

Alterations and Modifications under section 39

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Introduction

Under section 39 of the SRC Act, an employee can claim compensation for certain alterations or modifications where:

- an employee suffers an injury resulting in an impairment; and
- the employee is undertaking, or has completed, a [rehabilitation program](#), or has been assessed as not capable of undertaking such a program.

Comcare is liable to pay compensation for:

- any alteration of the employee's place of residence or place of work, or
- any modifications of a vehicle or article used by the employee.

providing that the alterations or modifications is reasonably required by the employee, having regard to the nature of the employee's impairment and, where appropriate, the requirements of the rehabilitation program.

The amount of compensation payable in respect to the alterations, modifications, aids, and appliances must also be reasonable.

For more information on aids and appliances payable under section 39 of the SRC Act, refer to the [Aids and Appliances under section 16 and 39](#) page.

For information in relation on the process for determining medical treatment including alterations and modifications, refer to the [Determining Liability for Medical Treatment](#) page.

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Employer's responsibilities for alteration, or adjustments to a workplace

Under section 19 of the *Work Health and Safety Act 2011*, a person conducting a business or undertaking (PCBU) has a primary duty of care to ensure the health and safety of workers and must ensure the:

- provision and maintenance of a work environment without risks to health and safety
- provision and maintenance of safe plant and structures
- provision and maintenance of safe systems of work
- safe use, handling and storage of plant, structures, and substances
- provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities
- the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety, and
- health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury.

In that sense, PCBUs will generally be responsible for the cost of alterations required in the workplace to enable an employee to safely undertake their duties. This must be considered in terms of 'reasonable adjustments'.

Reasonable adjustments

The *Disability Discrimination Act 1992* (the DDA) requires employers to make reasonable adjustments to the workplace or working arrangements if necessary, for a person with disability to do their jobs.

What is considered 'reasonable' will depend on the facts and circumstances of the particular situation.

Under the DDA, an adjustment is considered reasonable unless it causes 'unjustifiable hardship' to the employer or organisation. Unjustifiable hardship could be in the form of significant financial loss, an amendment to the physical building that is not possible due to restrictions, or an adjustment that would unfairly disadvantage other employees.

An employer should therefore make reasonable adjustments for an employee with a compensable condition.

Example: An employee's compensable condition makes them sensitive to bright light. It would be reasonable for the employer to cover or turn off the lighting directly over the employee's workstation or supply blinds to any adjacent windows in order for the employee to do their job – providing that it is safe to do so and does not unfairly disadvantage other employees.

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Alterations to a place of residence

Alterations refers to changes to the structure, layout or fittings of an employee's residence or work.

Alterations to a place of residence

Employees are only entitled to claim compensation for alterations to their permanent or long-term residence.

If the employee is claiming alterations to a property they are renting, they must provide evidence of approval from the property owner and their intention to remain at the property (such as a rental agreement for at least one year for major alterations or six months for minor alterations).

If the property owner gives approval, then the alterations may be paid for if other requirements are also met. If the owner of the property does not authorise the alterations, then temporary alternatives would need to be considered.

Important: When accepting liability for an alteration to a place of residence, valuations must be performed pre and post the alterations being completed and kept on the claim file.

Examples of what alterations Comcare may pay for include (but are not limited) to:

- ramps to replace stairs
- widening of doorways
- installation of additional doorways
- installation of handrails

- bathroom and kitchen alterations
- necessary modification to household storage (i.e., height).

Examples of what alterations Comcare will not pay for include (but are not limited to):

- installation of additional cupboards
- alterations to a temporary place of residence (such as where an employee is house sitting)
- complete remodelling of kitchens, including painting and tiling
- new appliances
- purpose built homes.

Important: There are no provisions under the SRC Act to approve costs associated with temporary accommodation while alterations are undertaken and moving to a new house. There is also no provision to pay for removalist expenses.

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Modifications to a vehicle or article

Modifications are enhancements to assist the employee with returning to work, mobility or activities of daily living and are to a vehicle or article that the employee already owns.

Modifications to, or for a vehicle, may include, but are not limited to:

- wheelchair access for the employee to their vehicle,
- hand controls to operate a vehicle,
- specialised seating,
- cruise control,
- steering column adjustments,
- electric windows,
- automation of manual gears, and
- installation of power steering.

Modifications do not include items such as sunroofs, CD players, metallic paint, or new wheels.

Whilst there is no definition of an article under the SRC Act, it may be considered to be anything that is not a medical aid or appliance that requires modification and is reasonably required in relation to an employee's impairment at a reasonable cost.

As training costs are not considered alterations, modifications, aids, or appliances under s39 of the Act, compensation is not payable for costs associated with training the employee in the use of a modified vehicle or article, or roadworthy certification following vehicle modifications.

However, if the training is included as part of the employee's rehabilitation program by his/her rehabilitation authority, the costs of this training could be payable under s37 of the SRC Act. Alternatively, if the training is carried out by an occupational therapist and otherwise meets the requirements of s16, the training could be compensable under s16.

Please discuss with your Assistant Director and/or Injury manager for further clarification.

When assessing claims for alterations or modifications it may be necessary to arrange an [OT assessment](#) of the employee's needs and options before a determination is made.

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Considerations when determining liability for alterations or modifications under section 39

The following information highlights the considerations that you need to consider when assessing claims for alterations to a place of residence, or work or modifications to vehicles or articles under section 39 of the SRC Act.

Important: When a request for alterations or modifications is received, it is recommended that you should seek assistance from an Injury Manager prior to assessing the request.

Considerations when assessing a request for alterations or modifications:

Step 1: Have the claimed alterations or modifications previously been paid for by Comcare?

To identify if Comcare has previously paid for the claimed alterations, in Pracsys go to *'View Invoice'* (VCI) and select:

- *'Financial Group'* - *'Medical'*, and
- payment Type - *'Aids & Appliances'*.

Note: You should also search under *'Payment Type'* - *'Aids & Appliances - Non Rehab'*.

If...	Then...
<p>yes, and the claimed alterations are to the same place of residence or work</p> <p>or</p> <p>the claimed modifications, repair or replacement are for the same vehicle or article</p>	<p>Decline the request as there are no provisions under the SRC Act to pay for the same alteration to the same residence or place of work twice.</p> <p>Nor is there any provisions to pay for the same modifications to the same vehicle or article twice.</p> <p>There is also no provision under the SRC Act for the repair or replacement of</p>

	<p>alterations or modifications.</p> <p>Maintenance and repair is the responsibility of the employee.</p> <p>Refer to Determining Liability for Medical Treatment</p>
<p>yes, and the claimed alterations are to a new residence and the previous compensable amount was less than \$10,000</p>	<p>Continue</p>
<p>yes, and the claimed alterations are to a new residence, and the previous compensable amount was more than \$10,000</p> <p>or</p> <p>the employee is claiming the same modification to a new vehicle or article and has disposed of the vehicle or article that was modified</p>	<p><i>See: Previously paid alterations and modifications under section 39.</i></p>
<p>no</p>	<p>continue.</p>

Step 2: Review relevant claim information – in particular:

- medical evidence (e.g., reports, certificates)
- past allied health assessments (e.g., Occupational Therapist (OT), Physiotherapist), and
- rehabilitation programs and reports.

Consider the following:

- the nature of the employee's injury
- are the alterations or modifications reasonably required having regard to the employee's impairment and the requirements of the rehabilitation program (where appropriate)?
- if the impairment is permanent or likely to remain for a long period of time?
- will the time to arrange for the alteration or modification outweigh the duration of the impairment?

Further considerations for modifications to vehicles or articles:

- to what extent can family members provide assistance? **Example:** Family members may be able to drive the employee to work
- can the employee use another household member's vehicle? **Example:** The employee may be able to swap their vehicle with another family member's vehicle that has the required functionality such as automatic transmission instead of their own car which has manual transmission
- the amount of time pre-injury the employee used the vehicle or article
- the extent to which the employee's current condition precludes the use of pre-injury transport or articles
- the availability of suitable or more appropriate items
- alternative means of transport available to the employee? **Example:** The employee won't be able to drive for six weeks, so rather than modifying their car they may be able to use public transport if their condition allows.

Step 3: Is the claim in relation to the employee's compensable condition?

- if yes, continue
- if no, reject liability for the alterations or modifications.

Step 4: Is there documentation to confirm that the employee has undertaken, completed, or been assessed as not being capable of undertaking a rehabilitation program?

- if yes, continue to step 6
- if no, continue to step 5.

Step 5: Phone Rehabilitation Authority

Discuss the employee's claim for the alterations or modifications. Advise that an employee cannot receive payment under section 39 if they have not undertaken, completed, or been assessed as not capable of undertaking a rehabilitation program. *See: Payment of aids, appliances, alterations, and modifications under section 39.*

Step 6: If the claim is for an alteration to an employee's place of work, are the alterations the responsibility of the employer?

- if yes, reject liability for the alterations
- if no, continue.

Step 7: Will the alterations or modifications assist the employee with activities of daily living or with returning the employee to employment?

- if yes, continue
- if no, reject liability for the alterations or modifications.

Step 8: Do the alterations assist the employee with a task that they performed prior to their injury, or with a new task that allows the employee to undertake modified or alternative duties?

- if yes, continue.
- if no, reject liability for the alterations.

Step 9: Is the alteration to the employee's normal place of residence which the employee owns?

- if yes, continue.
- if no, phone the employee to advise that a written agreement for the alteration must be sought by the employee from the owner of the residence. The agreement must also include the owner's contact details for confirmation.

Step 10: Is the vehicle or article owned by the employee or a member of their immediate family?

- if yes, continue
- if no, reject liability for the modifications.

Step 11: Is the vehicle or article able to be modified?

- if yes, continue
- if no, reject liability for the modification.

Note: Comcare will only pay for the cost of modifications to vehicles. There is no provision under the SRC Act to pay for new vehicles. If an employee chooses to purchase a new vehicle with the required modifications, then Comcare is

not liable for the cost.

Step 12: Do you need to arrange an occupational therapist home assessment to assess the employee's needs concerning the alterations or modifications required, in relation to their impairment, and any other alternative solutions?

- if yes, see: *Occupational Therapist home assessments*.
- if no, continue.

Step 13: Can the employee be retrained to use their vehicle or article without modification?

- if yes, reject liability for the modification.
- if no, continue.

Note: Driver retraining courses or rehabilitation assistance can be added to the rehabilitation program to assist the employee with changing their habits.

Step 14: Do you consider the alteration or modification is reasonably required in relation to the employee's impairment associated with their compensable condition?

- if yes, continue
- if no, reject liability for the alteration or modification.

Step 15: Has the employee provided quotes or an invoice in relation to the alteration or modification?

- if yes, continue
- if no, see: *How to request quotes for aids, appliances, alterations, and modifications*

Step 16: Does the quote or invoice provide the information required to assess liability for the alteration or modification?

- if yes, continue
- if no, request further information or an updated quote or invoice.

Step 17: Confirm that the company listed as the supplier exists.

Conduct a search via [ABN Lookup](#), which provides access to publicly available information about businesses, or check the validity of the quote by contacting the provider directly or through the use of their online store.

Note: Any concerns with the quote or invoice should be discussed with your Assistant Director.

Step 18: Is the cost reasonable?

- if yes, accept liability for the alteration or modification.
- if no, reject liability for the alterations or modifications.

Step 19: Is the cost of the claimed alteration over \$10,000?

- if yes, and you are accepting liability, phone the employee and inform them that the alterations have been approved and that you will need to arrange to have the property independently valued prior to the alterations being made and after the alterations have been completed, see: *How to arrange valuations to assess the potential significant net financial gain.*

Important: Unless a valuation is requested at this stage there will be no basis for calculation whether a significant net financial gain has been made on disposal of the place of residence.

- if no, valuations are not required.

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How to arrange valuations to assess the potential significant net financial gain

Section 39(2)(f) of the SRC Act provides when an employee has previously received compensation in respect of an alteration to a place of residence or a modification to a vehicle, and has later disposed of that residence or vehicle, if the value of the residence or vehicle was increased, that increase (net financial gain) must be taken into account when determining the amount of compensation payable under section 39.

When the cost of the original alterations to a place of residence exceeds \$10,000.00, valuations of the property must be arranged prior to the alterations being made and after the alterations have been completed.

This information must be kept on the claim file for reference and is arranged at the time of approval of the original alterations. If a valuation is not requested at this stage, there will be no basis for calculating whether a significant net financial gain has been made if the property is disposed of at a later date.

The following procedure explains how to arrange valuations to assess the potential significant financial gain as a result of approved alterations on a place of residence.

Step 1: Phone a Certified Practising Property Valuer – your conversation should:

- advise that you require valuations be undertaken on the property prior to the commencement of the alterations, and after the alterations have been completed
- explain that the purpose of the valuations is to assess any net financial gain that would be made as a result of the approved alterations. (i.e., if the property with alterations was disposed of at a later date did the value of the property significantly increase as a result of the approved alteration?)
- discuss the timeframe of when the valuer will be able to undertake the valuations, and
- discuss the costs of the valuations, the assessment reports to be provided and the due date.

Note: An online search will provide you with options for certified practising property valuers in the employee's area.

Step 2: Phone the employee – your conversation should:

- provide details of the company undertaking the valuations, and
- the date and time when the valuations will be undertaken.

Step 3: Update the treatment plan in Pracsys.

To approve the cost of the valuations and assessment reports, in Pracsys go to 'Amend Claim Treatment Plan' (ACTP) enter:

- the details of the company undertaking the valuations
- approved cost
- details of the alterations

- the employee's place of residence address, and
- the due date the valuer has advised they will have completed the valuations and provide the assessment reports.

Step 4: Enter a comment in Pracsys – go to '*Manage Claim Comment*' (MCOM):

- ensure that you record all your conversations with the property valuer and the employee.

Step 5: Send a letter to the valuer – your letter should include:

- employee's name
- address of residence to be altered, and
- explanation that the purpose of the valuation (see Step 1 for details)

Step 6: Receipt of report – review valuation reports and attach to the claim file.

Step 7: Proceed to determining liability for the claim

Use letter template 941 to assist with determining liability.

Previously paid alterations and modifications under section 39

Ownership of alterations, modifications, aids, or appliances

Aids and appliances that have been approved under section 39 of the SRC Act become the property of the employee.

Structural alterations or modifications that have been approved under section 39 become the property of the property owner.

Where the employee's employer funds workplace alterations, modifications or aids and appliances, they remain the property of the employer.

Previously paid alterations and modifications and significant net gain

While the SRC Act has specific provisions for the repair or replacement for aids and appliances there are no provisions under the Act to consider liability for the repair or replacement of previously paid alterations or modifications to the same place of residence or work, vehicle, or article.

Once an alteration or modification has been made the employee is responsible for the cost of any repairs or maintenance.

However, if the employee changes their place of residence or work, vehicle, or article then compensation may be payable for any alterations or modifications that may be required in relation to their impairment.

There may instances where an employee who has previously received compensation for alterations or modifications to a place of residence or vehicle may make another claim for the same alteration or modification to a different house or vehicle.

The SRC Act requires that Comcare consider whether as a result of the previous alterations or modifications the employee made a financial gain on disposal of that asset. If so, this would need to be taken into account when considering the compensation payable for the subsequent request.

Under section 39(2)(f), you will need to consider compensation previously received for an alteration to his or her place of residence, or modification of a vehicle that has been disposed of, to ensure:

- any significant net financial gain arising out of its disposal the employee received is taken into account, and
- that Comcare is not effectively paying twice for alterations or modifications the employee previously received a financial benefit from.

It can be difficult and time consuming to assess if there was a net financial gain and, therefore, any decision to investigate should be discussed with your Assistant Director.

Note: Alterations and modifications may decrease the value of a residence or vehicle on disposal. There is no express provision in the SRC Act to compensate an employee for the decrease in value of a residence or vehicle.

Significant net financial gain to a house

A significant net financial gain to a house is considered to be in excess of \$5000.00.

When the cost of the original alterations to a house exceeds \$10,000.00, a valuation of the property must be arranged prior to the alterations being made, and a valuation arranged once the alterations have been completed. This information is kept on the claim file for reference and is arranged at the time of approval of the original alterations.

Example: An employee had previous alterations to their bathroom paid by Comcare which resulted in a brand new bathroom being installed.

The employee disposes of the property 6 years later and based on the valuations, has obtained a significant net financial gain of \$8000.00.

The employee submits a claim for the same alterations to a new place of residence and liability is accepted. The quote for the alterations to the new residence is for \$18,000.00.

You must determine the compensable amount is \$10,000.00 which is \$18,000.00 minus the financial gain of \$8000.00.

Significant net financial gain to a vehicle

A significant net financial gain to a vehicle is considered to be in excess of \$2000.00.

Modifications to vehicles are less likely to result in gains over \$2000.00 and, therefore, valuations are not conducted when the modifications are first made.

Depending on the age of the vehicle, the following modifications may result in a financial gain:

- an employee sells their car which was modified from manual to automatic transmission
- an employee has specialised seating, such as Recaro seats (sports seats) installed (for the employee as either a driver or passenger) which could increase a vehicle's value, or

- the installation of power steering and power windows could increase a vehicle's value.

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How to assess previously paid alterations and modifications

The following procedure explains how to assess previously paid alterations and modifications:

Step 1: Has the employee advised they will be disposing of the altered place of residence but has not disposed of the property?

If...	Then...
yes, and the original alteration was to a place of residence and the compensable amount was above \$10,000.00,	<ul style="list-style-type: none">• arrange a valuation to be undertaken by a certified practising property valuer to assess if the value of the property is currently higher as a

result of the previously paid alterations to assess if a significant net financial gain will be made.

Note: The valuation may show that a net financial gain may be made on disposal which will need to be taken in to account when determining the compensable amount for the new claim if liability is accepted.

Alternatively, the valuation may show that the value has decreased as a result of the alterations.

yes, and the original alteration was to a place of residence and the compensable amount was above \$10,000.00, however previous valuations show that as a result of the alterations the value of the property did not significantly increase or depreciated the value of the residence

as a possible net financial gain does not exist, see: *How to determine alterations to a place of residence or work under section 39.*

no, and the employee has already disposed of the altered residence where the original compensable amount was above \$10,000.00

- arrange a valuation to be undertaken by a certified practising property valuer to provide an opinion on whether the selling price of the disposed property reflects a selling price which is inordinately higher than if the property was sold without the variation, and
- provide the valuer with a copy of the original valuations undertaken on the property prior to and after the alteration was completed.

Note: When a valuation of the property is done post disposal it is unlikely that the valuer will be able to gain access to the property.

The valuer will still be able to assess net financial gain without access to the property as long as you have

	provided them with the previous valuations.
the original alteration was to a place of residence and the compensable amount was less than \$10,000.00	you do not need to assess if any significant net financial gain was made, see: <i>How to determine alterations to a place of residence or work under section 39.</i>

Step 2: Has the employee advised that they will be disposing of the modified vehicle but has not disposed of the vehicle?

If...	Then...
<p>yes, (or they have already disposed of the vehicle), and the:</p> <ul style="list-style-type: none"> • previous modification to the vehicle was less than three years ago, and • compensable amount was above \$2,000.00. 	<p>obtain details of the vehicle for which Comcare previously paid modifications from the employee if not already on file, including:</p> <ul style="list-style-type: none"> • make, • model,

- year produced
- brand of car.

To assist with obtaining the market price of a vehicle refer to a website that provides an overall market value on cars for example, 'Red Book':

- print out the value of the vehicle with the modifications, and
- print out the value of the vehicle without.

Example: Prior to modifications: Toyota Corolla Levin Manual 2005 compared to after modifications Toyota Corolla Levin Automatic 2005.

yes (or they have already disposed of the vehicle), and the:

- previous modification was more than three years ago, and

you do not need to assess if any significant net financial gain was made, see: *How to determine modifications to vehicles and articles under section 39.*

- | | |
|---|--|
| <ul style="list-style-type: none">• previous compensable amount was less than \$5,000.00, or• previous compensable amount was less than \$2,000.00 | |
|---|--|

Step 3: Phone the employee – your conversation should advise that:

- before approval for alterations or modifications to a property/vehicle can be considered, you require evidence that the previous property/vehicle has been disposed of/sold
- reference will be made to property valuations made at the time the alterations were undertaken
- where the employee has advised they are planning to dispose of the altered residence that Comcare previously paid for, that you will need to arrange a valuation prior to disposal, or
- where the employee has advised they have already disposed of the altered residence, advise the employee a valuation will be performed by a certified practising property valuer to assess any potential net financial gain that needs to be taken into consideration before any requests for alterations can be considered.
- where the employee has advised that they have disposed of a modified vehicle, advise the employee that you will need to perform a price comparison at the date of disposal for assessment of any potential net financial gain to be taken into consideration before any requests for modifications can be considered; and
- provide the employee with the due date that the requested information is required by.

Step 4: Phone the Rehabilitation Case Manager (RCM) – your conversation should advise:

- of the employee's claim
- of the conversation with the employee, and
- the information required and the due date.

Step 5: Send an email to the employee advising of the information required and the due date that the information is required by

Note: Ensure that you send a copy of the email to the RCM

Step 6: Enter comments in Pracsys –

go to '*Manage Claim Comment*' (MCOM) and enter a comment. Record all your conversations.

Step 7: Create an action plan in Pracsys –

go to '*Manage Action Plan*' (MAP) and in the description field:

- detail the information required and
- the due date in the '*Required Date*' field

Step 8: Once the required information is received, proceed to determining the claim see:

[Determining Liability for Medical Treatment](#)

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