(1) The principles that are applicable in deciding whether a person has breached a duty also apply in deciding whether the worker who sustained an injury has been guilty of

contributory negligence in failing to take precautions against the risk of that injury.

- ‘(2) For that purpose—
- (a) the standard of care required of the person who sustained an injury is that of a reasonable person in the position of that person; and
 - (b) the matter is to be decided on the basis of what that person knew or ought reasonably to have known at the time.

‘305G Contributory negligence can defeat claim

‘In deciding the extent of a reduction in damages by reason of contributory negligence, a court may decide a reduction of 100% if the court considers it just and equitable to do so, with the result that the claim for damages is defeated.

‘305I Meaning of *obvious risk* for s 305H

- ‘(1) For section 305H, an *obvious risk* to a worker who sustains an injury is a risk that, in the circumstances, would have been obvious to a reasonable person in the position of the worker.
- ‘(2) Obvious risks include risks that are patent or a matter of common knowledge.
- ‘(3) A risk of something occurring can be an obvious risk even though it has a low probability of occurring.
- ‘(4) A risk can be an obvious risk even if the risk (or a condition or circumstance that gives rise to the risk) is not prominent, conspicuous or physically observable.
- ‘(5) To remove any doubt, it is declared that a risk from a thing, including a living thing, is not an obvious risk if the risk is created because of a failure on the part of a person to properly operate, maintain, replace, prepare or care for the thing, unless the failure itself is an obvious risk.

[s 21]

'305J Presumption of contributory negligence if person who suffers injury is intoxicated

- '(1) This section applies if a worker who sustained an injury was intoxicated at the time of the breach of duty giving rise to a claim for damages and contributory negligence is alleged against the worker.
- '(2) Contributory negligence will, subject to this section, be presumed.
- '(3) The worker may only rebut the presumption by establishing on the balance of probabilities—
 - (a) that the intoxication did not contribute to the breach of duty; or
 - (b) that the intoxication was not self-induced.
- '(4) Unless the worker rebuts the presumption of contributory negligence, the court must assess damages on the basis that the damages to which the worker would be entitled in the absence of contributory negligence are to be reduced, on account of contributory negligence, by 25% or a greater percentage decided by the court to be appropriate in the circumstances of the case.
- '(5) If, in the case of a motor vehicle accident, the worker who sustained an injury was the driver of a motor vehicle involved in the accident and the evidence establishes—
 - (a) that the concentration of alcohol in the worker's blood was 150mg or more of alcohol in 100mL of blood; or
 - (b) that the worker was so much under the influence of alcohol or a drug as to be incapable of exercising effective control of the vehicle;the minimum reduction prescribed by subsection (4) is increased to 50%.

'Part 9 Assessment of damages

'Division 1 Interpretation

'306 Definitions for pt 9

'In this part—

future loss means all or any of the following—

- (a) future economic loss;
- (b) future general expenses;
- (c) future medical expenses.

general damages means damages for all or any of the following—

- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life;
- (d) disfigurement.

loss of earnings means—

- (a) past economic loss due to loss of earnings or the deprivation or impairment of earning capacity; and
- (b) future economic loss due to loss of prospective earnings or the deprivation or impairment of prospective earning capacity.

'306A Provisions not to apply to particular injuries

'(1) The provisions of this part other than division 2, division 3, subdivision 1 and division 4 do not apply in relation to deciding awards of damages for injury if the injury resulting from the breach of duty is or includes—

- (a) an injury that is a dust-related condition; or

[s 21]

- (b) an injury resulting from smoking or other use of tobacco products or exposure to tobacco smoke.
- '(2) To remove any doubt, it is declared that a breach of duty mentioned in subsection (1) includes a breach of duty giving rise to a dependency claim.

'Division 3 Assessment of damages

'Subdivision 2—Other provisions

'306I Damages for loss of earnings

- '(1) In making an award of damages for loss of earnings, including in a dependency claim, the maximum award a court may make is for an amount equal to the limit fixed by subsection (2).
- '(2) The limit is an amount equal to the present value of 3 times QOTE per week for each week of the period of loss of earnings.
- '(3) In this section—
present value means the value when the award is made.

'306J When earnings can not be precisely calculated

- '(1) This section applies if a court is considering making an award of damages for loss of earnings that are unable to be precisely calculated by reference to a defined weekly loss.
- '(2) The court may only award damages if it is satisfied that the worker has suffered or will suffer loss having regard to the person's age, work history, actual loss of earnings, any permanent impairment and any other relevant matters.
- '(3) If the court awards damages, the court must state the assumptions on which the award is based and the methodology it used to arrive at the award.

-
- ‘(4) The limitation mentioned in section 306I(2) applies to an award of damages under this section.

‘306L Discount rate to be applied in calculating the present value of future loss

- ‘(1) This section applies if—
- (a) a person is to be compensated for future loss; and
 - (b) an actuarial multiplier is to be used to calculate the present value of future loss.
- ‘(2) A discount rate of 5% is to be applied in deciding the actuarial multiplier.

‘306M Damages for loss of consortium or loss of servitium

- ‘(1) A court must not award damages for loss of consortium or loss of servitium unless—
- (a) the injured worker died as a result of injuries sustained; or
 - (b) general damages for the injured worker are assessed (before allowing for contributory negligence) at the amount prescribed under a regulation for this provision, or more.

Note—

Under section 306V, the Minister must make a recommendation about the amount to be prescribed.

- ‘(2) The court must not assess damages for loss of servitium above the limit fixed by subsection (3).
- ‘(3) The limit is 3 times QOTE per week.
- ‘(4) Section 10(3) does not apply to the reference to damages in subsection (1).

[s 21]

'306N Interest

- '(1) A court can not order the payment of interest on an award for general damages.
- '(2) Interest awarded on damages compensating past monetary loss—
 - (a) must not be more than interest at the appropriate rate; and
 - (b) must be related in an appropriate way to the period over which the loss was incurred.
- '(3) The appropriate rate is the rate for 10 year Treasury bonds published by the Reserve Bank of Australia under 'Interest rates and yields—capital market' as at the beginning of the quarter in which the award of interest is made.

Example of calculation of interest for this section—

Suppose that past monetary loss consists of medical expenses that have been incurred at a uniform rate over a particular period. The interest to be awarded would be calculated under the following formula—

$$A = am/100 \times p \times 0.5$$

where—

A is the amount of the award of interest.

a is a percentage rate decided by the court subject to the limit fixed in subsection (2).

m is the aggregate of the medical expenses.

p is the period over which the medical expenses have been incurred (expressed in years).

'306O Assessment by court of injury scale

- '(1) If general damages are to be awarded by a court in relation to an injury, the court must assess an injury scale value as follows—
 - (a) the worker's total general damages must be assigned a numerical value (*injury scale value*) on a scale running from 0 to 100;

-
- (b) the scale reflects 100 equal gradations of general damages, from a case in which an injury is not severe enough to justify any award of general damages to a case in which an injury is of the gravest conceivable kind;
 - (c) in assessing the injury scale value, the court must—
 - (i) assess the injury scale value under any rules provided under a regulation; and
 - (ii) have regard to the injury scale values given to similar injuries in previous proceedings.
- ‘(2) If a court assesses an injury scale value for a particular injury to be more or less than any injury scale value prescribed for or attributed to similar particular injuries under subsection (1)(c), the court must state the factors on which the assessment is based that justify the assessed injury scale value.

‘306P Calculation of general damages

- ‘(1) For an injury, general damages must be calculated by reference to the general damages calculation provisions applying to the period within which the injury was sustained.
- ‘(2) In this section—
general damages calculation provisions, applying to a period, means the provisions prescribed for the period under a regulation.

‘Division 4 Structured settlements

‘306Q Definition for div 4

‘In this division—

structured settlement means an agreement providing for the payment of all or part of an award of damages in the form of periodic payments funded by an annuity or other agreed means.

[s 21]

'306R Court required to inform parties of proposed award

- '(1) The purpose of this section is to enable the court to give the parties to a proceeding a reasonable opportunity to negotiate a structured settlement.
- '(2) A court that decides to make an award for future loss (not including interest) of more than the amount prescribed under a regulation for this section must first notify all the parties to the proceeding of the terms of the award it proposes to make.

Note—

Under section 306V, the Minister must make a recommendation about the amount to be prescribed.

'306S Court may make consent order for structured settlement

'A court may, on the application of the parties to a claim for damages, make an order approving of or in the terms of a structured settlement even though the payment of damages is not in the form of a lump sum award of damages.

'306T Obligation of legal practitioners to provide advice

'A lawyer engaged by the worker must advise the worker, in writing, about the following if the worker proposes to negotiate a settlement of a claim for damages—

- (a) the availability of structured settlements;
- (b) the desirability of the worker obtaining independent financial advice about structured settlements and lump sum settlements of the claim.

'306U Offer of structured settlement—legal costs

- '(1) The *Uniform Civil Procedure Rules 1999*, chapter 9, part 5 extends to an offer of compromise by way of a structured settlement on a claim for damages.
- '(2) In that case, the court is to have regard to the cost to the defendant of the proposed structured settlement as compared

to the lump sum payment of damages when deciding whether a reasonable offer of compromise has been made.

'Division 5 Indexation provisions

'306V Indexation of particular amounts

- '(1) The Minister must, on or before 1 July 2011 and on or before 1 July in each succeeding year, recommend to the Governor in Council the amounts that are to be prescribed under a regulation for or under the following provisions—
 - (a) section 306M;
 - (b) section 306P, definition *general damages calculation provisions*;
 - (c) section 306R.
- '(2) The amount recommended for or under the provision is to be the amount last prescribed under a regulation for or under the provision adjusted by the percentage change in QOTE over the 4 quarters preceding the date of the recommendation and rounded to the nearest ten dollar.
- '(3) However, if the percentage change in QOTE over the 4 quarters preceding the date of the recommendation would reduce the amount prescribed for or under the provision or result in no change to the amount, the Minister need not make a recommendation.
- '(4) If the percentage change in QOTE mentioned in subsection (2) is not available from the Australian Statistician, the Minister must advise the Governor in Council accordingly.
- '(5) If the Minister advises the Governor in Council of the unavailability of the percentage change under subsection (4), the amount prescribed for or under the provision is the amount decided by the Governor in Council.
- '(6) A regulation notified in the gazette after 1 July in a year and specifying a date that is before the date it is notified as the

[s 22]

date from which the amount prescribed for the provision is to apply has effect from the specified date.

‘(7) Subsection (6) applies despite the *Statutory Instruments Act 1992*, section 32.

‘(8) This section does not limit the power of the Governor in Council to amend the amount prescribed under a regulation for a limit.’.

22 Amendment and relocation of s 307 (Contributory negligence)

(1) Section 307(1)(f)—

renumber as section 307(1)(g).

(2) Section 307(1)—

insert—

‘(f) undertook an activity involving obvious risk or failed, at the material time, so far as was practicable, to take account of obvious risk; or’.

(3) Section 307—

insert—

‘(3) Without limiting subsection (2), subsection (1)(f) does not limit the discretion of a court to make a finding of contributory negligence if the worker—

(a) undertook an activity involving risk that was less than obvious; or

(b) failed, at the material time, so far as was practicable, to take account of risk that was less than obvious.’.

(4) Section 307—

relocate and renumber as section 305H in chapter 5, part 8, division 4 (as inserted by section 21).

23 Amendment and relocation of ch 5, pt 10 (No right to damages for particular services)

- (1) Part 10, heading, 'Part 10'—
omit, insert—
'Subdivision 1'.
- (2) Section 308, heading, 'pt 10'—
omit, insert—
'sdiv 1'.
- (3) Section 308, 'part'—
omit, insert—
'subdivision'.
- (4) Section 308A, heading, 'pt 10'—
omit, insert—
'sdiv 1'.
- (5) Section 308A, 'part'—
omit, insert—
'subdivision'.
- (6) Sections 308 to 308E—
renumber as sections 306C to 306H.
- (7) Part 10, as amended by this section—
relocate as chapter 5, part 9, division 3, subdivision 1.

24 Amendment and relocation of ch 5, pt 11 (Exemplary damages)

- (1) Chapter 5, part 11, heading, 'Part 11'—
omit, insert—
'Division 2'.
- (2) Section 309—

[s 25]

renumber as section 306B.

- (3) Chapter 5, part 11, as amended by this section—
relocate as chapter 5, part 9, division 2.

25 Amendment of s 311 (Principles about orders as to costs)

Section 311, 'has assessed'—

omit, insert—

'dismisses the claim, makes no award of damages or makes an award of'.

26 Amendment of s 312 (Costs if written final offer by claimant)

- (1) Section 312(1)(b)—

omit, insert—

'(b) the court later awards an amount of damages to the claimant that is equal to or more than the written final offer; and'.

- (2) Section (2), from ', unless'—

omit,

27 Amendment of s 313 (Costs if written offer by insurer)

- (1) Section 313(1)(b)—

omit, insert—

'(b) the claim is dismissed, the court makes no award of damages or makes an award of damages that is equal to or less than the insurer's written final offer; and'.

- (2) Section 313(2), from 'unless' to 'the court'—

omit, insert—

'The court'.

28 Amendment of s 316 (Principles about orders as to costs)

- (1) Section 316(2), 'and the court later awards damages to the worker'—

omit.

- (2) Section 316(2)(a), 'if the amount of damages awarded'—

omit, insert—

'if the court later awards an amount of damages to the worker that'.

- (3) Section 316(2)(b), 'the amount of damages awarded'—

omit, insert—

'the court later dismisses the worker's claim, makes no award of damages or awards an amount of damages that'.

- (4) Section 316(3), 'If the'—

omit, insert—

'If an'.

- (5) Section 316(4) to (6)—

omit.

29 Insertion of new ch 5, pt 12, div 2A

After section 316—

insert—

'Division 2A Costs when offers made for a contribution claim

'316A Principles about order as to costs

- '(1) This section applies to the extent proceedings in a court relate to a contribution claim.
- '(2) Subsections (3) to (5) apply if the contributor or other party (including an insurer) made an offer that was not accepted.

[s 30]

- ‘(3) If the court later awards an amount of contribution that is equal to or more than the other party’s written final offer, the court must order the contributor to pay the other party’s costs on the indemnity basis from the day the written final offer was made.
- ‘(4) If the court later—
- (a) dismisses the contribution claim; or
 - (b) makes no award for the contribution; or
 - (c) makes an award of contribution of an amount that is equal to or less than the contributor’s written final offer;
- the court must order the other party to pay the contributor’s costs on the standard basis from the day the written final offer was made.
- ‘(5) If an award of contribution is less than the other party’s written final offer but more than the contributor’s written final offer, each party bears the party’s own costs.
- ‘(6) This section applies to a written final offer whether or not it is made as a separate offer or as part of a joint or consolidated offer.
- ‘(7) In this section—
- written final offer* means a written final offer under section 292.’.

30 Omission of s 317 (Application of div 3)

Section 317—
omit.

31 Amendment of s 318 (Costs if proceedings could have been brought in a lower court)

Section 318—
insert—

- ‘(2) This section applies to all claimants.’.

32 Insertion of new ss 318A–318E

After section 318—

insert—

‘318A General application of costs provisions in part

- ‘(1) A court may make no order about costs to which division 1, 2 or 2A applies except the orders for costs provided for in the division.
- ‘(2) Subsection (1) applies subject to this division.

‘318B Court may make an alternative order in particular circumstances

- ‘(1) Subsection (2) applies to an order for costs a court is required to make under the following sections (a *prescribed order*)—
 - (a) section 312(2);
 - (b) 313(2);
 - (c) 316A(3) or (4).
- ‘(2) The court may make an order for costs other than the prescribed order if the party ordered to pay costs shows the other order is appropriate in the circumstances.
- ‘(3) Subsection (4) applies if an award of damages is affected by factors that were not reasonably foreseeable by a party at the time of making or failing to accept a written final offer.
- ‘(4) The court may, if satisfied that it is just to do so, make an order for costs under divisions 1, 2 or 2A as if the reference to a written final offer or a failure to accept a written final offer were a reference to a later offer made, or a failure to accept a later offer made, in the light of the factors that became apparent after the parties completed the exchange of written final offers.

Example—

A claimant’s medical condition suddenly and unexpectedly deteriorates after the date of the written final offers and the court makes a much higher award of damages than would have been reasonably expected at

[s 33]

that time. In that case, the court may ignore the written final offers and award costs on the basis of later offers of settlement.

'318C Costs order under div 2 for an interlocutory application

'An order about costs for an interlocutory application may be made under division 2 only if the court is satisfied that the application has been brought because of unreasonable delay by 1 of the parties.

'318D Order for costs if more than 1 person liable for the same costs

'If more than 1 party in a proceeding for damages has a liability to pay the same costs under this part, or under this part and another law about costs, the court may apportion the costs payable by each party according to the proportion of liability of the parties and the justice of the case.'

'318E Order for costs if an entity was not a party at the compulsory conference

'If an entity other than a defendant that participated in a compulsory conference is joined as a defendant in a proceedings for damages, the court may make an order about costs in favour of, or against, the entity according to the proportion of liability of the defendants and the justice of the case.'

33 Insertion of new ch 26

After section 662—

insert—

'Chapter 26 Transitional provisions for the Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010

'663 Definitions for ch 26

'In this chapter—

amending Act means the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010*.

amending section means a section of the amending Act that amends this Act.

new, in relation to a provision, means the provision as inserted or amended by the amending Act.

old, in relation to a provision, means the provision as it existed before being amended or omitted by the amending Act.

'664 Existing excess period insurance protected

'New section 67 has no effect on a policy of insurance entered into under old section 67 but applies to all insurance entered with WorkCover after the commencement of new section 67.

'665 Reinsurance

'New section 86 applies to any reinsurance that happens after the commencement of amending section 6.

'666 Compensation on death of worker under 21

'New section 202(1)(b) only applies if a worker dies as a result of an injury sustained after the commencement of amending section 8.

[s 33]

'667 Responsibility for worker's rehabilitation

'New sections 220 and 221 have effect in relation to any injured worker from the commencement of amending sections 9 and 10.

'668 Provisions about conferences, offers and costs

- '(1) This section applies for the application of each provision as amended or inserted by a relevant amending section in relation to a claim made by a claimant and in existence immediately before the commencement of the relevant amending section.
- '(2) The provision as amended or inserted has effect in relation to the claim if, before the commencement of the relevant amending section—
- (a) the claimant has not started proceedings in a court for the claim; and
 - (b) the compulsory conference required under chapter 5, part 6 has not been held.
- '(3) In this section—
- relevant amending section*** means—
- (a) section 17; or
 - (b) section 25; or
 - (c) section 26; or
 - (d) section 27; or
 - (e) section 28; or
 - (f) section 29; or
 - (g) section 32.

'669 Provisions about, civil liability and assessment of damages

- '(1) Subsection (2) applies in relation to the following provisions—
- (a) provisions inserted by section 21;
 - (b) new section 305H(1)(f) and (3) inserted by section 22.
- '(2) The provisions only apply in relation to—
- (a) an injury sustained by a worker after the commencement of the provisions; or
 - (b) an injury sustained by a worker before the commencement of the provisions if—
 - (i) the injury is a latent onset injury diagnosed after the commencement of the provisions; or
 - (ii) the injury is—
 - (A) an injury to which section 235A applies; and
 - (B) the worker first consulted a relevant health practitioner after the commencement of the provision.'
- '(3) To remove any doubt, it is declared that subsection (2) does not affect a provision that is, or to the extent that it is, only renumbered and relocated into part 8 or part 9 by the amending Act.
- '(4) In this section—
- relevant health practitioner* means a relevant health practitioner as defined under section 235A.

'670 Amendment of regulations under Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010

'The amendment of the *Workers' Compensation and Rehabilitation Regulation 2003* or the *Civil Liability Regulation 2003* under the amending Act does not affect the

[s 34]

power of the Governor in Council to further amend the regulation or to repeal it.’.

34 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definition *contribution claim*—

omit.

(2) Schedule 6—

insert—

‘*contribution claim*, for chapter 5, see section 233.

contributory negligence see the *Law Reform Act 1995*, section 10.

dependency claim means a claim in relation to a fatal injury brought on behalf of a deceased’s dependants or estate.

dust-related condition see the *Civil Liability Act 2003*, schedule 2.

duty, for chapter 5, part 8, see section 305.

duty of care, for chapter 5, part 8, see section 305.

future loss for chapter 5, part 9, see section 306.

general damages, for chapter 5, part 9, see section 306.

injury scale value see section 306O.

intoxicated, in relation to a person, means that the person is under the influence of alcohol or a drug to the extent that the person’s capacity to exercise proper care and skill is impaired.

loss of earnings for chapter 5, part 9, see section 306.

obvious risk, for section 305H, see section 305I.

offer, for chapter 5, see section 233.

structured settlement, for chapter 5, part 9, division 4, see section 306Q.’.

Part 3 **Amendment of Workers' Compensation and Rehabilitation Regulation 2003**

35 **Regulation amended**

This part and the schedule amend the *Workers' Compensation and Rehabilitation Regulation 2003*.

36 **Amendment of s 3 (Definitions)**

- (1) Section 3, definitions *AMA guide* and *ophthalmologists guide*—

omit.

- (2) Section 3—

insert—

'*AMA 4* means the 'Guides to the Evaluation of Permanent Impairment' (4th edition) published by the American Medical Association.

injured worker means a worker who sustained an injury.

ophthalmologists guide means the publication 'Percentage Incapacity—A Guide for Members' published by the Royal Australian College of Ophthalmologists in 1992.

Editor's note—

The ophthalmologists guide is available on the Authority's website at <www.qcomp.com.au> and a copy may be obtained at the Authority's office at 347 Ann Street, Brisbane.'

- (3) Section 3, definition *further premium*, paragraph (g), after 'Act'—

insert—

'as in force immediately before the commencement of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2010*, section 36'.

- (4) Section 3, definition *lower extremity*, 'guide'—

[s 37]

omit, insert—

'4'.

- (5) Section 3, definition *upper extremity*, 'guide'—

omit, insert—

'4'.

- (6) Section 3, definitions—

relocate to schedule 13, as inserted by section 42.

- (7) Section 3, 'In this regulation—'—

omit, insert—

'Schedule 13 defines particular words used in this regulation.'

37 Replacement of s 16 (Excess period—Act, s 65)

Section 16—

omit, insert—

'16 Excess period—Act, s 65

'For section 65(2) of the Act, the amount prescribed is the lesser of the following—

- (a) QOTE;
- (b) the amount of weekly compensation payable to a worker under chapter 3, part 9 of the Act.'

38 Omission of ss 17 and 18

Sections 17 and 18—

omit.

39 Amendment of s 77 (Appointment of actuarial arbiter)

Section 77(1)(c), from 'Queensland'—

omit, insert—

'Association of Self Insured Employers of Queensland.'

40 Insertion of new pt 7A

After part 7—

insert—

'Part 7A Assessment of damages

'112C Prescribed amount of damages for loss of consortium or loss of servitium—Act, s 306M

'For section 306M(1)(b) of the Act, the amount prescribed for an injury sustained on or after 1 July 2010 is \$35340.

'112D Rules for assessing injury scale value—Act, s 306O(1)(c)(i)

- '(1) This section and schedules 8 to 11 provide the rules under which a court must assess the injury scale value for an injury.
- '(2) Schedule 9 provides the ranges of injury scale values for particular injuries that the court is to consider in assessing the injury scale value for those injuries.
- '(3) For an injury not mentioned in schedule 9, a court, in assessing an injury scale value for the injury, may have regard to the ranges prescribed in schedule 9 for other injuries.
- '(4) Schedule 8 provides matters to which a court is to have regard in the application of schedule 9.
- '(5) Schedule 11 provides the psychiatric impairment rating scale that may be used with schedule 9.
- '(6) Schedule 10 provides matters relevant to the application of schedule 11 and requirements with which a medical expert must comply in assessing a PIRS rating for a mental disorder of an injured worker.

'112E General damages calculation provisions—Act, s 306P

- '(1) This section applies section 306P of the Act.

[s 41]

‘(2) Schedule 12 is prescribed as the general damages calculation provisions for an injury sustained on or after 1 July 2010.

‘112F Prescribed amount of award for future loss—Act, s 306R

‘For section 306R of the Act, the amount prescribed for an injury sustained on or after 1 July 2010 is \$117800.’.

41 Insertion of new pt 10, div 4

Part 10—

insert—

‘Division 4 Provision for Workers’ Compensation and Rehabilitation and Other Legislation Amendment Act 2010

‘128 Excess period

‘Section 16, as in force immediately before the commencement of this section, continues to apply in relation to an injury sustained by a worker before 1 July 2010 as if the *Workers’ Compensation and Rehabilitation and Other Legislation Amendment Act 2010*, section 37 had not been enacted.’.

42 Insertion of new schs 8–13

After schedule 7—

insert—

‘Schedule 8 Matters to which court is to have regard in the application of schedule 9

section 112D(1)

‘Part 1 Objectives of schedule 9 (Ranges of injury scale values)

‘1 Objectives of sch 9

‘The objectives of schedule 9 include promoting—

- (a) consistency between assessments of general damages awarded by courts for similar injuries; and
- (b) similar assessments of general damages awarded by courts for different types of injury that have a similar level of adverse impact on an injured worker.

Notes—

- Under the Act, section 306O(1), if general damages are to be awarded by a court in relation to an injury sustained on or after 1 July 2010, the court must assess an injury scale value as follows—
 - the injured worker’s total general damages must be assigned a numerical value (*injury scale value*) on a scale running from 0 to 100—the Act, section 306O(1)(a)
 - the scale reflects 100 equal graduations of general damages, from a case in which an injury is not severe enough to justify any award of general damages to a case in which an injury is of the gravest conceivable kind—the Act, section 306O(1)(b)
 - in assessing the injury scale value, the court must—
 - assess the injury scale value under any rules provided under a regulation; and
 - have regard to the injury scale values given to similar injuries in previous proceedings—the Act, section 306O(1)(c).

[s 42]

- Under the Act, section 306O(2), if a court assesses an injury scale value for a particular injury to be more or less than any injury scale value prescribed for or attributed to similar particular injuries under the Act, section 306O(1)(c), the court must state the factors on which the assessment is based that justify the assessed injury scale value.

'Part 2 How to use schedule 9

'Division 1 Injury

'2 Injury mentioned in sch 9

- '(1) In assessing the injury scale value (*ISV*) for an injury mentioned in the injury column of schedule 9, a court must consider the range of injury scale values stated in schedule 9 for the injury.
- '(2) The range of ISVs for the injury reflects the level of adverse impact of the injury on the injured worker.

'3 Multiple injuries

- '(1) Subject to section 9, in assessing the ISV for multiple injuries, a court must consider the range of ISVs for the dominant injury of the multiple injuries.
- '(2) To reflect the level of adverse impact of multiple injuries on an injured worker, the court may assess the ISV for the multiple injuries as being higher in the range of ISVs for the dominant injury of the multiple injuries than the ISV the court would assess for the dominant injury only.

Note—

This section acknowledges that—

- the effects of multiple injuries commonly overlap, with each injury contributing to the overall level of adverse impact on the injured worker; and

- if each of the multiple injuries were assigned an individual ISV and these ISVs were added together, the total ISV would generally be too high.

'4 Multiple injuries and maximum dominant ISV inadequate

- '(1) This section applies if a court considers the level of adverse impact of multiple injuries on an injured worker is so severe that the maximum dominant ISV is inadequate to reflect the level of impact.
- '(2) To reflect the level of impact, the court may make an assessment of the ISV for the multiple injuries that is higher than the maximum dominant ISV.
- '(3) However, the ISV for the multiple injuries—
- (a) must not be more than 100; and

Note—

Under the Act, section 306O(1)(a), an ISV is assessed on a scale running from 0 to 100.

- (b) should rarely be more than 25% higher than the maximum dominant ISV.
- '(4) If the increase is more than 25% of the maximum dominant ISV, the court must give detailed written reasons for the increase.
- '(5) In this section—
- maximum dominant ISV*, in relation to multiple injuries, means the maximum ISV in the range for the dominant injury of the multiple injuries.

'5 Adverse psychological reaction

- '(1) This section applies if a court is assessing an ISV where an injured worker has an adverse psychological reaction to a physical injury.
- '(2) The court must treat the adverse psychological reaction merely as a feature of the injury.

[s 42]

'6 Mental disorder

- '(1) This section applies if—
- (a) a court is assessing an ISV; and
 - (b) a PIRS rating for a mental disorder of an injured worker is relevant under schedule 9.
- '(2) The PIRS rating for the mental disorder of the injured worker is the PIRS rating accepted by the court.
- '(3) A PIRS rating is capable of being accepted by the court only if it is—
- (a) assessed by a medical expert as required under schedules 10 and 11; and
 - (b) provided to the court in a PIRS report as required under schedule 10, section 12.

'7 Aggravation of pre-existing condition

- '(1) This section applies if an injured worker has a pre-existing condition that is aggravated by an injury for which a court is assessing an ISV.
- '(2) In considering the impact of the aggravation of the pre-existing condition, the court may have regard only to the extent to which the pre-existing condition has been made worse by the injury.

'Division 2 Other matters

'8 Court must have regard to particular provisions of sch 9

- '(1) In addition to providing ranges of ISVs for particular injuries, schedule 9 sets out provisions relevant to using schedule 9 to assess an ISV for particular injuries.

Examples of relevant provisions—

- examples of the injury

-
- examples of factors affecting ISV assessment
 - comments about appropriate level of ISV
- ‘(2) In assessing an ISV, a court must have regard to those provisions to the extent they are relevant in a particular case.
- ‘(3) The fact that schedule 9 provides examples of factors affecting an ISV assessment is not intended to discourage a court from having regard to other factors it considers are relevant in a particular case.

‘9 Court may have regard to other matters

‘In assessing an ISV, a court may have regard to other matters to the extent they are relevant in a particular case.

Examples of other matters—

- the injured worker’s age, degree of insight, life expectancy, pain, suffering and loss of amenities of life
- the effects of a pre-existing condition of the injured worker
- difficulties in life likely to have emerged for the injured worker whether or not the injury happened
- in assessing an ISV for multiple injuries, the range for, and other provisions of schedule 9 in relation to, an injury other than the dominant injury of the multiple injuries

‘10 Whole person impairment

‘The extent of whole person impairment is an important consideration, but not the only consideration affecting the assessment of an ISV.

‘11 Medical report stating whole person impairment percentage

‘If a medical report states a whole person impairment percentage, it must state how the percentage is calculated, including—

- (a) the clinical findings; and

[s 42]

- (b) how the impairment is calculated; and
- (c) if the percentage is based on criteria provided under AMA 5—
 - (i) the provisions of AMA 5 setting out the criteria; and
 - (ii) if a range of percentages is available under AMA 5 for an injury of the type being assessed—the reason for assessing the injury at the selected point in the range.

Notes—

- 1 It is not a function of a doctor to identify—
 - (a) the item in schedule 9 to which an injury belongs; or
 - (b) the appropriate ISV for an injury.
- 2 A medical report tended in evidence in a proceeding for a claim for personal injury damages must comply with the *Uniform Civil Procedure Rules 1999*, chapter 11, part 5.

‘12 Greater weight to assessments based on AMA 5

- ‘(1) This section does not apply to a medical assessment of scarring or of a mental disorder.
- ‘(2) In assessing an ISV, a court must give greater weight to a medical assessment of a whole person impairment percentage based on the criteria for the assessment of whole person impairment provided under AMA 5 than to a medical assessment of a whole person impairment percentage not based on the criteria.

‘13 Greater weight to assessments of PIRS rating

‘In assessing an ISV, a court must give greater weight to a PIRS report provided as required under schedule 10 than to another medical assessment of the permanent impairment caused by a mental disorder.

'14 ISV must be a whole number

'An ISV assessed by a court must be a whole number.

Note—

Under the Act, section 306O(1)(a), an ISV is assessed on a scale running from 0 to 100.

[s 42]

'Schedule 9 Ranges of injury scale values

section 112D(1)

Item no.	Injury	Other provisions	Range of injury scale values (ISVs)
Part 1		Central nervous system and head injuries	
1	Quadriplegia	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Presence and extent of pain • Extent of any residual movement • Degree of insight • Adverse psychological reaction • Level of function and pre-existing function • Degree of independence • Ability to participate in daily activities, including employment • Presence and extent of secondary medical complications 	75 to 100

	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate only if the injured worker has assisted ventilation, full insight, extreme physical limitation and gross impairment of ability to communicate.</p>	
<p>2 Paraplegia</p>	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Presence and extent of pain • Extent of any residual movement • Adverse psychological reaction • Level of function and pre-existing function • Degree of independence • Ability to participate in daily activities, including employment • Loss of reproductive or sexual function • Bowel or bladder incontinence • Presence and extent of secondary medical complications 	<p>60 to 80</p>

[s 42]

<p>3</p> <p>Hemiplegia or severe paralysis of more than 1 limb</p>	<p>Comment for item 3</p> <p>Incomplete paralysis causing whole person impairment of less than 40% must be assessed under part 6 if it is the only injury or the dominant injury of multiple injuries.</p> <p>Examples of factors affecting ISV assessment for item 3</p> <p>The same examples apply as for item 2</p>	
<p>4</p> <p>Monoplegia</p>	<p>Comment</p> <p>See items 5, 6 and 7 and part 6.</p>	
<p>5</p> <p>Extreme brain injury</p>	<p>Comment</p> <p>The injury will involve major trauma to the brain with severe permanent impairment.</p>	
<p>5.1</p>	<p><i>Substantial insight remaining</i></p> <p>Comment about appropriate level of ISV for item 5.1</p> <ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate only if the injured worker needs full-time nursing care and has the following— 	<p>71 to 100</p>

	<ul style="list-style-type: none"> • substantial insight despite gross disturbance of brain function • significant physical limitation and destruction of pre-existing lifestyle • epileptic seizures • double incontinence • little or no language function • little or no meaningful response to environment. <ul style="list-style-type: none"> • An injured worker with an injury for which an ISV at or near the top of the range is appropriate may have some ability to follow basic commands, recovery of eye opening, return of postural reflex movement and return to pre-existing sleep patterns. <p>Examples of factors affecting ISV assessment for item 5.1</p> <ul style="list-style-type: none"> • Degree of insight • Life expectancy • Extent of bodily impairment 	
<p>5.2</p>	<p><i>Substantially reduced insight</i></p> <p>Comment for items 5.2.1 and 5.2.2</p> <ul style="list-style-type: none"> • The injured worker will have major trauma to the brain with severe permanent impairment. 	

[s 42]

	<ul style="list-style-type: none"> The injured worker's insight of his or her condition may change. Insight may be impaired in the degree, or continuity of, appreciation of the injured worker's condition. <p>Examples of factors affecting ISV assessment for items 5.2.1 and 5.2.2</p> <p>The same examples apply as for an item 5.1 injury, but reducing levels of insight progressively reduce the level of suffering and the appropriate level of ISV.</p>	
5.2.1	<i>The injured worker will have partial or complete insight (as evidenced by appropriate responses to physical or emotional stimuli) for not more than half of the person's waking hours.</i>	36 to 70
5.2.2	<i>The injured worker will have infrequent periods of partial insight and will show unreliable, rare or limited responses to physical or emotional stimuli.</i>	16 to 35
5.3	<p>Grossly reduced insight</p> <p>Comment for item 5.3</p> <p>The injured worker will be in a persistent vegetative state and have little or no insight.</p>	10 to 15

	<p>Comment about appropriate level of ISV for item 5.3</p> <p>If some minor awareness of loss remains, an ISV at or near the top of the range may be appropriate.</p>	
<p>6 Serious brain injury</p>	<p>Comment</p> <p>The injured worker will be very seriously disabled.</p> <p>Example of the injury</p> <p>Serious brain damage causing—</p> <p>(a) physical impairment, for example, limb paralysis; or</p> <p>(b) cognitive impairment with marked impairment of intellect and personality</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Degree of insight • Life expectancy • Extent of physical limitations • Extent of cognitive limitations • Extent of sensory limitation, for example, limitation of hearing or sense of taste or smell • Level of function and pre-existing function • Degree of independence • Ability to communicate 	<p>56 to 70</p>

[s 42]

	<ul style="list-style-type: none"> • Behavioural or psychological changes • Epilepsy or a high risk of epilepsy • Presence of and extent of secondary medical complications <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate only if the injured worker substantially depends on others and needs substantial professional and other care.</p>	
<p>7</p> <p>Moderate brain injury</p>	<p>Comment</p> <p>The injured worker will be seriously disabled, but the degree of the injured worker's dependence on others, although still present, is lower than for an item 6 injury.</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Degree of insight • Life expectancy • Extent of physical limitations • Extent of cognitive limitations • Extent of sensory limitation, for example, limitation of hearing or sense of taste or smell 	<p>21 to 55</p>

	<ul style="list-style-type: none">• Level of function and pre-existing function• Degree of independence• Ability to communicate• Behavioural or psychological changes• Epilepsy or a high risk of epilepsy• Presence of, and extent of, secondary medical complications <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV of 21 to 25 will be appropriate if there is reduced concentration and memory, or reduced mood control, and either or both—<ul style="list-style-type: none">• reduced capacity for employment• a noticeable interference with lifestyle and leisure.• An ISV of 26 to 40 will be appropriate if there is an increased risk of epilepsy and either or both—<ul style="list-style-type: none">• a moderate cognitive impairment• loss of, or greatly reduced capacity for, employment.	
--	--	--

[s 42]

	<ul style="list-style-type: none"> • An ISV of 41 to 55 will be appropriate if there is no capacity for employment, and 1 or more of the following— <ul style="list-style-type: none"> • moderate to severe cognitive impairment • marked personality change • dramatic effect on speech, sight or other senses • epilepsy or a high risk of epilepsy. 	
<p>8 Minor brain injury</p>	<p>Comment</p> <p>The injured worker will make a good recovery and be able to take part in normal social life and to return to work. There may be minor problems persisting that prevent a restoration of normal function.</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Severity of any physical injury causing the brain damage, having regard to— <ul style="list-style-type: none"> (a) any medical assessment made immediately after the injury was caused, for example, CT or MRI scans, an ambulance officer's assessment or hospital emergency unit assessment; and 	<p>6 to 20</p>

	<p>(b) any post-traumatic amnesia.</p> <ul style="list-style-type: none">• Extent of any ongoing, and possibly permanent, disability• Extent of any personality change• Depression• Degree of insight• Life expectancy• Extent of physical limitations• Extent of cognitive limitations• Extent of sensory limitation, for example, limitation of hearing or sense of taste or smell• Level of function and pre-existing function• Degree of independence• Ability to communicate• Behavioural or psychological changes• Epilepsy or a high risk of epilepsy• Presence of, and extent of, secondary medical complications <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if the injured worker has—</p>	
--	--	--

[s 42]

	<ul style="list-style-type: none"> • an increased risk of epilepsy; and • ongoing reduced concentration and memory, or reduced mood control, that does not significantly interfere with the person's ability to take part in normal social life or return to work. 	
<p>9</p> <p>Minor head Injury, other than an injury mentioned in part 3</p>	<p>Comment</p> <p>Brain damage, if any, is minimal.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Uncomplicated skull fracture • Concussion with transitory loss of consciousness and no residual effects <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Severity of any physical injury causing brain damage • Length of time to recover from any symptoms • Extent of ongoing symptoms • Presence, or absence of, headaches 	<p>0 to 5</p>

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate for an injury from which the injured worker fully recovers within a few weeks.• An ISV at or near the top of the range will be appropriate if there is an uncomplicated skull fracture and there are associated concussive symptoms of dizziness, headache and memory loss persisting for less than 6 months.	
Part 2	Mental disorders	
	<p>General comment for items 10 to 13</p> <p>This part includes references to ratings on the psychiatric impairment rating scale set out in schedule 11 (<i>PIRS ratings</i>). A PIRS rating is capable of being accepted by a court only if it is assessed by a medical expert as required under schedules 10 and 11 and provided to the court in a PIRS report.</p> <p>Examples of factors affecting ISV assessment for items 10 to 13</p> <ul style="list-style-type: none">• PIRS rating• Degree of insight• Age and life expectancy	

[s 42]

		<ul style="list-style-type: none"> • Pain and suffering • Loss of amenities of life • Likelihood difficulties would have emerged in any event • If there is extreme psychological trauma, for example, intense helplessness or horror, the immediate adverse psychological reaction 	
10	Extreme mental disorder	<p>Example of the injury</p> <p>A mental disorder with a PIRS rating between 31% and 100%</p> <p>Comment about appropriate level of ISV</p> <p>Despite a very high PIRS rating, an ISV at or near the bottom of the range may be appropriate if the injured worker has reduced insight.</p>	41 to 65
11	Serious mental disorder	<p>Example of the injury</p> <p>A mental disorder with a PIRS rating between 11% and 30%</p>	11 to 40

12	Moderate mental disorder	<p>Comment</p> <p>There is generally only moderate impairment.</p> <p>Example of the injury</p> <p>A mental disorder with a PIRS rating between 4% and 10%</p>	2 to 10
13	Minor mental disorder	<p>Comment</p> <p>For many persons who have suffered the injury there will be little or no impact on their lives.</p> <p>Example of the injury</p> <p>A mental disorder with a PIRS rating between 0% and 3%</p>	0 to 1
Part 3		Facial injuries	
Division 1		Skeletal injuries of the facial area	
		<p>Examples of factors affecting ISV assessment for items 14 to 22</p> <ul style="list-style-type: none"> • Extent of skeletal or functional damage • Degree of cosmetic damage or disfigurement • Adverse psychological reaction 	

[s 42]

		<ul style="list-style-type: none"> • Availability of cosmetic repair 	
14	Extreme facial injury	<p>Comment</p> <p>The injury will involve severe traumatic injury to the face requiring substantial reconstructive surgery.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A Le Fort I fracture or Le Fort II fracture if the degree of incapacity and disfigurement after reconstructive surgery will be very severe • A Le Fort III fracture causing incapacity in daily activities <p>Additional example of factor affecting ISV assessment</p> <p>The extent of any neurological impairment or effect on the airway</p> <p><i>Note—</i></p> <p>Le Fort I fracture, Le Fort II fracture and Le Fort III fracture are defined in schedule 13 (Dictionary).</p>	26 to 45
15	Serious facial injury	<p>Comment</p> <p>The injury will involve serious traumatic injury to the face requiring reconstructive surgery that is not substantial.</p>	14 to 25

	<p>Examples of the injury</p> <ul style="list-style-type: none">• A Le Fort I fracture or Le Fort II fracture if the degree of incapacity and disfigurement after reconstructive surgery will not be very severe• A Le Fort III fracture if no serious deformity will remain after reconstructive surgery• A serious or multiple fracture of the nasal complex either or both—<ul style="list-style-type: none">(a) requiring more than 1 operation; and(b) causing 1 or more of the following—<ul style="list-style-type: none">• permanent damage to the airway• permanent damage to nerves or tear ducts• facial deformity.• A serious cheekbone fracture that will require surgery and cause serious disfigurement and permanent effects despite reconstructive surgery, for example, hyperaesthesia or paraesthesia• A very serious multiple jaw fracture that will—<ul style="list-style-type: none">(a) require prolonged treatment; and	
--	---	--

[s 42]

	<p>(b) despite reconstructive surgery, cause permanent effects, for example, severe pain, restriction in eating, paraesthesia or a risk of arthritis in the joints.</p> <ul style="list-style-type: none">• A severed trunk of the facial nerve (7th cranial nerve), causing total paralysis of facial muscles on 1 side of the face <p>Additional examples of factors affecting ISV assessment</p> <ul style="list-style-type: none">• Any neurological impairment or effect on the airway• Permanent cosmetic deformity <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if the injury causes permanent cosmetic deformity, asymmetry of 1 side of the face and limited adverse psychological reaction.• An ISV at or near the top of the range will be appropriate if the injury causes serious bilateral deformity and significant adverse psychological reaction.	
--	---	--

<p>16 Moderate facial injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• A simple cheekbone fracture, requiring minor reconstructive surgery, from which the injured worker will fully recover with little or no cosmetic damage• A fracture of the jaw causing—<ul style="list-style-type: none">(a) permanent effects, for example, difficulty in opening the mouth or in eating; or(b) hyperaesthesia or paraesthesia in the area of the fracture.• A displaced fracture of the nasal complex from which the injured worker will almost fully recover after surgery• Severed branches of the facial nerve (7th cranial nerve) with paralysis of some of the facial muscles• A severed sensory nerve of the face with minor permanent paraesthesia	<p>6 to 13</p>
---	---	----------------

[s 42]

<p>17 Minor facial injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A simple cheekbone fracture, for which surgery is not required and from which the injured worker will recover fully • A simple jaw fracture, requiring immobilisation and from which the injured worker will fully recover • A stable fracture of the joint process of the jaw • A displaced fracture of the nasal complex requiring only manipulation • A simple undisplaced fracture of the nasal complex, from which the injured worker will fully recover • A severed sensory nerve of the face, with good repair causing minimal or no paraesthesia 	<p>0 to 5</p>
<p>18 Injury to teeth or gums</p>	<p>Comment</p> <p>There will generally have been a course of treatment as a result of the injury.</p>	

	<p>Additional examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Extent and degree of discomfort during treatment • Difficulty with eating <p>Comment about appropriate level of ISV</p> <p>If protracted dentistry causes the injury, the ISV may be higher than the ISV for the same injury caused by something else.</p>	
18.1	<i>Loss of or serious damage to more than 3 teeth, serious gum injury or serious gum infection</i>	6 to 10
18.2	<i>Loss of or serious damage to 2 or 3 teeth, moderate gum injury or moderate gum infection</i>	3 to 5
18.3	<i>Loss of or serious damage to 1 tooth, minor gum injury or minor gum infection</i>	0 to 2
Division 2 Scarring to the face		
	<p>General comment for items 19 to 22</p> <p>This division will usually apply to an injury involving skeletal damage only if the skeletal damage is minor.</p>	
19	<p>Extreme facial scarring</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Widespread area scarring, for example, over the side of the face or another whole area 	21 to 45

[s 42]

	<ul style="list-style-type: none"> • Severe contour deformity • Significant deformity of the mouth or eyelids with muscle paralysis or tic <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV in the upper half of the range may be appropriate if the injured worker is relatively young, the cosmetic damage is very disfiguring and the adverse psychological reaction is severe. • An ISV at or near the top of the range will be appropriate if the injury is caused by burns that resulted in loss of the entire nose, eyelids or ears. 	
<p>20</p> <p>Serious facial scarring</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Substantial disfigurement and significant adverse psychological reaction • Severe linear scarring • Discoloured hypertrophic (keloid) scarring • Atrophic scarring • Serious contour defects 	<p>11 to 20</p>

<p>21</p> <p>Moderate facial scarring</p>	<p>Comment</p> <p>Any adverse psychological reaction is small, or having been considerable at the outset, has greatly diminished.</p> <p>Examples of the injury</p> <ul style="list-style-type: none">• Scarring, the worst effects of which will be reduced by plastic surgery that will leave minor cosmetic damage• Scars crossing lines of election with discoloured, indurated, hypertrophic or atrophic scarring, of moderate severity	<p>6 to 10</p>
<p>21</p> <p>Minor facial scarring</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• A single scar able to be camouflaged• More than 1 very small scar if the overall effect of the scars is to mar, but not markedly to affect, appearance and adverse psychological reaction is minor• Almost invisible linear scarring, in lines of election, with normal texture and elevation	<p>0 to 5</p>

[s 42]

Part 4		Injuries affecting the senses	
Division 1		General comment	
		<p>General comment for items 23 to 33</p> <p>Injuries mentioned in this part are commonly symptoms of brain or nervous system injury.</p>	
Division 2		Injuries affecting the eyes	
23	Total sight and hearing impairment	<p>Comment</p> <p>The injury ranks with the most devastating injuries.</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Degree of insight • Age and life expectancy 	90 to 100
24	Total sight impairment	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Degree of insight • Age and life expectancy 	50 to 80

<p>25</p>	<p>Complete sight impairment in 1 eye with reduced vision in the other eye</p>	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is serious risk of further significant deterioration in the remaining eye.</p>	<p>25 to 50</p>
<p>26</p>	<p>Complete sight impairment in 1 eye or total loss of 1 eye</p>	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • The extent to which the injured worker's activities are adversely affected by the impairment or loss • Associated scarring or cosmetic damage <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is a minor risk of sympathetic ophthalmia.</p>	<p>26 to 30</p>

[s 42]

<p>27 Serious eye injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A serious but incomplete loss of vision in 1 eye without significant risk of loss or reduction of vision in the other eye • An injury causing double vision that is not minor and intermittent 	<p>11 to 25</p>
<p>28 Moderate eye injury</p>	<p>Example of the injury</p> <p>Minor but permanent impairment of vision in one eye, including if there is double vision that is minor and intermittent</p>	<p>6 to 10</p>
<p>29 Minor eye injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A minor injury, for example, from being struck in the eye, exposed to smoke or other fumes or being splashed by liquids— <ul style="list-style-type: none"> (a) causing initial pain and temporary interference with vision; and (b) from which the injured worker will fully recover within a relatively short time 	<p>0 to 5</p>

Division 3		Injuries affecting the ears	
		<p>Comment for items 30 to 33</p> <p>The injuries commonly, but not always, involve hearing loss. If the injury is to a single ear, the binaural loss must be assessed.</p> <p>Examples of factors affecting ISV assessment for item 30 to 33 injuries</p> <ul style="list-style-type: none"> • Whether the injury has an immediate effect, allowing the injured worker no opportunity to adapt, or whether it occurred over a period of time, for example, from exposure to noise • Whether the injury was suffered at an early age so that it has affected or will affect speech • Whether the injury will affect balance • The extent to which former activities will be affected • Presence of tinnitus 	
30	Extreme ear injury	<p>Definition of injury</p> <p>The injury involves a binaural hearing loss of at least 80%.</p>	36 to 55

[s 42]

	<p>Additional examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Associated problems, for example, severe tinnitus, moderate vertigo, a moderate vestibular disturbance or headaches • Availability of hearing aids or other devices that may reduce the hearing loss <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if the injury happened at an early age so as to prevent or to seriously affect the development of normal speech.</p>	
<p>31 Serious ear injury</p>	<p>Definition of injury</p> <p>The injury involves—</p> <ul style="list-style-type: none"> (a) a binaural hearing loss of at least 50% but less than 80%; or (b) severe permanent vestibular disturbance. <p>Comment about appropriate level of ISV</p> <p>An ISV in the lower half of the range will be appropriate if there is no speech impairment or tinnitus.</p> <p>An ISV in the upper half of the range will be appropriate if there is speech impairment and tinnitus.</p>	<p>26 to 35</p>

<p>32 Moderate ear injury</p>	<p>Definition of injury</p> <p>The injury involves—</p> <p>(a) a binaural hearing loss of at least 20% but less than 50%; or</p> <p>(b) significant permanent vestibular disturbance.</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there are problems associated with the injury, for example, severe tinnitus, moderate vertigo, a moderate vestibular disturbance or headaches.</p>	<p>11 to 25</p>
<p>33 Minor ear injury</p>	<p>Definition of injury</p> <p>The injury involves a binaural hearing loss of less than 20%.</p> <p>Comment</p> <ul style="list-style-type: none">• This item covers the bulk of hearing impairment cases.• The injury is not to be judged simply by the degree of hearing loss.• There will often be a degree of tinnitus present.	

[s 42]

	<ul style="list-style-type: none"> • There may also be minor vertigo or a minor vestibular disturbance causing loss of balance. • A vestibular disturbance may increase the level of ISV. 	
33.1	<i>Moderate tinnitus or hearing loss, or both</i>	6 to 10
33.2	<i>Mild tinnitus with some hearing loss</i>	4 to 5
33.3	<i>Slight or occasional tinnitus with slight hearing loss or an occasional vestibular disturbance, or both</i>	0 to 3
Division 4 Impairment of taste or smell		
34	<p>Total loss of taste or smell, or both</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there will be a total loss of either taste or smell. • An ISV at or near the top of the range will be appropriate if there will be a total loss of both taste and smell. 	6 to 9

35	Partial loss of smell or taste, or both	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there will be a partial loss of either taste or smell. • An ISV at or near the top of the range will be appropriate if there will be a partial loss of both taste and smell. 	0 to 5
Part 5		Injuries to internal organs	
Division 1		Chest injuries	
		<p>Example of factor affecting ISV assessment for items 36 to 39</p> <p>The level of any reduction in the capacity for employment and enjoyment of life</p>	
36	Extreme chest injury	<p>Comment</p> <p>The injury will involve severe traumatic injury to the chest, or a large majority of the organs in the chest cavity, causing a high level of disability and ongoing medical problems.</p>	46 to 65

[s 42]

	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there will be total removal of 1 lung or serious heart damage, or both, with serious and prolonged pain and suffering and significant permanent scarring.</p>	
<p>37 Serious chest injury</p>	<p>Comment</p> <p>The injury will involve serious traumatic injury to the chest or organs in the chest cavity, causing serious disability and ongoing medical problems.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A trauma to 1 or more of the following, causing permanent damage, physical disability and impairment of function— <ul style="list-style-type: none"> • the chest • the heart • 1 or both of the lungs • the diaphragm. • An injury that causes the need for oxygen therapy for about 16 to 18 hours a day 	<p>21 to 45</p>

	<p>Example of factors affecting ISV assessment</p> <p>The need for a permanent tracheostomy</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if, after recovery, there are both of the following—</p> <p>(a) serious impairment to cardio-pulmonary function;</p> <p>(b) whole person impairment for the injury of, or of nearly, 40%.</p>	
<p>38 Moderate chest injury</p>	<p>Example of the injury</p> <p>The injury will involve serious traumatic injury to the chest or organs in the chest cavity, causing moderate disability and ongoing medical problems</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Duration and intensity of pain and suffering • The degree of permanent impairment of lung or cardiac function, as evidenced by objective test results • The need for a temporary tracheostomy for short-term airway management 	<p>11 to 20</p>

[s 42]

	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate if there will be the loss of a breast without significant adverse psychological reaction.</p> <p>An ISV in the lower half of the range will be appropriate if there was a pneumothorax, or haemothorax, requiring intercostal catheter insertion.</p> <p>An ISV at or near the top of the range will be appropriate if there are multiple rib fractures causing—</p> <p>(a) a flail segment (flail chest) requiring mechanical ventilation in the acute stage; and</p> <p>(b) moderate permanent impairment of cardio-pulmonary function.</p>	
<p>39 Minor chest injury</p>	<p>Examples of factors affecting ISV assessment for items 39.1 and 39.2</p> <ul style="list-style-type: none"> • complexity of any fractures • extent of injury to underlying organs • extent of any disability • duration and intensity of pain and suffering 	

<p>39.1</p>	<p><i>Complicated or significant fracture, or internal organ injury, that substantially resolves</i></p> <p>Comment</p> <p>The injury will involve significant or complicated fractures, or internal injuries, that cause some tissue damage but no significant long-term effect on organ function.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Multiple fractures of the ribs or sternum, or both, that may cause cardio-pulmonary contusion • Internal injuries that cause some tissue damage but no significant long-term effect on organ function <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is a fractured sternum that substantially resolves, and there is some ongoing pain and activity restriction. • An ISV at or near the top of the range will be appropriate if the injury causes significant persisting pain and significant activity restriction. 	<p>5 to 10</p>
<p>39.2</p>	<p><i>Soft tissue injury, minor fracture or minor internal organ injury</i></p>	<p>0 to 4</p>

[s 42]

	<p>Comment</p> <ul style="list-style-type: none">• The injury will involve a soft tissue injury, minor fracture, or minor and non-permanent injury to internal organs.• There may be persistent pain from the chest, for example, from the chest wall or sternocostal or costochondral joints. <p>Examples of the injury</p> <ul style="list-style-type: none">• A single penetrating wound, causing some tissue damage but no long-term effect on lung function• An injury to the lungs caused by the inhalation of toxic fumes or smoke that will not permanently interfere with lung function• A soft tissue injury to the chest wall, for example, a laceration or serious seat-belt bruising• Fractured ribs or a minor fracture of the sternum causing serious pain and disability for weeks, without internal organ damage or permanent disability	
--	---	--

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is a soft tissue injury from which the injured worker will fully recover. • An ISV at or near the top of the range will be appropriate if there is an injury causing a small pneumothorax that does not require intercostal catheter insertion, and from which the injured worker will fully recover. 		
Division 2	Lung injury other than asthma		
	<p>General comment for items 40 to 43</p> <p>The level of an ISV for lung disease often reflects the fact that the disease is worsening and there is a risk of the development of secondary medical consequences.</p> <p>Examples of factors affecting ISV assessment for items 40 to 43</p> <ul style="list-style-type: none"> • A history of smoking tobacco will reduce the level of ISV • Adverse psychological reaction may increase the level of ISV 		
40	Extreme lung injury	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Diagnosed lung cancer 	46 to 65

[s 42]

	<ul style="list-style-type: none"> • Lung disease involving serious disability causing severe pain and dramatic impairment of function and quality of life • A recurrent pulmonary embolism resulting in failure of the right side of the heart requiring a lung transplant, heart transplant or both <p>Additional examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Age • Likelihood of progressive worsening • Duration and intensity of pain and suffering 	
<p>41 Serious lung injury</p>		
<p>41.1</p>	<p><i> Serious lung injury if progressive worsening of lung function</i></p> <p>Example of item 41.1</p> <p>Lung disease, for example, emphysema, causing—</p> <ul style="list-style-type: none"> • significantly reduced and worsening lung function • prolonged and frequent coughing • disturbance of sleep • restriction of physical activity, employment and enjoyment of life. 	<p>25 to 45</p>

	<p>Additional examples of factors affecting ISV assessment for item 41.1</p> <ul style="list-style-type: none">• The possibility of lung cancer developing may increase the level of ISV• The need for continuous oxygen therapy	
41.2	<p><i>Serious lung injury if no progressive worsening of lung function</i></p> <p>Examples of item 41.2</p> <ul style="list-style-type: none">• Lung disease causing breathing difficulties, short of disabling breathlessness, requiring frequent use of an inhaler• Lung disease causing a significant effect on employment and social life, including inability to tolerate a smoky environment, with an uncertain prognosis• A recurrent pulmonary embolism causing pulmonary hypertension and cor pulmonale	11 to 24

[s 42]

42 Moderate lung injury	Examples of the injury <ul style="list-style-type: none">• Bronchitis that does not cause serious symptoms, with little or no serious or permanent effect on employment or social life• A pulmonary embolism requiring anticoagulant therapy for at least 1 year or pulmonary endarterectomy	6 to 10
43 Minor lung injury	Examples of the injury <ul style="list-style-type: none">• Lung disease causing slight breathlessness, with—<ul style="list-style-type: none">(a) no effect on employment; and(b) the likelihood of substantial and permanent recovery within a few years after the injury is caused• A pulmonary embolism requiring anticoagulant therapy for less than 1 year	0 to 5

		<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate if there is lung disease causing temporary aggravation of bronchitis, or other chest problems, that will resolve within a few months.</p>	
Division 3		Asthma	
44	Extreme asthma	<p>Comment</p> <p>The most serious cases may confine a person to the home and destroy capacity for employment.</p> <p>Example of the injury</p> <p>Severe and permanent disabling asthma causing—</p> <ul style="list-style-type: none"> • prolonged and frequent coughing • disturbance of sleep • severe restriction of physical activity and enjoyment of life • gross reduction of capacity for employment 	31 to 55
45	Severe asthma	<p>Example of the injury</p> <p>Chronic asthma, with a poor prognosis, causing—</p> <ul style="list-style-type: none"> • breathing difficulties 	11 to 30

[s 42]

	<ul style="list-style-type: none"> the need to frequently use an inhaler significantly reduced capacity for employment. 		
46	Moderate asthma	<p>Example of the injury</p> <p>Asthma, with symptoms that include bronchitis and wheezing, affecting employment or social life</p>	6 to 10
47	Minor asthma	<p>Example of the injury</p> <p>Asthma with minor symptoms that has no affect on employment or social life</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate if there is asthma treated by a general practitioner that will resolve within 1 year after the injury is caused.</p>	0 to 5
Division 4	Injuries to male reproductive system		
	General comment for items 48 to 51	<ul style="list-style-type: none"> This division applies to injuries caused by physical trauma rather than as a secondary result of a mental disorder. 	

	<ul style="list-style-type: none"> • For a mental disorder that causes loss of reproductive system function, see part 2 (Mental disorders). • Sterility is usually either— <ul style="list-style-type: none"> (a) caused by surgery, chemicals or disease; or (b) caused by a traumatic injury that is often aggravated by scarring. <p>Examples of factors affecting ISV assessment for items 48 to 51</p> <ul style="list-style-type: none"> • Adverse psychological reaction • Effect on social and domestic life 	
<p>49 Loss of part or all of penis</p>	<p>Additional examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Extent of the penis remaining • Availability of a prosthesis • Extent to which sexual activity will be possible 	<p>5 to 25</p>
<p>50 Loss of both testicles</p>	<p>Comment</p> <p>See item 48 because sterility results.</p>	

[s 42]

	<p>Additional example of factor affecting ISV assessment</p> <p>Level of any pain or residual scarring</p>	
<p>51 Loss of 1 testicle</p>	<p>Additional example of factors affecting ISV assessment</p> <p>Age, cosmetic damage or scarring</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate if the injury does not reduce reproductive capacity.</p>	<p>2 to 10</p>
<p>Division 5 Injuries to female reproductive system</p>		
	<p>General comment for items 52 to 53.5</p> <ul style="list-style-type: none"> • This division applies to injuries caused by physical trauma rather than as a secondary result of a mental disorder. • For a mental disorder that causes loss of reproductive system function, see part 2 (Mental disorders). <p>Examples of factors affecting ISV assessment for items 52 to 53.5</p> <ul style="list-style-type: none"> • Extent of any physical trauma • Whether the injured worker has children 	

	<ul style="list-style-type: none"> • Whether the injured worker intended to have children or more children • Age • Scarring • Depression or adverse psychological reaction • Effect on social and domestic life 	
52	Infertility	
52.1	<p><i>Infertility causing severe effects</i></p> <p>Example of item 52.1</p> <p>Infertility with severe depression, anxiety and pain</p>	16 to 35
52.2	<p><i>Infertility causing moderate effects</i></p> <p>Example of item 52.2</p> <p>Infertility without any medical complication if the injured worker has a child or children</p> <p>Comment about appropriate level of ISV for item 52.2</p> <p>An ISV at or near the top of the range will be appropriate if there is significant adverse psychological reaction.</p>	9 to 15
52.3	<p><i>Infertility causing minor effects</i></p> <p>Example of item 52.3</p> <p>Infertility if—</p>	0 to 8

[s 42]

	<p>(a) the injured worker was unlikely to have had children, for example, because of age; and</p> <p>(b) there is little or no adverse psychological reaction</p>	
53	Any other injury to the female reproductive system	
53.1	<i>Post-menopausal hysterectomy</i>	5 to 15
53.2	<p><i>Female impotence</i></p> <p>Comment for item 53.2</p> <p>The injury may be correctable by surgery.</p> <p>Additional examples of factors affecting ISV assessment for item 53.2</p> <p>The level of sexual function or the extent of any corrective surgery</p>	5 to 15
53.3	<p><i>An injury causing an inability to give birth by normal vaginal delivery, for example, because of pelvic ring disruption or deformity</i></p> <p>Comment for item 53.3</p> <p>The injury may be correctable by surgery.</p>	4 to 15

<p>53.4</p>	<p><i>Injury to female genitalia or reproductive organs, or both</i></p> <p>Comment about appropriate level of ISV for item 53.4</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is a laceration or tear with good repair. • An ISV at or near the middle of the range will be appropriate if the injury causes development of a prolapse or fistula. • An ISV at or near the top of the range will be appropriate if the injury causes the early onset of menopause or irregular hormonal activity. 	<p>3 to 25</p>
<p>53.5</p>	<p><i>Reduced fertility, caused by, for example, trauma to ovaries or fallopian tubes</i></p> <p>Comment about appropriate level of ISV for item 53.5</p> <p>An ISV in the lower half of the range will be appropriate if the injury is caused by a delay in diagnosis of an ectopic pregnancy.</p>	<p>3 to 8</p>

[s 42]

Division 6		Injuries to digestive system	
Subdivision 1		Injury caused by trauma	
54	Extreme injury to the digestive system caused by trauma	<p>Examples of the injury</p> <p>Severe permanent damage to the digestive system, with ongoing debilitating pain and discomfort, diarrhoea, nausea and vomiting that—</p> <p>(a) are not controllable by drugs; and</p> <p>(b) causes weight loss of at least 20%.</p> <p><i>Note—</i></p> <p><i>Digestive system</i> is defined in schedule 13 (Dictionary).</p> <ul style="list-style-type: none"> An injury to the throat requiring a permanent gastrostomy 	19 to 40

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is an injury to the throat requiring a temporary gastrostomy for more than 1 year and permanent dietary changes, for example, a requirement for a soft food diet. • An ISV at or near the top of the range will be appropriate if there is an injury to the throat requiring a permanent gastrostomy, with significant ongoing symptoms. <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • the extent of any voice or speech impairment • need for ongoing endoscopic procedures 	
<p>55</p> <p>Serious injury to the digestive system caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A serious injury causing long-term complications aggravated by physical strain 	<p>11 to 18</p>

[s 42]

	<ul style="list-style-type: none"> An injury requiring a feeding tube for between 3 and 12 months <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> The extent of any ongoing voice or speech impairment Whether a feeding tube was required, and if so, for how long it was required 	
<p>56 Moderate injury to the digestive system caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> A simple penetrating stab wound, causing some permanent tissue damage, but with no significant long-term effect on digestive function An injury requiring a feeding tube for less than 3 months <p>Example of factors affecting ISV assessment</p> <ul style="list-style-type: none"> Whether a feeding tube was required, and if so, for how long it was required Whether dietary changes are required to reduce the risk of aspiration because of impaired swallowing 	<p>6 to 10</p>

<p>57</p> <p>Minor injury to the digestive system caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A soft tissue injury to the abdomen wall, for example, a laceration or serious seat-belt bruising to the abdomen or flank, or both • A minor injury to the throat or tongue causing temporary difficulties with swallowing or speech • A laceration of the tongue requiring suturing 	<p>0 to 5</p>
<p>Subdivision 2 Injury not caused by trauma</p>		
	<p>General comment for items 58 to 61</p> <p>There is a marked difference between those comparatively rare cases having a long-term or even permanent effect on quality of life and cases in which the only ongoing symptom is an allergy, for example, to specific foods, that may cause short-term illness.</p>	

[s 42]

<p>58 Extreme injury to the digestive system not caused by trauma</p>	<p>Example of the injury</p> <p>Severe toxicosis—</p> <p>(a) causing serious acute pain, vomiting, diarrhoea and fever, requiring hospitalisation for days or weeks; and</p> <p>(b) also causing 1 or more of the following—</p> <ul style="list-style-type: none">• ongoing incontinence• haemorrhoids• irritable bowel syndrome; and <p>(c) having a significant impact on the capacity for employment and enjoyment of life</p> <p>Comment about appropriate level of ISV</p> <p>An ISV in the lower half of the range will be appropriate if the injury causes a chronic infection, that requires prolonged hospitalisation, that will not resolve after antibiotic treatment for 1 year.</p>	<p>13 to 35</p>
--	---	-----------------

<p>59 Serious injury to the digestive system not caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• Serious but short-term food poisoning causing diarrhoea and vomiting—<ul style="list-style-type: none">(a) diminishing over 2 to 4 weeks; and(b) with some remaining discomfort and disturbance of bowel function and impact on sex life and enjoyment of food, over a few years• Constant abdominal pain, causing significant discomfort, for up to 18 months caused by a delay in diagnosis of an injury to the digestive system <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the top of the range will be appropriate if there is an adverse response to the administration of a drug that—<ul style="list-style-type: none">(a) requires admission to an intensive care unit; and(b) does not cause any permanent impairment; and	<p>6 to 12</p>
--	---	----------------

[s 42]

	<ul style="list-style-type: none"> (c) causes the need for ongoing drug therapy for life. • An ISV in the upper half of the range will be appropriate if a chronic infection— <ul style="list-style-type: none"> (a) requires prolonged hospitalisation and additional treatment; and (b) will be resolved by antibiotic treatment within 1 year. • An ISV at or near the bottom of the range will be appropriate if there is an adverse response to the administration of a drug that— <ul style="list-style-type: none"> (a) requires admission to an intensive care unit; and (b) does not cause any permanent impairment; and (c) does not cause the need for ongoing drug therapy for life. 	
<p>60 Moderate injury to the digestive system not caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Food poisoning— 	<p>3 to 5</p>

	<ul style="list-style-type: none">(a) causing significant discomfort, stomach cramps, change of bowel function and fatigue; and(b) requiring hospitalisation for days; and(c) with symptoms lasting a few weeks; and(d) from which the injured worker will fully recover within 1 or 2 years <ul style="list-style-type: none">• An infection that is resolved by antibiotic treatment, with or without additional treatment in hospital, within 3 months after the injury is caused• An adverse response to the administration of a drug, causing any of the following continuing over a period of more than 7 days, and requiring hospitalisation—<ul style="list-style-type: none">(a) vomiting;(b) shortness of breath;(c) hypertension;(d) skin irritation	
--	--	--

[s 42]

<p>61</p> <p>Minor injury to the digestive system not caused by trauma</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• Disabling pain, cramps and diarrhoea, ongoing for days or weeks• A localised infection, requiring antibiotic treatment, that heals within 6 weeks after the start of treatment• An adverse response to the administration of a drug, causing any of the following continuing over a period of not more than 7 days, and not requiring hospitalisation—<ul style="list-style-type: none">(a) vomiting;(b) shortness of breath;(c) hypertension;(d) skin irritation• Intermittent abdominal pain for up to 6 months caused by a delay in diagnosis of an injury to the digestive system	<p>0 to 2</p>
--	--	---------------

Division 7		Kidney or ureter injuries	
		<p>General comment for items 62 to 65</p> <p>An injury to a ureter or the ureters alone, without loss of, or serious damage to, a kidney will generally be assessed under item 64 or 65.</p> <p>Examples of factor affecting ISV assessment for items 62 to 65</p> <ul style="list-style-type: none"> • Age • Risk of ongoing kidney or ureter problems, complications or symptoms • Need for future medical procedures 	
62	Extreme injury to kidneys or ureters		
62.1		<i>Loss of both kidneys causing loss of renal function and requiring permanent dialysis or transplant</i>	56 to 75
62.2		<p><i>Serious damage to both kidneys, requiring temporary or intermittent dialysis</i></p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • The effect of dialysis and loss of kidney function on activities of daily living • The length of time for which dialysis was required or the frequency of intermittent dialysis 	31 to 55

[s 42]

	<ul style="list-style-type: none"> • Ongoing requirement for medication, for example, to control blood pressure • Whether the injury caused the need for dietary changes, and if so, for how long <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if dialysis was required for an initial 3 months period, with intermittent dialysis required after that. • An ISV at or near the top of the range will be appropriate if the injury required dialysis for about 1 year and ongoing dietary changes and medication. 	
<p>63 Serious injury to kidneys or ureters</p>	<p>Comment</p> <p>The injury may require temporary dialysis for less than 3 months.</p> <p>Example of the injury</p> <p>Loss of 1 kidney if there is severe damage to, and a risk of loss of function of, the other kidney</p>	<p>19 to 30</p>

		<p>Comment about appropriate level of ISV</p> <p>The higher the risk of loss of function of the other kidney, the higher the ISV.</p>	
64	Moderate injury to kidneys or ureters	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Loss of 1 kidney, with no damage to the other kidney • An injury to a ureter or the ureters that requires surgery or placement of stents 	11 to 18
65	Minor injury to kidneys or ureters	<p>Example of the injury</p> <p>A laceration or contusion to 1 or both of the kidneys</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is an injury to a kidney causing a contusion. • An ISV at or near the top of the range will be appropriate if a partial removal of a kidney is required. 	0 to 10

[s 42]

Division 8		Liver, gall bladder or biliary tract injuries	
	<p>Examples of factors affecting ISV assessment for items 66 to 69</p> <ul style="list-style-type: none"> • Whether there are recurrent episodes of infection or obstruction • Whether there is a risk of developing biliary cirrhosis 		
<p>66</p> <p>Extreme injury to liver, gall bladder or biliary tract</p>	<p>Example of the injury</p> <p>Loss, or injury causing effective loss, of liver function, requiring constant substitutional therapy</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there are recurrent episodes of liver failure that require hospital admission and medical management but do not require liver transplantation. • An ISV at or near the top of the range will be appropriate if the injury requires liver transplantation. 	<p>51 to 70</p>	

<p>67</p> <p>Serious injury to liver, gall bladder or biliary tract</p>	<p>Example of the injury</p> <p>Serious damage causing loss of over 30% of the tissue of the liver, but with some functional capacity of the liver remaining</p>	<p>36 to 50</p>
<p>68</p> <p>Moderate injury to liver, gall bladder or biliary tract</p>	<p>Example of the injury</p> <p>A laceration or contusion to the liver, with a moderate effect on liver function</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if the injury causes impaired liver function with symptoms of intermittent nausea and vomiting. • An ISV at or near the bottom of the range will also be appropriate if there is a gall bladder injury with recurrent infection or symptomatic stone disease, the symptoms of which may include, for example, pain or jaundice. 	<p>16 to 35</p>

[s 42]

	<ul style="list-style-type: none"> • An ISV at or near the middle of the range will be appropriate if the injury involves removal of the gall bladder causing a bile duct injury. • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) surgery is required to remove not more than 30% of the liver; or (b) bile ducts require repair, for example, placement of stents. • An ISV at or near the top of the range will also be appropriate if there is an injury to the gall bladder, that despite biliary surgery, causes ongoing symptoms, infection or the need for further endoscopic surgery. 	
<p>69 Minor injury to liver, gall bladder or biliary duct</p>	<p>Comment</p> <p>An injury within this item should not require surgery to the liver.</p> <p>Example of the injury</p> <p>A laceration or contusion to the liver, with a minor effect on liver function</p>	<p>3 to 15</p>

		<p>Comment about appropriate level of ISV</p> <p>An ISV in the lower half of the range will be appropriate if there is an uncomplicated removal of the gall bladder with no ongoing symptoms.</p>	
Division 9		Bowel injuries	
		<p>Examples of factors affecting ISV assessment for items 70 to 73</p> <ul style="list-style-type: none"> • Age • Risk of ongoing bowel problems, complications or symptoms • Need for future surgery • The degree to which dietary changes are required to manage chronic pain or diarrhoea caused by the injury 	
70	Extreme bowel injury	<p>Example of the injury</p> <p>An injury causing a total loss of natural bowel function and dependence on colostomy</p>	41 to 60
71	Serious bowel injury	<p>Example of the injury</p> <p>A serious abdominal injury causing either or both of the following—</p>	19 to 40

[s 42]

	<p>(a) impairment of bowel function (which often requires permanent or long term colostomy, leaving disfiguring scars);</p> <p>(b) restrictions on employment and diet</p>	
<p>72 Moderate bowel injury</p>	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if— <ul style="list-style-type: none"> (a) the injury requires an ileostomy or colostomy for less than 3 months; and (b) bowel function returns to normal; and (c) there are no ongoing symptoms. • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) the injury requires temporary surgical diversion of the bowel, for example, an ileostomy or colostomy; and (b) there is ongoing intermittent abnormal bowel function requiring medication. 	<p>7 to 18</p>

<p>73 Minor bowel injury</p>	<p>Example of the injury</p> <p>An injury causing tears to the bowel, with minimal ongoing bowel problems</p>	<p>3 to 6</p>
<p>Division 10 Bladder, prostate or urethra injuries</p>		
<p>Examples of factors affecting ISV assessment for items 74 to 77</p> <ul style="list-style-type: none"> • Age • Risk of ongoing bladder, prostate or urethra problems, complications or symptoms • Need for future surgery 		
<p>74 Extreme bladder, prostate or urethra injury</p>	<p>Example of the injury</p> <p>An injury causing a complete loss of bladder function and control, with permanent dependence on urostomy</p>	<p>40 to 60</p>

[s 42]

<p>75</p>	<p>Serious bladder, prostate or urethra injury</p>	<p>Example of the injury</p> <p>An injury causing serious impairment of bladder control, with some incontinence</p> <p>Comment about appropriate level of ISV</p> <p>An ISV in the upper half of the range will be appropriate if there is serious ongoing pain.</p>	<p>19 to 39</p>
<p>76</p>	<p>Moderate bladder, prostate or urethra injury</p>	<p>Example of the injury</p> <p>An injury causing continued impairment of bladder control, with minimal incontinence and minimal pain</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is a laceration of the urethra, that required surgical repair and caused intermittent infection or bladder dysfunction. 	<p>7 to 18</p>

		<ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if there is— <ul style="list-style-type: none"> (a) increased urinary frequency of more than once every 2 hours throughout the day and more than 3 times at night that is unresponsive to treatment; or (b) an ongoing requirement for minor surgery, for example, cystoscopy or urethral dilation. 	
77	Minor bladder, prostate or urethra injury	<p>Example of the injury</p> <p>A bladder injury, from which the injured worker will fully recover, with some relatively long-term interference with natural bladder function</p>	3 to 6
Division 11		Spleen and pancreas injuries	
78	Injuries to the pancreas	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is a contusion to the pancreas that heals. 	10 to 35

[s 42]

	<ul style="list-style-type: none">• An ISV at or near the middle of the range will be appropriate if there are chronic symptoms, for example, pain or diarrhoea.• An ISV at or near the top of the range will be appropriate if—<ul style="list-style-type: none">(a) there are chronic symptoms with significant weight loss of between 10% and 20% of body weight, and pancreatic enzyme replacement is required; or(b) an injury to the pancreas causes diabetes. <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none">• The extent of any ongoing risk of internal infection and disorders, for example, diabetes• The need for, and outcome of, further surgery, for example, surgery to manage pain caused by stone disease, infection or an expanding pseudocyst	
--	--	--

<p>79 Loss of spleen (complicated)</p>	<p>Example of the injury</p> <p>Loss of spleen if there will be a risk, that is not minor, of ongoing internal infection and disorders caused by the loss</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if the injury leads to a splenectomy, with intermittent symptoms of pain, nausea and vomiting that settle.• An ISV at or near the middle of the range will be appropriate if—<ul style="list-style-type: none">(a) the injury leads to a splenectomy, with serious infection after the splenectomy; and(b) the infection requires surgical or radiological intervention.• An ISV at or near the top of the range will be appropriate if the injury leads to a splenectomy, with portal vein thrombosis after the splenectomy.	<p>8 to 20</p>
---	--	----------------

[s 42]

<p>80 Injury to the spleen or uncomplicated loss of spleen</p>	<p>Example of the injury</p> <p>Laceration or contusion to the spleen that—</p> <ul style="list-style-type: none"> (a) has been radiologically confirmed; and (b) has no ongoing bleeding; and (c) is managed conservatively; and (d) resolves fully. <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there has been removal of the spleen (splenectomy), with little or no risk of ongoing infections and disorders caused by the loss of the spleen.</p>	<p>0 to 7</p>
<p>Division 12 Hernia injuries</p>		
<p>81 Severe hernia</p>	<p>Example of the injury</p> <p>A hernia if after repair there is either or both—</p> <ul style="list-style-type: none"> (a) ongoing pain; or (b) a restriction on physical activities, sport or employment 	<p>11 to 20</p>

82	Moderate hernia	<p>Example of the injury</p> <p>A hernia that after repair has some real risk of recurring in the short term</p>	6 to 10
83	Minor hernia	<p>Example of the injury</p> <p>An uncomplicated inguinal hernia, whether or not repaired</p>	0 to 5
Part 6		Orthopaedic injuries	
Division 1		Cervical spine injuries	
		<p>General comment for items 84 to 88</p> <ul style="list-style-type: none"> • This division does not apply to the following injuries (that are dealt with in items 1 to 3)— <ul style="list-style-type: none"> • quadriplegia • paraplegia • hemiplegia or severe paralysis of more than 1 limb. • Cervical spine injuries, other than those dealt with in items 1 to 3, range from cases of very severe disability to cases of a minor strain, with no time off work and symptoms only suffered for 2 or 3 weeks. 	

[s 42]

	<ul style="list-style-type: none"> • Symptoms associated with nerve root compression or damage can not be taken into account in assessing an ISV under item 84, 85 or 86 unless objective signs are present of nerve root compression or damage, for example— <ul style="list-style-type: none"> • CT or MRI scans or other radiological evidence • muscle wasting • clinical findings of deep tendon reflex loss, motor weakness and loss of sensation. 	
<p>84 Extreme cervical spine injury</p>	<p>Comment</p> <p>These are extremely severe injuries that cause gross limitation of movement and serious interference with performance of daily activities.</p> <p>The injury will involve significant upper or lower extremity impairment and may require the use of an adaptive device or prosthesis.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A total neurological loss at a single level • Severe multilevel neurological dysfunction 	<p>41 to 75</p>

	<ul style="list-style-type: none"> • Structural compromise of the spinal canal with extreme upper or lower extremity motor and sensory impairments • Fractures involving more than 50% compression of a vertebral body with neural compromise <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment of about 29%. • An ISV at or near the top of the range will be appropriate if there is a cervical spine injury causing monoplegia of the dominant upper limb and whole person impairment of at least 60%. 	
<p>85 Serious cervical spine injury</p>	<p>Comment</p> <ul style="list-style-type: none"> • The injury will cause serious upper extremity impairment or serious permanent impairment of the cervical spine. • The injury may involve— <ul style="list-style-type: none"> (a) a change of motion segment integrity; or 	<p>16 to 40</p>

[s 42]

	<p>(b) bilateral or multilevel nerve root compression or damage.</p> <p>Examples of the injury</p> <ul style="list-style-type: none">• Loss of motion in a motion segment because of a surgical or post-traumatic fusion• A fracture involving more than 25% compression of 1 vertebral body• An injury showing objective signs of nerve root damage after surgery <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if—<ul style="list-style-type: none">(a) the injured worker has had surgery and symptoms persist; or(b) there is a fracture involving 25% compression of 1 vertebral body.• An ISV in the middle of the range will be appropriate if there is a fracture involving about 50% compression of a vertebral body, with ongoing pain.• An ISV at or near the top of the range will be appropriate if—	
--	--	--

	<p>(a) the injured worker has had a fusion of vertebral bodies that has failed, leaving objective signs of significant residual nerve root damage and ongoing pain, affecting 1 side of the body; and</p> <p>(b) there is whole person impairment of about 28%.</p>	
<p>86 Moderate cervical spine injury— fracture, disc prolapse or nerve root compression or damage</p>	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) there is a disc prolapse for which there is radiological evidence at an anatomically correct level; and (b) there are symptoms of pain and 3 or more of the following objective signs that are anatomically localised to an appropriate spinal nerve root distribution— <ul style="list-style-type: none"> (i) sensory loss; 	<p>5 to 15</p>

[s 42]

	<ul style="list-style-type: none"> (ii) loss of muscle strength; (iii) loss of reflexes; (iv) unilateral atrophy; and (c) the impairment has not improved after non-operative treatment. <ul style="list-style-type: none"> • An ISV of about 10 will be appropriate if there is a fracture of a vertebral body with up to 25% compression, and ongoing pain. • An ISV at or near the bottom of the range will be appropriate for an uncomplicated fracture of a posterior element of 1 or more of the vertebral segments, for example, spinous or transverse processes, without neurological impairment. 	
<p>87 Moderate cervical spine injury—soft tissue injury</p>	<p>Comment</p> <p>The injury will cause moderate permanent impairment, for which there is objective evidence, of the cervical spine.</p>	<p>5 to 10</p>

	<p>Comment about appropriate level of ISV</p> <p>An ISV of not more than 10 will be appropriate if there is whole person impairment of 8% caused by a soft tissue injury for which there is no radiological evidence.</p>	
<p>88</p> <p>Minor cervical spine injury</p>	<p>Comment</p> <ul style="list-style-type: none"> • Injuries within this item include a whiplash injury with no ongoing symptoms, other than symptoms that are merely a nuisance, remaining more than 18 months after the injury is caused. • There will be no objective signs of neurological impairment. <p>Example of the injury</p> <p>A soft tissue or whiplash injury if symptoms are minor and the injured worker recovers, or is expected to recover, from the injury to a level where the injury is merely a nuisance within 18 months after the injury is caused</p>	<p>0 to 4</p>

[s 42]

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if the injury will resolve without any ongoing symptoms within months after the injury is caused. • An ISV at or near the top of the range will be appropriate if the injury, despite improvement, causes headaches and some ongoing pain. 	
<p>Division 2 Thoracic spine or lumbar spine injuries</p>		
	<p>General comment for items 89 to 93</p> <ul style="list-style-type: none"> • This division does not apply to the following injuries (that are dealt with in items 1 to 3)— <ul style="list-style-type: none"> • quadriplegia • paraplegia • hemiplegia or severe paralysis of more than 1 limb. • Thoracic or lumbar spine injuries, other than those dealt with in items 1 to 3, range from cases of very severe disability to cases of a minor strain, with no time off work and symptoms suffered only for 2 or 3 weeks. 	

	<ul style="list-style-type: none"> • Symptoms associated with nerve root compression or damage can not be taken into account in assessing an ISV under item 89, 90 or 91 unless objective signs are present of nerve root compression or damage, for example— <ul style="list-style-type: none"> • CT or MRI scans or other radiological evidence • muscle wasting • clinical findings of deep tendon reflex loss, motor weakness and loss of sensation. 	
<p>89 Extreme thoracic or lumbar spine injury</p>	<p>Comment</p> <p>These are extremely severe injuries causing gross limitation of movement and serious interference with performance of daily activities. There may be some motor or sensory loss, and some impairment of bladder, ano-rectal or sexual function.</p> <p>Example of the injury</p> <p>A fracture involving compression of a thoracic or lumbar vertebral body of more than 50%, with neurological impairment</p>	<p>36 to 60</p>

[s 42]

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 25%. • An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of at least 45%. 	
<p>90 Serious thoracic or lumbar spine injury</p>	<p>Comment</p> <ul style="list-style-type: none"> • The injury will cause serious permanent impairment in the thoracic or lumbar spine. • The injury may involve— <ul style="list-style-type: none"> (a) bilateral or multilevel nerve root damage; or (b) a change in motion segment integrity, for example, because of surgery. <p>Example of the injury</p> <p>A fracture involving at least 25% compression of 1 thoracic or lumbar vertebral body</p>	<p>16 to 35</p>

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if—<ul style="list-style-type: none">(a) the injured worker has had surgery and symptoms persist; or(b) there is a fracture involving 25% compression of 1 vertebral body.• An ISV in the middle of the range will be appropriate if there is a fracture involving 50% compression of a vertebral body, with ongoing pain.• An ISV at or near the top of the range will be appropriate if the injured worker has had a fusion of vertebral bodies that has failed—<ul style="list-style-type: none">(a) leaving objective signs of significant residual nerve root damage and ongoing pain, affecting 1 side of the body; and(b) causing whole person impairment of 24%.	
--	---	--

[s 42]

<p>91 Moderate thoracic or lumbar spine injury—fracture, disc prolapse or nerve root compression or damage</p>	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the top of the range will be appropriate if—<ol style="list-style-type: none">(a) there is a disc prolapse for which there is radiological evidence at an anatomically correct level; and(b) there are symptoms of pain and 3 or more of the following objective signs, that are anatomically localised to an appropriate spinal nerve root distribution—<ol style="list-style-type: none">(i) sensory loss;(ii) loss of muscle strength;(iii) loss of reflexes;(iv) unilateral atrophy; and(c) the impairment has not improved after non-operative treatment.	<p>5 to 15</p>
---	--	----------------

	<ul style="list-style-type: none"> • An ISV of about 10 will be appropriate if there is a fracture of a vertebral body with up to 25% compression, and ongoing pain. • An ISV at or near the bottom of the range will be appropriate for an uncomplicated fracture of a posterior element of 1 or more of the vertebral segments, for example spinous or transverse processes, without neurological impairment. 	
<p>92 Moderate thoracic or lumbar spine injury—soft tissue injury</p>	<p>Comment</p> <p>The injury will cause moderate permanent impairment, for which there is objective evidence, of the thoracic or lumbar spine.</p> <p>Comment about appropriate level of ISV</p> <p>An ISV of not more than 10 will be appropriate if there is whole person impairment of 8% caused by a soft tissue injury for which there is no radiological evidence.</p>	<p>5 to 10</p>

[s 42]

<p>93 Minor thoracic or lumbar spine injury</p>	<p>Example of the injury</p> <p>A soft tissue injury of the thoracic or lumbar spine with no—</p> <ul style="list-style-type: none">• significant clinical findings• fractures• documented neurological impairment• significant loss of motion segment integrity• other objective signs of impairment relating to the injury <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the top of the range will be appropriate, whether or not the injured worker continues to suffer some ongoing pain, if the injury will substantially reach maximum medical improvement, with only minor symptoms, within about 18 months after the injury is caused.	<p>0 to 4</p>
--	--	---------------

	<ul style="list-style-type: none"> An ISV at or near the bottom of the range will be appropriate if the injury will resolve without any ongoing symptoms within months after the injury is caused. 	
<p>Division 3 Shoulder injuries</p>		
	<p>General comment for items 94 to 97</p> <ul style="list-style-type: none"> Injuries under items 94 to 97 include subluxations or dislocations of the sternoclavicular joint, acromioclavicular joint or glenohumeral joint. Soft tissue injuries may involve the musculoligamentous supporting structures of the joints. Fractures may involve the clavicle, the scapula (shoulder blade) and the humerus. <p>Comment about appropriate level of ISV for items 94 to 97</p> <p>An ISV at or near the top of the range will generally only be appropriate if the injury is to the shoulder of the dominant upper limb.</p>	

[s 42]

<p>94 Extreme shoulder injury</p>	<p>Comment</p> <p>These are the most severe traumatic injuries causing gross permanent impairment.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A severe fracture or dislocation, with secondary medical complications • Joint disruption with poor outcome after surgery • Degloving • Permanent nerve palsies <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment of 45% and complete loss of all shoulder function of the dominant upper limb.</p>	<p>31 to 50</p>
<p>95 Serious shoulder injury</p>	<p>Comment</p> <p>The injury will involve serious trauma to the shoulder causing serious permanent impairment.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A crush injury 	<p>16 to 30</p>

	<ul style="list-style-type: none"> • A serious fracture with secondary arthritis • Nerve palsies from which the injured worker will partially recover • Established non-union of a clavicular or scapular fracture despite open reduction and internal fixation (ORIF) • Established non-union of a clavicular or scapular fracture if surgery is not appropriate or not possible, and there is significant functional impairment <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 25% and the injury is to the dominant upper limb.</p>	
<p>96 Moderate shoulder injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Traumatic adhesive capsulitis with discomfort, limitation of movement and symptoms persisting or expected to persist for about 2 years • Permanent and significant soft tissue disruption, for example, from tendon tears or ligament tears 	<p>6 to 15</p>

[s 42]

	<ul style="list-style-type: none"> • A fracture, from which the injured worker has made a reasonable recovery, requiring open reduction and internal fixation • Nerve palsies from which the injured worker has made a good recovery • Painful persisting dislocation of the acromioclavicular joint • An injury to the sternoclavicular joint causing permanent, painful instability <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 6%. • An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 12% and the injury is to the dominant upper limb. 	
<p>97 Minor shoulder injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Soft tissue injury with considerable pain from which the injured worker makes an almost full recovery in less than 18 months 	<p>0 to 5</p>

	<ul style="list-style-type: none"> • Fracture from which the injured worker has made an uncomplicated recovery • Strain injury of the acromioclavicular joint or sternoclavicular joint 	
Division 4	Amputation of upper limbs	
	<p>Comment about appropriate level of ISV for items 98 to 99.3</p> <p>An ISV at or near the top of the range will generally only be appropriate if the amputation is of the dominant upper limb.</p>	
98	<p>Loss of both upper limbs, or loss of 1 arm and extreme injury to the other arm</p> <p>Comment</p> <p>The effect of the injury is to reduce the injured worker to a state of considerable helplessness.</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Whether the amputations are above or below the elbow (the loss of the elbow joint adds greatly to the disability) • The length of any stump suitable for use with a prosthesis 	55 to 85

[s 42]

	<ul style="list-style-type: none">• Severity of any phantom pains <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV of 70 to 85 will be appropriate if—<ul style="list-style-type: none">(a) both upper limbs are amputated at the shoulder; or(b) 1 arm is amputated at the shoulder, and there is a loss of function in the other arm, causing whole person impairment of 60%.• An ISV of 65 to 80 will be appropriate if—<ul style="list-style-type: none">(a) both upper limbs are amputated through the elbow or above the elbow but below the shoulder; or(b) 1 arm is amputated through the elbow or above the elbow but below the shoulder, and there is a loss of function in the other arm, causing whole person impairment of 57%.• An ISV of 55 to 75 will be appropriate if—<ul style="list-style-type: none">(a) both upper limbs are amputated below the elbow; or	
--	--	--

	(b) 1 arm is amputated below the elbow, and there is a loss of function in the other arm, causing whole person impairment of 54%.	
99	Loss of 1 upper limb	
	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Whether the amputation is above or below the elbow (the loss of the elbow joint adds greatly to the disability) • Whether the amputation was of the dominant arm • The length of any stump suitable for use with a prosthesis • Severity of any phantom pains • Extent of any disability in the other arm 	
99.1	<i>An upper limb amputation at the shoulder</i>	50 to 65
99.2	<p><i>An upper limb amputation through the elbow or above the elbow but below the shoulder</i></p> <p>Additional comment about appropriate level of ISV for item 99.2</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will generally be appropriate if there is an amputation through the elbow. 	40 to 65

[s 42]

	<ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate if there is a short stump because a short stump may create difficulties in the use of a prosthesis. 	
99.3	<p><i>An upper limb amputation below the elbow</i></p> <p>Additional comment about appropriate level of ISV for item 99.3</p> <p>An ISV at or near the top of the range will be appropriate if there is an amputation through the forearm with residual severe pain in the stump and phantom pains.</p>	35 to 60
Division 5	Elbow injuries	
	<p>Comment about appropriate level of ISV for items 100 to 103</p> <p>An ISV at or near the top of the range will generally only be appropriate if the injury is to the elbow of the dominant upper limb.</p>	
100	<p>Extreme elbow injury</p> <p>Comment</p> <p>The injury will involve an extremely severe elbow injury, falling short of amputation, leaving little effective use of the elbow joint.</p>	26 to 50

	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Whole person impairment for the injury of between 24% and 42% • A complex elbow fracture, or dislocation, with secondary complications • Joint disruption, with poor outcome after surgery • Degloving • Permanent nerve palsies • An injury causing severe limitation of elbow movement with the joint constrained in a non-functional position 	
<p>101 Serious elbow injury</p>	<p>Comment</p> <p>The injury will involve significant disability and require major surgery.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A serious fracture with secondary arthritis • A crush injury • Nerve palsies from which the injured worker will partially recover • Permanent, poor restriction of range of motion with the elbow constrained in a satisfactory functional position 	<p>13 to 25</p>

[s 42]

	<p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 23% and the injury is to the elbow of the dominant upper limb.</p>	
<p>102 Moderate elbow injury</p>	<p>Comment</p> <p>The injury will cause moderate long-term disability but does not require protracted surgery.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Soft tissue disruption, for example, a ligament or tendon tear • A fracture, from which the injured worker has made a reasonable recovery, requiring open reduction and internal fixation • Nerve palsies from which the injured worker has made a good recovery <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 5%. 	<p>6 to 12</p>

	<ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if there is a moderately severe injury to the elbow of the dominant upper limb— <ul style="list-style-type: none"> (a) requiring prolonged treatment; and (b) causing whole person impairment of 10%. 	
<p>103 Minor elbow injury</p>	<p>Comment</p> <p>The injury will cause no permanent damage and no permanent impairment of function.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A fracture with an uncomplicated recovery • A soft-tissue injury with pain, minor tennis elbow syndrome or lacerations 	<p>0 to 5</p>
<p>Division 6 Wrist injuries</p>		
	<p>Comment about appropriate level of ISV for items 104 to 107</p> <p>An ISV at or near the top of the range will generally only be appropriate if the injury is to the wrist of the dominant upper limb.</p>	

[s 42]

<p>104 Extreme wrist injury</p>	<p>Comment</p> <p>The injury will involve severe fractures, or a dislocation, causing a high level of permanent impairment.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A severe fracture or dislocation with secondary joint complications • Joint disruption with poor outcome after surgery • Degloving • Permanent nerve palsies <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 36% and the injury is to the wrist of the dominant upper limb.</p>	<p>25 to 40</p>
<p>105 Serious wrist injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • An injury causing significant permanent loss of wrist function, for example, severe problems with gripping or pushing objects, but with some useful movement remaining • Non-union of a carpal fracture 	<p>16 to 24</p>

	<ul style="list-style-type: none"> • Severe carpal instability <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 20% and the injury is to the wrist of the dominant upper limb.</p>	
<p>106 Moderate wrist injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A wrist injury that is not serious and causes some permanent disability, for example, some persisting pain and stiffness • Persisting radio-ulnar instability • Recurrent tendon subluxation or entrapment <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 6%. • An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 12%. 	<p>6 to 15</p>

[s 42]

<p>107 Minor wrist injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A fracture from which the injured worker almost fully recovers • A soft tissue injury, for example, severe bruising • Continued pain following carpal tunnel release 	<p>0 to 5</p>
<p>Division 7 Hand injuries</p>		
	<p>General comment for items 108 to 119</p> <p>Hands are cosmetically and functionally the most important part of the upper limbs.</p> <p>Comment about appropriate level of ISV for items 108 to 119</p> <ul style="list-style-type: none"> • The appropriate ISV for loss of a hand is only a little less than the appropriate ISV for the loss of the relevant arm. • An ISV at or near the top of the range will generally be appropriate if the injury is to the dominant hand. 	

<p>108 Total or effective loss of both hands</p>	<p>Example of the injury</p> <p>A serious injury causing extensive damage to both hands making them little more than useless</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • The level of residual capacity left in either hand • Severity of any phantom pains if there has been an amputation or amputations <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if both hands remain attached to the forearms and are of some cosmetic importance. • An ISV at or near the top of the range will be appropriate if both hands are amputated through the wrist. 	<p>51 to 75</p>
<p>109 Serious injury to both hands</p>	<p>Comment</p> <p>The injury will involve significant loss of function in both hands, for example, loss of 50% or more of the use of each hand.</p>	<p>40 to 50</p>

[s 42]

<p>110 Total or effective loss of 1 hand</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A crushed hand that has been surgically amputated • Traumatic amputation of all fingers and most of the palm <p>Example of factor affecting ISV assessment</p> <p>Severity of any phantom pain if there has been an amputation</p> <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there has been an amputation of the fingers at the metacarpophalangeal joints, but the thumb remains, and there is whole person impairment for the injury of 32%. • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) there has been amputation of the dominant hand at the wrist; and 	<p>35 to 60</p>
---	--	-----------------

	<p>(b) there is residual severe pain in the stump and ongoing complications, for example, chronic regional pain syndrome or neuroma formation.</p>	
<p>111 Amputation of the thumb or part of the thumb</p>	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • The level of amputation, for example, at carpo metacarpal (CMC) joint, through the distal third of the thumb metacarpal, at the metacarpophalangeal (MCP) joint or thumb interphalangeal (IP) joint • Whether the injury is to the dominant hand • The extent of any damage to the fingers <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if— <ul style="list-style-type: none"> (a) there has been an amputation through the interphalangeal joint of the thumb; and (b) there is whole person impairment for the injury of 11%. 	<p>15 to 28</p>

[s 42]

	<ul style="list-style-type: none"> • An ISV at or near the middle of the range will be appropriate if there has been an amputation through the proximal phalanx. • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) there has been an amputation at the base of the thumb at the carpometacarpal (CMC) joint level of the dominant hand; and (b) there are ongoing debilitating complications. 	
<p>112 Amputation of index, middle and ring fingers, or any 2 of them</p>	<p>Comment</p> <p>The amputation will cause complete loss or nearly complete loss of 2 or all of the following fingers of the hand—</p> <ul style="list-style-type: none"> • index finger • middle finger • ring finger. 	<p>15 to 30</p>

	<p>Example of factor affecting ISV assessment</p> <p>The level of the amputation, for example, whether the hand has been made to be of very little use and any remaining grip is very weak</p> <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if 2 fingers, whether index, middle or ring fingers, are amputated at the level of the proximal interphalangeal joints.• An ISV at or near the middle of the range will be appropriate if there is whole person impairment for the injury of 19%.• An ISV at or near the top of the range will be appropriate if—<ul style="list-style-type: none">(a) the index, middle and ring fingers are amputated at the level of the metacarpophalangeal joint (MCP joint) or there is whole person impairment for the injury of at least 27%; and(b) the injury is to the dominant hand.	
--	---	--

[s 42]

<p>113 Amputation of individual fingers</p>	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none">• Whether the amputation was of the index or middle finger• The level of the amputation• Any damage to other fingers short of amputation <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if—<ul style="list-style-type: none">(a) there has been an amputation at the level of the distal interphalangeal joint of the little or ring finger; or(b) there is whole person impairment for the injury of 3%.• An ISV of not more than 11 will be appropriate if—<ul style="list-style-type: none">(a) there has been an amputation of the index or middle finger at the proximal interphalangeal joint (PIP joint); or(b) there is whole person impairment for the injury of 8%.	<p>5 to 20</p>
--	--	----------------

	<ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate if there is complete loss of the index or middle finger of the dominant hand, and serious impairment of the remaining fingers causing whole person impairment of at least 15%. 	
<p>114 Amputation of thumb and all fingers</p>	<p>Comment</p> <p>As the injury will cause effective loss of the hand, see item 110.</p>	
<p>115 Any other injury to 1 or more of the fingers or the thumb</p>	<p>Comment about appropriate level of ISV for items 115.1 to 115.4</p> <p>An ISV of not more than 5 will be appropriate if substantial function of the hand remains.</p> <p>Examples of factors affecting ISV</p> <ul style="list-style-type: none"> Whether the injury is to the thumb, or index or middle finger Any damage to other fingers Whether the injury is to the dominant hand 	

[s 42]

<p>115.1</p>	<p><i>Extreme injury to 1 or more of the fingers or the thumb</i></p> <p>Example of the injury</p> <p>Total loss of function of 1 or more of the fingers, with the joints ankylosed in non-functional positions</p> <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 14%. • An ISV at or near the top of the range will be appropriate if there is an injury to the thumb of the dominant hand causing total loss of function of the thumb. 	<p>16 to 25</p>
<p>115.2</p>	<p><i>Serious injury to 1 or more of the fingers or the thumb</i></p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A severe crush injury causing ankylosis of the fingers • A bursting wound, or an injury causing severe finger damage, causing residual scarring and dysfunction • An injury leaving a digit that interferes with the remaining function of the hand 	<p>11 to 15</p>

	<ul style="list-style-type: none"> • Division of 1 or more of the long flexor tendons of the finger, with unsuccessful repair 	
<p>115.3</p>	<p><i>Moderate injury to 1 or more of the fingers or the thumb</i></p> <p>Comment</p> <p>There will be permanent discomfort, pain or sensitive scarring</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Moderate injury to the thumb or index finger causing loss of movement or dexterity • A crush injury causing multiple fractures of 2 or more fingers • Division of 1 or more of the long flexor tendons of the finger, with moderately successful repair <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 8% and the injury is to the dominant hand.</p>	<p>6 to 10</p>

[s 42]

115.4	<p><i>Minor injury to 1 or more of the fingers or the thumb</i></p> <p>Example of the injury</p> <p>An uncomplicated fracture or soft tissue injury that has healed with minimal residual symptoms</p> <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is a straightforward fracture of 1 or more of the fingers, with complete resolution within a short time.• An ISV at or near the top of the range will be appropriate if there has been—<ul style="list-style-type: none">(a) a fracture causing minor angular or rotational malunion of the thumb, or index or middle finger, of the dominant hand; or(b) some adherence of a tendon following surgical repair, limiting full function of the digit.	0 to 5
--------------	--	--------

<p>116 Extreme hand injury</p>	<p>Comment</p> <ul style="list-style-type: none">• The injury will involve a severe traumatic injury to the hand, that may include amputation of part of the hand, causing gross impairment of the hand.• A hand injury causing whole person impairment for the injury of 35% will generally fall within this item. <p>Examples of the injury</p> <ul style="list-style-type: none">• An injury reducing a hand's capacity to 50% or less• An injury involving the amputation of several fingers that are rejoined to the hand leaving it clawed, clumsy and unsightly• An amputation of some fingers and part of the palm causing grossly reduced grip and dexterity and gross disfigurement <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if the injured hand has some residual usefulness for performing activities of daily living.	<p>31 to 45</p>
---	--	-----------------

[s 42]

	<ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if the injured hand— <ul style="list-style-type: none"> (a) has little or no residual usefulness for performing activities of daily living; and (b) is the dominant hand. 	
117	<p>Serious hand injury</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A severe crush injury causing significantly impaired function despite surgery • Serious permanent tendon damage <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 20%.</p>	16 to 30
118	<p>Moderate hand injury</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • A crush injury, penetrating wound or deep laceration, requiring surgery • Moderately serious tendon damage • A hand injury causing whole person impairment for the injury of between 5% and 12% 	6 to 15

<p>119 Minor hand injury</p>	<p>Examples of the injury</p> <p>A soft-tissue injury, or an injury that does not require surgery, with nearly full recovery of hand function</p>	<p>0 to 5</p>
<p>Division 8 Upper limb injuries, other than injuries mentioned in divisions 3 to 7</p>		
	<p>Comment about appropriate level of ISV for items 120 to 123</p> <p>An ISV at or near the top of the range will generally only be appropriate if the injury is to the dominant upper limb.</p>	
<p>120 Extreme upper limb injury, other than an injury mentioned in divisions 3 to 7</p>	<p>Comment</p> <p>The injury will involve an extremely serious upper limb injury, falling short of amputation, leaving the injured worker little better off than if the whole arm had been lost.</p>	<p>36 to 65</p>

[s 42]

	<p>Examples of the injury</p> <ul style="list-style-type: none">• A serious brachial plexus injury affecting peripheral nerve function• A non-union of a fracture, with peripheral nerve damage to the extent that an arm is nearly useless <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 31%.• An ISV at or near the top of the range will be appropriate if—<ul style="list-style-type: none">(a) there is a complete brachial plexus lesion shown by a flail arm and paralysis of all muscles of the hand; and(b) the injury is to the dominant limb.• An ISV at or near the top of the range will also be appropriate if there is a serious crush injury that causes whole person impairment for the injury of 55%.	
--	--	--

<p>121 Serious upper limb injury, other than an injury mentioned in divisions 3 to 7</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• A serious fracture of the humerus, radius or ulna, or any combination of the humerus, radius and ulna, if there is significant permanent residual impairment of function• A brachial plexus injury requiring nerve grafts with partial recovery of shoulder and elbow function and normal hand function <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 16%.• An ISV at or near the top of the range will be appropriate if there is an injury to the dominant limb causing whole person impairment of 30%.	<p>21 to 35</p>
---	--	-----------------

[s 42]

<p>122 Moderate upper limb injury, other than an injury mentioned in divisions 3 to 7</p>	<p>Examples of the injury</p> <ul style="list-style-type: none">• A fracture that causes impairment of associated soft tissues, including nerves and blood vessels• A fracture with delayed union or infection• Multiple fractures of the humerus, radius or ulna, or multiple fractures of any combination of the humerus, radius and ulna <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 6%• An ISV in the lower half of the range will be appropriate if there is a complicated fracture of the humerus, radius or ulna, or any combination of the humerus, radius and ulna—<ul style="list-style-type: none">(a) requiring open reduction and internal fixation; and	<p>6 to 20</p>
--	---	----------------

	<p>(b) from which the injured worker has recovered or is expected to recover.</p> <ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if there is a crush injury causing significant skin or muscle loss with permanent residual impairment. • An ISV at or near the top of the range will also be appropriate if there is whole person impairment for the injury of 15%. 	
<p>123 Minor upper limb injury, other than an injury mentioned in divisions 3 to 7</p>	<p>Example of the injury</p> <p>An uncomplicated fracture of the humerus, radius or ulna, or any combination of the humerus, radius and ulna, from which the injured worker has fully recovered within a short time</p>	<p>0 to 5</p>

[s 42]

	<p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there are soft tissue injuries, lacerations, abrasions and contusions, from which the injured worker will fully or almost fully recover. • An ISV at or near the top of the range will be appropriate if there is a brachial plexus injury from which the injured worker has substantially recovered within a few weeks, leaving some minor functional impairment. 	
<p>Division 9 Pelvis or hip injuries</p>		
	<p>General comment for items 124 to 127</p> <ul style="list-style-type: none"> • The most serious injuries to the pelvis or hips can be as devastating as a leg amputation and will have similar ISVs. • However, the appropriate ISV for other injuries to the pelvis or hips will generally be no higher than about 20. <p>Examples of factors affecting ISV assessment for items 124 to 127</p> <ul style="list-style-type: none"> • Exceptionally severe specific sequelae will increase the level of ISV 	

	<ul style="list-style-type: none"> • The availability of remedies, for example, a total hip replacement is an important factor in assessing an ISV • Age 	
<p>124 Extreme pelvis or hip injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • An extensive pelvis fracture • Degloving • Permanent nerve palsies <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 40%. • An ISV at or near the top of the range will be appropriate if the injured worker is not able to mobilise without a wheelchair and is relatively young. 	<p>46 to 65</p>

[s 42]

<p>125 Serious pelvis or hip injury</p>	<p>Comment</p> <p>There will be substantial residual disability, for example, severe lack of bladder and bowel control, sexual dysfunction, or deformity making the use of 2 canes or crutches routine.</p> <p>Examples of the injury</p> <ul style="list-style-type: none">• A fracture dislocation of the pelvis involving both ischial and pubic rami• Traumatic myositis ossificans with formation of ectopic bone around the hip• A fracture of the acetabulum leading to degenerative changes and leg instability requiring an osteotomy, with the likelihood of future hip replacement surgery <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate for an injury causing whole person impairment for the injury of 20%.</p>	<p>26 to 45</p>
--	--	-----------------

126 Moderate pelvis or hip injury	<p>Examples of the injury</p> <ul style="list-style-type: none">• A significant pelvis or hip injury, with no major permanent disability• A hip fracture requiring a hip replacement• A fracture of the sacrum extending into the sacro-iliac joint causing ongoing significant symptoms and whole person impairment of at least 10% <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 10%.• An ISV at or near the top of the range will be appropriate if there is a fracture requiring a hip replacement that is only partially successful, so that there is a clear risk of the need for revision surgery.	11 to 25
---	--	----------

[s 42]

127 Minor pelvis or hip injury	<p>Examples of the injury</p> <ul style="list-style-type: none">• An uncomplicated fracture of 1 or more of the bones of the pelvis or hip that does not require surgery or cause permanent impairment• Undisplaced coccygeal fractures• Undisplaced or healed pubic rami fractures• An injury to the coccyx requiring surgery, that is successful. <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is a soft tissue injury from which the injured worker fully recovers.• An ISV at or near the middle of the range will be appropriate if there is whole person impairment for the injury of 5%.• An ISV at or near the top of the range will be appropriate if the person has ongoing coccydynia and difficulties with sitting.	0 to 10
--	--	---------

Division 10		Amputation of lower limbs	
Subdivision 1		Amputation of both lower limbs	
		<p>Examples of factors affecting ISV assessment for items 128 and 129</p> <ul style="list-style-type: none"> • The level of each amputation • Severity of any phantom pain • Pain in the stumps • Extent of any ongoing symptoms 	
128	Loss of both lower limbs above or through the knee	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if each amputation is near the hips so neither stump can be used with a prosthesis.</p>	55 to 70
129	Below the knee amputation of both lower limbs	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 48%. 	50 to 65

[s 42]

	<ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if— <ul style="list-style-type: none"> (a) both legs are amputated just below the knees leaving little or no stumps for use with prostheses; and (b) there is poor quality skin cover; and (c) there is a chronic regional pain syndrome. 	
<p>Subdivision 2 Amputation of 1 lower limb</p>		
	<p>Examples of factors affecting ISV assessment for items 130 and 131</p> <ul style="list-style-type: none"> • The level of the amputation • Severity of any phantom pain • Whether there have been problems with a prosthesis, for example, pain and further damage to the stump 	
<p>130 Above or through the knee amputation of 1 lower limb</p>	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if the amputation is through or just above the knee. 	<p>35 to 50</p>

	<ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate if the amputation is near the hip and a prosthesis can not be used. 	
<p>131 Below the knee amputation of 1 lower limb</p>	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> An ISV at or near the bottom of the range will be appropriate in a straightforward case of a below-knee amputation with no complications. An ISV at or near the top of the range will be appropriate if there is an amputation close to the knee joint, leaving little or no stump for use with a prosthesis. 	<p>31 to 45</p>

[s 42]

Division 11		Lower limb injuries, other than injuries mentioned in division 9 or 10 or divisions 12 to 15	
132	Extreme lower limb injury, other than an injury mentioned in division 9 or 10 or divisions 12 to 15	<p>Comment</p> <p>These are the most severe injuries short of amputation, leaving the injured worker little better off than if the whole leg had been lost.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Extensive degloving of the lower limb • An injury causing gross shortening of the lower limb • A fracture that has not united despite extensive bone grafting • Serious neurovascular injury • A lower limb injury causing whole person impairment of 40% 	31 to 55

<p>133 Serious lower limb injury, other than an injury mentioned in division 9 or 10 or divisions 12 to 15</p>	<p>Comment</p> <ul style="list-style-type: none">• Removal of extensive muscle tissue and extensive scarring may have a significant enough impact to fall within this item.• An injury to multiple joints or ligaments causing instability, prolonged treatment and a long period of non-weight-bearing may have a significant enough impact to fall within this item, but generally only if those results are combined. <p>Example of the injury</p> <p>Multiple complex fractures of the lower limb that are expected to take years to heal and cause serious deformity and serious limitation of mobility</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 16%.	<p>21 to 30</p>
--	---	-----------------

[s 42]

	<ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 25%. 	
<p>134 Moderate lower limb injury, other than an injury mentioned in division 9 or 10 or divisions 12 to 15</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> A fracture causing impairment of associated soft tissues, including nerves and blood vessels A fracture with delayed union or infection Multiple fractures of the femur, tibia or fibula, or multiple fractures of any combination of the femur, tibia and fibula <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> Period of non-weight-bearing Presence or risk of degenerative change Imperfect union of a fracture Muscle wasting 	<p>11 to 20</p>

	<ul style="list-style-type: none"> • Limited joint movement • Unsightly scarring • Permanently increased vulnerability to future damage <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 10%. • An ISV at or near the middle of the range will be appropriate if there is a deep vein thrombosis requiring treatment for life. • An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 15%. 	
<p>135 Minor lower limb injury, other than an injury mentioned in division 9 or 10 or divisions 12 to 15</p>	<p>Example of the injury</p> <p>An uncomplicated fracture of the femur, tibia or fibula, from which the injured worker has fully recovered</p>	<p>0 to 10</p>

[s 42]

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none">• An ISV at or near the bottom of the range will be appropriate if there is a deep vein thrombosis requiring treatment for less than 6 months, from which the injured worker will fully recover.• An ISV at or near the bottom of the range will also be appropriate if—<ul style="list-style-type: none">(a) there are soft tissue injuries, lacerations, cuts, bruising or contusions, from which the injured worker will fully or almost fully recover; and(b) any residual disability will be minor.• An ISV at or near the top of the range will be appropriate if there is a deep vein thrombosis requiring treatment for at least 1 year.• An ISV at or near the top of the range will also be appropriate if the injured worker is left with impaired mobility or a defective gait.• An ISV at or near the top of the range will also be appropriate if there is whole person impairment for the injury of 9%.	
--	--	--

Division 12		Knee injuries	
		<p>General comment for items 136 to 139</p> <p>The availability of remedies, for example, a total knee replacement is an important factor in assessing an ISV under this division.</p>	
136	Extreme knee injury	<p>Example of the injury</p> <p>A severe knee injury if there is a disruption of the joint, gross ligamentous damage, loss of function after unsuccessful surgery, lengthy treatment and considerable pain</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 20%. • An ISV at or near the top of the range will be appropriate if a total knee replacement was needed and— <ul style="list-style-type: none"> (a) it is very likely that the knee replacement will need to be repeated; or 	25 to 40

[s 42]

	<p>(b) there are ongoing severe symptoms, poor function and whole person impairment for the injury of more than 30%.</p>	
<p>137 Serious knee injury</p>	<p>Comment</p> <p>The injury may involve—</p> <p>(a) ongoing pain, discomfort, limitation of movement, instability or deformity; and</p> <p>(b) a risk, in the long-term, of degenerative changes caused by damage to the joint surfaces, muscular wasting or ligamentous or meniscal injury.</p> <p>Example of the injury</p> <p>A leg fracture extending into the knee joint, causing pain that is constant, permanent and limits movement or impairs agility</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the middle of the range will be appropriate if there is a ligamentous injury, that required surgery and prolonged rehabilitation, causing whole person impairment of 15% and functional limitation.</p>	<p>11 to 24</p>

<p>138 Moderate knee injury</p>	<p>Examples of the injury</p> <p>A dislocation or torn cartilage or meniscus causing ongoing minor instability, wasting and weakness</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is whole person impairment for the injury of 8%.</p>	<p>6 to 10</p>
<p>139 Minor knee injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A partial cartilage, meniscal or ligamentous tear • A laceration • A twisting or bruising injury 	<p>0 to 5</p>
<p>Division 13 Ankle injuries</p>		
	<p>Comment about appropriate level of ISV for items 140 to 143</p> <p>The appropriate ISV for the vast majority of ankle injuries is 1 or 2.</p>	
<p>140 Extreme ankle injury</p>	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A transmalleolar fracture of the ankle with extensive soft tissue damage causing 1 or more of the following— 	<p>21 to 35</p>

[s 42]

	<ul style="list-style-type: none"> (a) severe deformity with varus or valgus malalignment; (b) a risk that any future injury to the relevant leg may lead to a below-knee amputation of the leg; (c) marked reduction in walking ability with constant dependence on walking aids; (d) inability to place the relevant foot for even load-bearing distribution. <ul style="list-style-type: none"> • An ankylosed ankle in a severely misaligned position with severe ongoing pain and other debilitating complications • Whole person impairment for the injury of more than 20% <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • A failed arthrodesis • Regular disturbance of sleep • Need for an orthosis for load bearing and walking 	
<p>141 Serious ankle injury</p>	<p>Example of the injury</p> <p>An injury requiring a long period of treatment, a long time in plaster or insertion of pins and plates, if—</p>	<p>11 to 20</p>

	<p>(a) there is permanent significant ankle instability; or</p> <p>(b) the ability to walk is severely limited on a permanent basis</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Unsightly scarring • The significance of any malunion • A requirement for modified footwear • Whether, and to what degree, there is swelling following activity <p>Additional comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 10%. • An ISV at or near the top of the range will be appropriate if a major tendon controlling foot or ankle movement is severed. 	
<p>142 Moderate ankle injury</p>	<p>Examples of the injury</p> <p>A fracture, ligamentous tear or similar injury causing moderate disability, for example—</p> <ul style="list-style-type: none"> • difficulty in walking on uneven ground 	<p>6 to 10</p>

[s 42]

	<ul style="list-style-type: none"> • awkwardness on stairs • irritation from metal plates • residual scarring <p>Additional comment about appropriate level of ISV</p> <p>An ISV at or near the bottom of the range will be appropriate if there is whole person impairment for the injury of 6%.</p>	
143	<p>Minor ankle injury</p> <p>Examples of the injury</p> <p>A sprain, ligamentous or soft tissue injury or minor or undisplaced fracture</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Whether the injured worker has fully recovery from the injury, and if not, whether there is any tendency for the ankle to give way • Whether there is scarring, aching or discomfort 	0 to 5
Division 14		
Foot injuries		
Subdivision 1		
Amputations		
144	<p>Amputation of both feet</p> <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Severity of any phantom pain 	32 to 65

	<ul style="list-style-type: none"> • Pain in the stumps • Extent of any ongoing symptoms <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there are amputations of both feet at the forefoot (transmetatarsal level amputations). • An ISV of about 40 will be appropriate if there are amputations of both feet at the mid foot (tarsometatarsal level or Lisfranc amputations). • An ISV at or near the top of the range will be appropriate if each amputation is at the level of the ankle (Syme's amputation) and the stumps can not be used with prostheses. 	
<p>145 Amputation of 1 foot</p>	<p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none"> • Severity of any phantom pain • Pain in the stump • Extent of any ongoing symptoms 	<p>20 to 35</p>

[s 42]

	<p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if the amputation is at the forefoot (transmetatarsal level amputation). • An ISV of about 26 will be appropriate if the amputation is at the mid foot (tarsometatarsal level or Lisfranc amputation). • An ISV at or near the top of the range will be appropriate if the amputation is at the level of the ankle (Syme's amputation) and the stump can not be used with a prosthesis. 	
<p>146 Extreme foot injury that is not an amputation</p>	<p>Comment</p> <p>There will be permanent and severe pain or very serious permanent disability.</p> <p>Example of the injury</p> <p>An unusually severe foot injury causing whole person impairment of 15% or more, for example, a heel fusion or loss of the tibia-calcaneum angle</p>	<p>13 to 25</p>

		<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is subtalar fibrous ankylosis in a severely malaligned position, ongoing pain and whole person impairment for the injury of 24%.</p>	
147	Serious foot injury	<p>Examples of the injury</p> <ul style="list-style-type: none"> • A severe midfoot deformity causing whole person impairment of 8% • A lower level loss of the tibia-calcaneum angle 	9 to 12
148	Moderate foot injury	<p>Example of the injury</p> <p>A displaced metatarsal fracture causing permanent deformity, with ongoing symptoms of minor severity, for example, a limp that does not prevent the injured worker engaging in most daily activities</p>	4 to 8
149	Minor foot injury	<p>Examples of the injury</p> <p>A simple metatarsal fracture, ruptured ligament, puncture wound or similar injury</p>	0 to 3

[s 42]

	<p>Comment about appropriate level of ISV</p> <p>An ISV of 2 or less will be appropriate if there is a straightforward foot injury, for example, a fracture, laceration or contusions, from which the injured worker will fully recover.</p>	
<p>Division 15</p>		<p>Toe injuries</p>
<p>150</p>	<p>Extreme toe injury</p>	<p>Examples of factors affecting ISV assessment for items 150.1 to 150.3</p> <ul style="list-style-type: none"> • Whether the amputation was traumatic or surgical • Extent of the loss of the forefoot • Residual effects on mobility
<p>150.1</p>	<p><i>Amputation of all toes</i></p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the middle of the range will be appropriate if the amputation is through the metatarsophalangeal joints (MTP joints) of all toes. • An ISV at or near the top of the range will be appropriate if there is complete amputation of all toes and amputation of a substantial part of the forefoot. 	<p>8 to 20</p>

<p>150.2</p>	<p><i>Amputation of the great toe</i></p> <p>Example of factor affecting ISV assessment for item 150.2</p> <p>The level at which the amputation happens or any ongoing symptoms</p> <p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there is complete loss of the great toe and ball of the foot caused by an amputation through the first metatarsal bone.</p>	<p>6 to 12</p>
<p>150.3</p>	<p><i>Amputation of individual lesser toes</i></p> <p>Example of factor affecting ISV assessment for item 150.3</p> <p>The level at which the amputation happens or any ongoing symptoms</p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is an amputation of 1 lesser toe and— <ul style="list-style-type: none"> (a) there is no ongoing pain; and (b) there is little or no loss of function of the foot; and (c) the cosmetic effect of the amputation is minor. 	<p>3 to 5</p>

[s 42]

	<ul style="list-style-type: none"> An ISV at or near the top of the range will be appropriate if there is complete amputation of all lesser toes and part of the forefoot. 	
151	<p>Serious toe injury</p> <p>Comment</p> <p>The injury will cause serious and permanent disability.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> A severe crush injury causing ankylosis of the toes A bursting wound, or an injury causing severe toe damage, with significant symptoms 	8 to 12
152	<p>Moderate toe injury</p> <p>Comment</p> <p>There will be permanent discomfort, pain or sensitive scarring.</p> <p>Examples of the injury</p> <ul style="list-style-type: none"> A moderate injury to the great toe A crush injury causing multiple fractures of 2 or more toes 	4 to 7

	<p>Comment about appropriate level of ISV</p> <p>An ISV at or near the top of the range will be appropriate if there has been more than 1 unsuccessful operation, or there are persisting stabbing pains, impaired gait or similar effects.</p>	
<p>153 Minor toe injury</p>	<p>Examples of the injury</p> <p>A relatively straightforward fracture or soft tissue injury</p> <p>Comment about appropriate level of ISV</p> <p>An ISV of 1 will be appropriate if there is a straightforward fracture of 1 or more toes with complete resolution within a short time.</p>	<p>0 to 3</p>
<p>Division 16</p>	<p>Limb disorders</p>	
	<p>General comment</p> <p>The ISV for a limb disorder must be assessed having regard to the item of this schedule that—</p> <p>(a) relates to the part of the body affected by the disorder; and</p> <p>(b) is for an injury that has a similar level of adverse impact to the disorder.</p>	

[s 42]

	<p>Examples of a limb disorder</p> <ul style="list-style-type: none">• Tenosynovitis (inflammation of synovial sheaths of tendons usually resolving with rest over a short period and sometimes leading to ongoing symptoms of loss of grip and dexterity)• Peripheral nerve injury (the constriction of the motor or sensory nerves or thickening of surrounding tissue, for example, carpal tunnel syndrome or sciatica)• Epicondylitis (inflammation around the elbow joint, for example, medially (golfer's elbow) or laterally (tennis elbow))• Vascular disorders, for example, deep vein thrombosis <p>Examples of factors affecting ISV assessment</p> <ul style="list-style-type: none">• Whether the disorder is bilateral or one sided• The level of pain, swelling, tenderness or crepitus or other symptoms• The capacity to avoid a recurrence of symptoms• The ability to engage in daily activities• The availability and likely benefit of surgery	
--	--	--

	<ul style="list-style-type: none"> • Whether the disorder is to a dominant or non-dominant limb 	
<p>Part 7 Scarring to parts of the body other than the face</p>		
	<p>General comment</p> <ul style="list-style-type: none"> • This part applies to external appearance and physical condition of the skin only, and includes scarring to the scalp, trunk and limbs. • Facial scarring must be assessed under part 3, division 3. • This part does not apply to adhesions, or scarring, of internal organs. • This part will usually apply to an injury involving skeletal damage only if the skeletal damage is minor. • Many of the physical injuries mentioned in this schedule involve some scarring from the initial injury and subsequent surgery, including skin grafting, to repair the injury and this has been taken into account in fixing the range of ISVs for the injuries. 	

[s 42]

	<p><i>Example—</i></p> <p>The ISV range for an injury causing a closed fracture of a limb takes into account the potential need for open reduction and internal fixation of the fracture and the resulting surgical wound and scar.</p> <p>Examples of factors affecting ISV assessment for items 154.1 to 154.4</p> <ul style="list-style-type: none"> • Location of a scar • Age • Adverse psychological reaction • Likelihood of a scar fading or becoming less noticeable over time 	
<p>154 Scarring to a part of the body other than the face</p>		
<p>154.1</p>	<p><i>Extreme scarring to a part of the body other than the face</i></p> <p>Comment about appropriate level of ISV</p> <ul style="list-style-type: none"> • An ISV at or near the bottom of the range will be appropriate if there is— <ul style="list-style-type: none"> (a) extensive scarring to 1 or more of the limbs and significant cosmetic disfigurement; and (b) either— 	<p>14 to 25</p>

	<ul style="list-style-type: none"> (i) the need to keep the limb or limbs covered or wear special clothing; or (ii) ongoing limitation in the ability to participate in activities because of cosmetic disfigurement or functional impairment. <ul style="list-style-type: none"> • An ISV at or near the top of the range will be appropriate if there is gross permanent scarring over an extensive area or areas of the body, with ongoing pain and other symptoms. 	
<p>154.2</p>	<p><i>Serious scarring to a part of the body other than the face</i></p> <p>Comment</p> <p>There is serious scarring—</p> <ul style="list-style-type: none"> (a) requiring extensive medical treatment or surgery; and (b) causing significant ongoing limitation in the ability to participate in activities because of cosmetic disfigurement or functional impairment. <p>Examples of the injury</p> <ul style="list-style-type: none"> • Significant scarring over the upper and lower arm requiring skin grafting if— 	<p>9 to 13</p>

[s 42]

	<ul style="list-style-type: none"> (a) there are post-operative complications requiring additional medical treatment for up to 18 months; and (b) there is maximum medical improvement within 2 years after the scarring is caused. <ul style="list-style-type: none"> • Hypertrophic (keloid) scarring caused by a burn to the front of the neck, with an intermittent sensation of burning, itching or irritation. 	
154.3	<p><i>Moderate scarring to a part of the body other than the face</i></p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Several noticeable scars that are hypertrophic (keloid) • A significant linear scar in an area of cosmetic importance, for example, the front of the neck 	4 to 8
154.4	<p><i>Minor scarring to a part of the body other than the face</i></p> <p>Examples of the injury</p> <ul style="list-style-type: none"> • Scarring caused by a superficial burn that heals within a few weeks and causes some minor change of pigmentation in a noticeable area. 	0 to 3

	<ul style="list-style-type: none"> • A single noticeable scar, or several superficial scars, to 1 or both of the legs, arms or hands, with some minor cosmetic damage. 	
<p>Part 8 Burn injuries</p>		
	<p>General comment</p> <ul style="list-style-type: none"> • The ISV for a burn injury must be assessed having regard to the item of this schedule that— <ul style="list-style-type: none"> (a) relates to the part of the body affected by the burn injury; and (b) is for an injury that has a similar level of adverse impact to the burn injury. • Burns to the face must be assessed under part 3, division 3. • In burns cases, the ISV for an injury to a part of the body causing functional impairment will generally be at or near the top of the range for an injury to that part of the body. • In serious burns cases, the effects of scarring are more comprehensive and less able to be remedied than the effects of scarring from other causes. 	

[s 42]

Part 9		Injuries affecting hair
155	Extreme injury affecting head hair	<p style="text-align: right;">11 to 15</p> <p>Example of the injury</p> <p>Total permanent loss of head hair</p>
156	Serious injury affecting head hair	<p style="text-align: right;">4 to 10</p> <p>Example of the injury</p> <p>Damage to head hair, caused by, for example, defective waving or tinting, if—</p> <p>(a) the physical effect of the damage is—</p> <p style="padding-left: 20px;">(i) dermatitis; or</p> <p style="padding-left: 20px;">(ii) tingling or burning of the scalp, causing dry, brittle hair that breaks off or falls out, or both; and</p> <p>(b) the physical effect leads to depression, loss of confidence and inhibited social life</p> <p>Comment about appropriate level of ISV</p> <p>An ISV in the upper half of the range will be appropriate if—</p> <p>(a) thinning continues and prospects of regrowth are poor; or</p>

		(b) there is a partial loss of areas of hair and regrowth is slow.	
157	Moderate injury affecting head hair or loss of body hair	<p>Examples of the injury</p> <ul style="list-style-type: none"> • Hair that has been pulled out leaving bald patches • The same example applies as for item 156 but with fewer or only moderate symptoms <p>Example of factor affecting ISV assessment</p> <p>Length of time before regrowth</p>	0 to 3
Part 10		Dermatitis	
158	Extreme dermatitis	<p>Examples of the injury</p> <p>Permanent dermatitis having a severe effect on employment and domestic capability, with some mental disorder</p>	11 to 20
159	Serious dermatitis	<p>Example of the injury</p> <p>Dermatitis that—</p> <p>(a) lasts for years or indefinitely; and</p>	8 to 10

[s 42]

		<p>(b) involves cracking and soreness; and</p> <p>(c) affects employment and domestic capability; and</p> <p>(d) causes marked adverse psychological reaction</p>	
160	Moderate dermatitis	<p>Example of the injury</p> <p>Dermatitis lasting for a significant period, but settling with treatment or a change of personal conduct, or both</p>	3 to 7
161	Minor dermatitis	<p>Examples of the injury</p> <p>Itching, skin irritation or a rash, alone or in combination, that resolves with treatment within a few months of the start of treatment</p>	0 to 2

'Schedule 10 Matters relevant to PIRS assessment by medical expert

section 112D(1)

'Part 1 Explanation of the PIRS

'1 PIRS rates permanent impairment caused by mental disorder

'The PIRS set out in schedule 11 rates permanent impairment caused by a mental disorder.

Note—

PIRS ratings are referred to in schedule 9, part 2. A PIRS rating is capable of being accepted by a court under schedule 8, section 6 only if it is—

- (a) assessed by a medical expert as required under this schedule and schedule 11; and
- (b) provided to the court in a PIRS report as required under section 12.

'2 Areas of functional impairment

- '(1) The PIRS consists of 6 scales, each of which rates permanent impairment in an area of function.
- '(2) Each scale has 5 classes of impairment, ranging from little or no impairment to total impairment.

[s 42]

'Part 2 Assessment of PIRS rating

'3 Medical expert must comply with requirements

- '(1) A medical expert must comply with this schedule and schedule 11 in assessing a PIRS rating for a mental disorder of an injured worker.
- '(2) The medical expert may give an assessment only if the medical expert has examined the injured worker.

'4 How to assess a PIRS rating

- '(1) To assess a PIRS rating for a mental disorder of an injured worker, a medical expert must follow the steps set out in this section.

Note—

Section 8 provides an example completed worksheet that could be used to assess a PIRS rating.

- '(2) Step 1—for each area of functional impairment set out in the PIRS, the medical expert must—
 - (a) decide which level of impairment set out in the PIRS describes the level of impairment caused by the mental disorder of the injured worker; and
 - (b) read off from the PIRS the class, for example, class 1, that corresponds to the level that has been decided.
- '(3) In deciding which level to choose for an area of functional impairment, the medical expert—
 - (a) must have regard to—
 - (i) the examples of indicators of the level of impairment set out in the PIRS for the area to the extent they are relevant in a particular case; and
 - (ii) all factors the medical expert considers relevant to the injured worker's level of impairment, including, for example, the injured worker's age

and pre-existing functional capacity for the area;
and

- (b) may have regard to the range of percentages of impairment set out in the PIRS for the area as a guide to the level of impairment.

Note—

The examples of impairment set out in the PIRS assume a full pre-existing functional capacity for the area which may not be appropriate in a particular case.

- ‘(4) Step 2—the medical expert must list the class number of the 6 classes read off under step 1 in ascending order.
- ‘(5) Step 3—the medical expert must work out the median of the class numbers (the *median class score*) under section 6.
- ‘(6) Step 4—the medical expert must work out the total of the class numbers (the *total class score*) by adding together all of the class numbers.
- ‘(7) Step 5—from the conversion table in section 7, the medical expert must read off the percentage impairment, that corresponds to the particular median class score when found in conjunction with the particular total class score.
- ‘(8) Subject to section 5, the percentage impairment is the PIRS rating assessed by the medical expert for the mental disorder of the injured worker.

‘5 **Assessment if pre-existing mental disorder**

- ‘(1) If an injured worker has a pre-existing mental disorder, a medical expert must—
- (a) work out a percentage impairment for the pre-existing mental disorder at the time immediately before the injury using the steps set out in section 4 (the *pre-injury rating*); and
- (b) work out a percentage impairment for the current mental disorder using the steps set out in section 4 (the *post-injury rating*); and

[s 42]

- (c) subtract the pre-injury rating from the post-injury rating.
- ‘(2) The remaining percentage impairment is the PIRS rating assessed by the medical expert for the mental disorder of the injured worker.

Editor's note—

See also section 11 (Pre-existing mental disorder).

‘6 **How to work out a median class score**

- ‘(1) A median class score is the number that would fall at the middle point between the third class number and the fourth class number if all the class numbers are listed in ascending order.
- ‘(2) If the median class score under subsection (1) is not a whole number, the median class score must be rounded up to the nearest whole number.

Note—

A median class score, as opposed to a mean class score or average class score, has the advantage of not being too influenced by 1 extreme score.

‘7 **Conversion table**

‘This section sets out the conversion table for use under section 4.

Conversion table for percentage impairment Median class score

		1	2	3	4	5
Total class score	6	0%				
	7	0%				
	8	1%				
	9	1%	4%			
	10	2%	5%			
	11	2%	5%			
	12	2%	6%			
	13	3%	7%	11%		
	14	3%	7%	13%		
	15		8%	15%		
	16		9%	17%		
	17		9%	19%	31%	
	18		10%	22%	34%	
	19			24%	37%	
	20			26%	41%	
	21			28%	44%	61%
	22			30%	47%	65%
	23				50%	70%
	24				54%	74%
	25				57%	78%
	26				60%	83%
	27					87%
	28					91%
	29					96%
	30					100%

[s 42]

'8 Example worksheet

'This section sets out an example of a completed worksheet that could be used to assess a PIRS rating for a mental disorder.

Area of functional impairment		Class					
1	Self care and personal hygiene	1					
2	Social and recreational activities		2				
3	Travel			3			
4	Social functioning					5	
5	Concentration, persistence and pace					5	
6	Adaptation					5	
List of class numbers in ascending order:		1	2	3	5	5	
Median class score (using section 6):							4
Total class score:							21
Percentage impairment (using conversion table in section 7):							44%
PIRS rating (if no pre-existing mental disorder):							44%

'Part 3 Particular cases

'9 Refusal of treatment

- '(1) This section applies if an injured worker refuses treatment that could lead to a significant improvement in the level of permanent impairment caused by a mental disorder of the injured worker.
- '(2) Despite the injured worker's refusal of treatment, a medical expert may assess a PIRS rating for the mental disorder of the injured worker.

-
- '(3) The refusal of treatment must not affect the medical expert's assessment of the PIRS rating.
 - '(4) The medical expert must note the refusal of treatment in the PIRS report and state in the report the likely effect of treatment and any reasons known to the medical expert for the refusal of treatment.
 - '(5) Subsection (6) applies if a PIRS report given to a court states that the injured worker refuses treatment that could lead to a significant improvement in the level of permanent impairment caused by the mental disorder of the injured worker.
 - '(6) The court may, in assessing the ISV for an injury or multiple injuries of the injured worker, take into account the refusal of treatment and the matters stated in the PIRS report under subsection (4).
 - '(7) In this section—
PIRS report means a report under section 12.

'10 Cognitive impairment

'If a medical expert assessing a PIRS rating for a mental disorder of an injured worker suspects the injured worker has a cognitive impairment, the medical expert must take into account the following factors—

- (a) the relevant medical history of the injured worker;
- (b) any medical treatment, and progress towards rehabilitation, for the cognitive impairment;
- (c) any results of radiological scans, including CT and MRI scans, electroencephalograms and psychometric tests made available to the medical expert.

'11 Pre-existing mental disorder

'If a medical expert assessing a PIRS rating for a mental disorder of an injured worker considers the injured worker had a pre-existing mental disorder, the medical expert must—

[s 42]

- (a) make appropriate enquiry into the pre-existing mental disorder; and
- (b) consider any psychiatric or psychological reports made available to the medical expert.

'Part 4 Report of PIRS rating

'12 Court to be given PIRS report

- '(1) This section applies if a party to a proceeding wants a court to accept a PIRS rating assessed by a medical expert for a mental disorder of an injured worker.
- '(2) The party must give the court a written report from the medical expert stating the following matters—
 - (a) the mental disorder diagnosed by the medical expert;
 - (b) the PIRS rating assessed by the medical expert for the mental disorder of the injured worker;
 - (c) how the PIRS rating is assessed, including—
 - (i) for each area of functional impairment set out in the PIRS—
 - (A) the relevant clinical findings; and
 - (B) the level of impairment set out in the PIRS that the medical expert decided described the level of impairment caused by the mental disorder of the injured worker; and
 - (C) the class set out in the PIRS that corresponds to the level that was decided; and
 - (ii) the median class score and total class score worked out under section 4; and
 - (iii) if the injured worker had a pre-existing mental disorder, the information mentioned in

subparagraphs (i) and (ii) in relation to the pre-injury rating and the post-injury rating as defined under section 5;

- (d) details of any cognitive impairment of the injured worker.

[s 42]

'Schedule 11 Psychiatric impairment rating scale

section 112D(1)

Area of functional impairment: self care and personal hygiene

Class	Level of impairment	Examples of indicators of level of impairment <i>Note</i> —These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note</i> —These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment		0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> • can live independently • looks after himself or herself adequately, although may look unkempt occasionally • sometimes misses a meal or relies on take-away food 	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> • can not live independently without regular support • needs prompting to shower daily and wear clean clothes • does not prepare own meals • frequently misses meals 	11 to 30%

		<ul style="list-style-type: none"> if living independently, a family member or community nurse visits, or needs to visit, 2 to 3 times a week to ensure a minimum level of hygiene and nutrition 	
Class 4	Severe impairment	<ul style="list-style-type: none"> needs supervised residential care if unsupervised, may accidentally or deliberately hurt himself or herself 	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> needs assistance with basic functions, for example, feeding or toileting 	more than 60%

Area of functional impairment: social and recreational activities

Class	Level of impairment	Examples of indicators of level of impairment <i>Note</i> —These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note</i> —These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment		0 to 3%

[s 42]

		<ul style="list-style-type: none"> regularly goes to cinemas, restaurants or other recreational venues belongs to clubs or associations and is actively involved in them 	
Class 2	Mild impairment	<ul style="list-style-type: none"> occasionally goes to social events without needing a support person, but does not become actively involved, for example, by dancing or cheering a team 	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> rarely goes to social events, and usually only when prompted by family or a friend does not become involved in social events will not go out without a support person remains quiet and withdrawn 	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> never leaves own residence tolerates the company of a family member or close friend 	31 to 60%

		<ul style="list-style-type: none"> will go to a different room or garden when a person, other than a family member or close friend, comes to visit someone at own residence 	
Class 5	Totally impaired	<ul style="list-style-type: none"> can not tolerate living with anybody extremely uncomfortable when visited by a close family member 	more than 60%

Area of functional impairment: travel

Class	Level of impairment	Examples of indicators of level of impairment <i>Note</i> —These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note</i> —These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> can travel to new environments without supervision 	0 to 3%
Class 2	Mild impairment		4 to 10%

[s 42]

		<ul style="list-style-type: none"> can travel without a support person, but only in a familiar area, for example, to go to the local shops or visit a neighbour 	
Class 3	Moderate impairment	<ul style="list-style-type: none"> can not travel away from own residence without a support person there may be problems resulting from excessive anxiety or cognitive impairment 	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> finds it extremely uncomfortable to leave his or her own residence even with a trusted person 	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> can not be left unsupervised, even at own residence may require 2 or more persons to supervise him or her when travelling 	more than 60%

Area of functional impairment: social functioning

Class	Level of impairment	Examples of indicators of level of impairment <i>Note</i> —These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note</i> —These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> • has no difficulty in forming and sustaining relationships, for example, with a spouse or close friend lasting years 	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> • existing relationships are strained • tension and arguments between the injured worker and a spouse or close family member • some friendships are lost 	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> • established relationships are severely strained, as is shown by periods of separation or domestic violence 	11 to 30%

[s 42]

		<ul style="list-style-type: none"> if the injured worker has children, then a spouse, family members or community services are providing most of the care for the children 	
Class 4	Severe impairment	<ul style="list-style-type: none"> can not form or sustain long term relationships pre-existing relationships, for example, with a spouse or close friend, have ended can not care for dependents, for example, child dependents (if any) or an elderly parent 	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> can not function within society lives away from populated areas actively avoids social contact 	more than 60%

Area of functional impairment: concentration, persistence and pace

Class	Level of impairment	Examples of indicators of level of impairment <i>Note</i> —These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note</i> —These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none">• can complete a TAFE or university course within a normal time frame	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none">• can undertake a basic or standard retraining course at a slower pace• can focus on intellectually demanding tasks for up to 30 minutes, then may feel fatigued or develop headaches	4 to 10%

[s 42]

Class 3	Moderate impairment	<ul style="list-style-type: none"> • can not read more than newspaper articles • finds it difficult to follow complex instructions, for example, operating manuals or building plans • can not make significant repairs to motor vehicle or type long documents • can not follow a pattern for making clothes or tapestry or knitting 	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> • able only to read a few lines before losing concentration • has difficulty in following simple instructions • impaired concentration is obvious even during brief conversation • can not live alone or needs regular assistance from family members or community services 	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> • needs constant supervision and assistance within an institutional environment 	more than 60%

Area of functional impairment: adaptation

Note—

This area of functional impairment deals with employability.

Class	Level of impairment	Examples of indicators of level of impairment <i>Note—</i> These must be had regard to under schedule 10, section 4(3)(a)(i).	Percentage impairment ranges <i>Note—</i> These may be had regard to under schedule 10, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> • can work full time in the position in which the injured worker worked immediately before the injury (the <i>pre-injury position</i>) • the injured worker's duties at work and performance of the duties are consistent with the worker's education and training • can cope with the normal demands of the job 	0 to 3%

[s 42]

Class 2	Mild impairment	<ul style="list-style-type: none"> • can work in the pre-injury position, but for no more than 20 hours a week, for example, because the injured worker is no longer happy to work with particular persons • can work full time in a different position where performance of the relevant duties requires the use of comparable skill and intellect to that required to perform the duties of the pre-injury position 	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> • can not work at all in the pre-injury position • only able to work less than 20 hours a week in a different position where performance of the relevant duties requires less skill or is otherwise less demanding, for example, less stressful 	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> • can not work more than 1 or 2 days at a time • works less than 20 hours a fortnight • the pace at which work is done is reduced 	31 to 60%

		<ul style="list-style-type: none">• attendance at work is erratic	
Class 5	Totally impaired	<ul style="list-style-type: none">• needs constant supervision and assistance within an institutional environment	more than 60%

[s 42]

'Schedule 12 General damages calculation provisions

section 112E

'General damages calculation provision—1 July 2010

'The general damages must be calculated for an injury sustained on or after 1 July 2010 as follows—

- (a) if the injury scale value of the injury is assessed as 5 or less—by multiplying the injury scale value by \$1180;
- (b) if the injury scale value of the injury is assessed as 10 or less but more than 5—by adding to \$5900 an amount calculated by multiplying the number by which the injury scale value exceeds 5 by \$1410;
- (c) if the injury scale value of the injury is assessed as 15 or less but more than 10—by adding to \$12950 an amount calculated by multiplying the number by which the injury scale value exceeds 10 by \$1650;
- (d) if the injury scale value of the injury is assessed as 20 or less but more than 15—by adding to \$21200 an amount calculated by multiplying the number by which the injury scale value exceeds 15 by \$1880;
- (e) if the injury scale value of the injury is assessed as 25 or less but more than 20—by adding to \$30600 an amount calculated by multiplying the number by which the injury scale value exceeds 20 by \$2120;
- (f) if the injury scale value of the injury is assessed as 30 or less but more than 25—by adding to \$41200 an amount calculated by multiplying the number by which the injury scale value exceeds 25 by \$2360;
- (g) if the injury scale value of the injury is assessed as 35 or less but more than 30—by adding to \$53000 an amount calculated by multiplying the number by which the injury scale value exceeds 30 by \$2590;

- (h) if the injury scale value of the injury is assessed as 40 or less but more than 35—by adding to \$65950 an amount calculated by multiplying the number by which the injury scale value exceeds 35 by \$2830;
- (i) if the injury scale value of the injury is assessed as 50 or less but more than 40—by adding to \$80100 an amount calculated by multiplying the number by which the injury scale value exceeds 40 by \$3040;
- (j) if the injury scale value of the injury is assessed as 60 or less but more than 50—by adding to \$110500 an amount calculated by multiplying the number by which the injury scale value exceeds 50 by \$3250;
- (k) if the injury scale value of the injury is assessed as 70 or less but more than 60—by adding to \$143000 an amount calculated by multiplying the number by which the injury scale value exceeds 60 by \$3460;
- (l) if the injury scale value of the injury is assessed as 80 or less but more than 70—by adding to \$177600 an amount calculated by multiplying the number by which the injury scale value exceeds 70 by \$3680;
- (m) if the injury scale value of the injury is assessed as 90 or less but more than 80—by adding to \$214400 an amount calculated by multiplying the number by which the injury scale value exceeds 80 by \$3890;
- (n) if the injury scale value of the injury is assessed as 100 or less but more than 90—by adding to \$253300 an amount calculated by multiplying the number by which the injury scale value exceeds 90 by \$4120.

'Schedule 13 Dictionary

section 3

'*adverse psychological reaction* does not include a mental disorder.

AMA 5 means the 'Guides to the Evaluation of Permanent Impairment' (5th edition) published by the American Medical Association.

ankylosis means fixation of a joint in a specific position.

digestive system—

- (a) means the organs and other parts of the body forming the alimentary tract, and includes the tongue, throat and abdominal wall; but
- (b) does not include an organ or other part of the body mentioned in the injury column of schedule 9.

dominant injury, of multiple injuries, means—

- (a) if the highest range for 2 or more of the injuries of the multiple injuries is the same—the injury of those injuries selected as the dominant injury by a court assessing an ISV; or
- (b) otherwise—the injury of the multiple injuries having the highest range.

Note—

The selection as a dominant injury of a particular injury from 2 or more injuries having the same highest range will not affect the outcome of the court's assessment of an ISV for the multiple injuries.

DSM 4 means the 4th edition of the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR) published by the American Psychiatric Association in 2000.

highest range means the range of ISVs having the highest maximum ISV.

ISV means injury scale value.

Le Fort I fracture means a horizontal segmented fracture of the alveolar process of the maxilla.

Le Fort II fracture means a unilateral or bilateral fracture of the maxilla—

- (a) in which the body of the maxilla is separated from the facial skeleton and pyramidal in shape; and
- (b) that may extend through the body of the maxilla down the midline of the hard palate, through the floor of the orbit and into the nasal cavity.

Le Fort III fracture means a fracture in which the entire maxilla and 1 or more facial bones are completely separated from the brain case.

medical expert, for an assessment of a PIRS rating, means a person—

- (a) who is appropriately qualified to perform the assessment, including a psychologist, neuropsychologist or psychiatrist; and
- (b) who has had appropriate training in the use of the PIRS.

mental disorder means a mental disorder recognised under DSM 4.

PIRS means the psychiatric impairment rating scale set out in schedule 11.

PIRS rating, for a mental disorder, means a rating on the PIRS for the permanent impairment caused by the mental disorder.

pre-existing, in relation to an injury, means existing at the time immediately before the injury.

range, in relation to an ISV for an injury, means the range of ISVs for the injury set out in schedule 9.

whole person impairment, in relation to an injury, means an estimate, expressed as a percentage, of the impact of a permanent impairment caused by the injury on the injured

[s 42]

worker's overall ability to perform activities of daily living other than employment.'.

Part 4 **Amendment of Workplace Health and Safety Act 1995**

43 **Act amended**

This part amends the *Workplace Health and Safety Act 1995*.

44 **Insertion of new pt 3, div 5**

Part 3—

insert—

‘Division 5 **Effect of Act on civil liability**

‘37A **No civil cause of action based on contravention of Act**

‘No provision of this Act creates a civil cause of action based on a contravention of the provision.’.

45 **Insertion of new pt 17, div 7**

Part 17—

insert—

‘Division 7 **Transitional provision for Workers’ Compensation and Rehabilitation and Other Legislation Amendment Act 2010**

‘197 **Retrospective extinguishing of statutory cause of action**

‘Section 37A has effect to extinguish without compensation any right to take action based on a civil cause of action arising from—

[s 46]

- (a) a contravention of a provision of this Act that happens after the commencement of section 37A; and
- (b) a contravention of a provision of this Act, whether as originally enacted or as amended since its original enactment, that happened before the commencement of section 37A, if—
 - (i) proceedings for the action have not started before the commencement of section 37A; or
 - (ii) proceedings for the action started after 8 August 2008 but the trial in the proceedings has not started before the commencement of section 37A.’

Part 5 Other amendments

46 Legislation amended in schedule

- (1) The schedule amends the legislation it mentions.
- (2) However, subsection (1) does not apply in relation to particular legislation if another provision of this regulation states that the schedule amends the particular legislation.

Schedule Legislation amended

sections 3, 35 and 46

Civil Liability Regulation 2003

- 1 Sections 5A(a) and (b), 6A(2) and (3) and 6B(a) and (b),
 'and from'—**

omit, insert—

'or after'.

- 2 Schedule 6A, items 1 and 2, 'and from'—**

omit, insert—

'or after'.

Workers' Compensation and Rehabilitation Act 2003

- 1 Section 21(1)(c) and (2), 'work-related'—**

omit, insert—

'work related'.

- 2 Section 21(3), 'workrelated'—**

omit, insert—

'work related'.

- 3 Section 28(a)(ii), (iii) and (iv), 'and'—**

omit, insert—

'or'.

- 4 Section 76(1)(a), from 'paragraph (c)'**—
omit, insert—
'subsection (1)(c) or 72 (other than subsection (1)(d)); and'.
- 5 Section 128D(5), definition *member of the family*, paragraph (a)(ii), (iii) and (iv), 'and'**—
omit, insert—
'or'.
- 6 Section 132(3)(a)(ii), 'protocol.'**—
omit, insert—
'protocol; and'.
- 7 Section 140(1)(a), after '\$200000;'**—
insert—
'and'.
- 8 Section 169(1)(a), after '18'**—
insert—
'years'.
- 9 Section 189(2)(a), after '10,'**—
insert—
'237(3),'.
- 10 Section 195, definition *student*, after '21'**—
insert—
'years'.

-
- 11 Section 200(3) and Editor's note—**
omit.
- 12 Section 201(3)(a)—**
omit.
- 13 Section 201(3)(b) and (c)—**
renumber as section 201(3)(a) and (b).
- 14 Section 237(1)(a)(ii)(B), (b), (c)(ii) and (d), at the end, 'or'—**
omit.
- 15 Chapter 5, part 2, division 3, subdivision 2, heading, 's 237(1)(a)(i)'—**
omit, insert—
'section 237(1)(a)(i)'.
- 16 Sections 242 and 244, heading, 'subdiv'—**
omit, insert—
'sdiv'.
- 17 Chapter 5, part 2, division 3, subdivision 3, heading, 's 237(1)(a)(ii)'—**
omit, insert—
'section 237(1)(a)(ii)'.
- 18 Section 279(1)(a)(i) and (ii), at the end, 'or'—**
omit, insert—
'and'.

- 19 Section 283(1)(b), 'medical condition'—**
omit, insert—
'injury'.
- 20 Section 290A(2)(e), 'section 290A(3)'—**
omit, insert—
'subsection (3)'.
- 21 Section 322(2), definition *a State's legislation about damages for a work related injury*, paragraph (a), at the end, 'and'—**
omit, insert—
'or'.
- 22 Section 338(b), 'to monitor'—**
omit, insert—
'monitoring'.
- 23 Section 392(2), 'has dealings with a person'—**
omit, insert—
'(the *first person*) has dealings with another person (the *second person*)'.
- 24 Section 392(2)(a), 'the person'—**
omit, insert—
'the first person'.
- 25 Section 456, 'equivalent'—**
omit, insert—
'equivalents'.

-
- 26 Section 456(3), definition 'tax equivalents manual', '155'—**
omit, insert—
'129'.
- 27 Section 499, definition *relevant document*, paragraph (b), from 'WorkCover'—**
omit, insert—
'repealed *WorkCover Queensland Act 1996*, section 270 before 1 July 2001;'
- 28 Section 550(1)(a), after 'receives'—**
insert—
'the notice of'.
- 29 Section 553, heading—**
omit, insert—
'553 Application of Uniform Civil Procedure Rules 1999 and Industrial Relations (Tribunals) Rules 2000'.
- 30 Section 578(7)(b), 'subsection (8)'—**
omit, insert—
'subsection (6)'.
- 31 Section 578(9), after 'misdemeanour;'—**
insert—
'or'.
- 32 Section 610, 'section 613'—**
omit, insert—
'section 316'.

33 Chapter 22, second occurrence—

renumber as chapter 23.

34 Section 655, second occurrence—

renumber as section 656.

35 Schedule 6, definitions *amount payable, authorised auditor, claimant, contributor's response, deemed levy, employs 30 or more workers, payable amount and worker—*

omit.

36 Schedule 6—

insert—

'*amount*, for chapter 3, part 1A, see section 107A.

amount payable—

- (a) generally, means an amount due and payable; and
- (b) for an amount payable under an industrial instrument, see section 107B.

claimant—

- (a) generally, means a person who lodges an application for compensation; and
- (b) for chapter 5, see section 233.

Industrial Act, for chapter 3, part 1A, see section 107A.

member of the family, of a deceased worker, see section 28.

worker—

- (a) generally, see section 11; and
- (b) for chapter 5, see section 233.'

37 **Schedule 6, definition *group training organisation*, after
'organisation', first mention—**

insert—

' , for schedules 2 and 3,'.

Workers' Compensation and Rehabilitation Regulation 2003

1 **Section 30, heading, 'subdivs'—**

omit, insert—

'sdivs'.

2 **Section 86, heading, 'Doctor's certificate'—**

omit, insert—

'Certificate given by dentist, doctor or nurse practitioner'.

3 **Section 86(1), 'doctor's'—**

omit.

4 **Section 86(2) to (4), 'doctor'—**

omit, insert—

'dentist, doctor or nurse practitioner'.

5 **Section 87, heading, 'doctor'—**

omit, insert—

'dentist, doctor or nurse practitioner'.

Schedule

- 6 Section 87(1), 'doctor'—**
omit, insert—
'person by whom the certificate is required to be given under section 132 of the Act'.
- 7 Sections 92 and 93, 'the AMA guide'—**
omit, insert—
'AMA 4'.
- 8 Section 119(1)(a), from 'book', first mention to 'employees'—**
omit, insert—
'record and the employee register'.
- 9 Part 10, divisions 1 to 3, heading, 'Transitional provisions'—**
omit, insert—
'Provisions'.
- 10 Schedule 2, parts 1, 2 and 4, item 3, 'the AMA guide'—**
omit, insert—
'AMA 4'.
- 11 Schedule 2, part 6, item 2, 'the AMA guide'—**
omit, insert—
'AMA 4'.
- 12 Schedule 5A, heading, 'section 3'—**
omit, insert—
'schedule 13'.

© State of Queensland 2010