

# Claiming permanent impairment

## Claim management

- ∨ Claim reviews

---

- ∨ Medical treatment and other support

---

- ∨ Rehabilitation and return to work

---

- ∨ Incapacity calculation and payment

---

- ∨ Reimbursement and other payments

---

- ∨ Overpayments and recoveries

---

- ∨ Work related death

---

- ∨ New or changed conditions

---

- ∨ Permanent impairment

---

- ∨ Miscellaneous

---

**Jump to:**

Introduction

How does an employee claim for PI?

When is a condition permanent?

Compensable percentage of permanent impairment

Employees with multiple compensable impairments

Medicare notification requirements

Permanent impairment guides

## Introduction

Permanent impairment (PI) payments are lump sum compensation payments which are claimed for and paid separately from incapacity payments. Compensation for PI can only be determined after liability has been accepted in accordance with section 14 of the SRC Act for:

- an injury
- a disease, or
- an aggravation of an injury or disease.

This means that the permanent impairment must have resulted from the compensable injury or disease.

Under the SRC Act, you are considered to have a permanent impairment when you experience a permanent loss, loss of use, damage or malfunction of a:

- part of your body
- bodily system or function, or
- part of a bodily system or function.

Permanent impairment payments consist of two separate payments: permanent impairment and non-economic loss (NEL). Employees may be eligible for both payments, or only the permanent impairment payment.

See: [Non economic loss](#) for more information about this payment, including eligibility.



## Relevant sections of SRC Act

The following sections of the SRC Act are relevant to claims for permanent impairment:

- section 24 – Compensation for injuries resulting in permanent impairment
- section 25 – Interim payment of compensation
- section 26 – Payment of compensation
- section 27 – Compensation for non-economic loss
- section 28 – Approved Guide

[Return to top of page](#) | [Return to top of section](#)

## How does an employee claim for PI?

When lodging a claim for permanent impairment (PI), Comcare recommends that employees complete a [Compensation Claim for Permanent Impairment and Non-Economic Loss](#) form. This form is required for employees to claim for both permanent impairment payment and non-economic loss (NEL) payment together.

It is possible for Comcare to determine liability under section 24 without a [Compensation Claim for Permanent Impairment and Non-Economic Loss](#) form. This may occur, for example, in the case of injuries such as lung cancer and mesothelioma, in which a PI lump sum may be paid upon diagnosis of the condition. You can accept a letter from the employee or the employee's representative requesting a PI payment as a written notification to register a claim. However, a completed Compensation Claim for Permanent Impairment and Non-Economic Loss will still be required to determine liability for the NEL component.

**Note:** The PI and NEL form states that reasonable costs of completing this form will be met by Comcare. However, Comcare will only meet the cost of other submitted medical reports or assessments if the report or the assessment is used in determining the employee's permanent impairment.

For further information on claiming for permanent impairment, please refer to the following section on the [Comcare website](#).

[Return to top of page](#) | [Return to top of section](#)

## When is a condition permanent?

Under the SRC Act, [permanent](#) means 'likely to continue indefinitely'. When determining permanent impairment (PI), you first need to determine whether the impairment from which the employee suffers is in fact permanent.

The SRC Act requires you to consider the following when determining whether the employee's impairment is permanent:

- the duration of the impairment
- the likelihood of improvement in the employee's condition
- whether the employee has undertaken active treatment and all reasonable rehabilitation treatment for the impairment, and
- any other relevant matters.

A condition should not be considered permanent if there is:

- a likelihood of the condition improving
- the employee will not suffer lasting effects as a result of the injury, or
- all active treatment (as opposed to treatment that maintains the condition) has not yet been completed.

### Interim payments

If the employee's condition is not going to improve, and the medical evidence suggests that it may deteriorate further, an interim payment (section 25) option is available to the employee. Agreeing to accept an interim payment means the

employee can seek a further assessment under section 24 upon exhausting all rehabilitative medical treatment. The final determined amount will be paid minus the amount of the interim payment already received.

**Note:** Non-economic loss (NEL) is not payable as an interim payment made under section 25. NEL can be determined at a later time when the impairment has stabilised, and PI is finalised under section 24.

## Duration of impairment

Except in obvious cases, such as traumatic amputation, mesothelioma and hearing loss, the impairment should have been in existence for a considerable period of time before it is considered permanent, or the final degree of impairment can be measured with confidence. This is because there may be an increase in:

- medical treatment, and
- the requirement for aids or appliances.

The employee may lodge a claim for PI at a later date than their initial claim for compensation. This can be when their treating specialist is of the opinion that the condition has reached a stage where it is likely to continue indefinitely.

## Likelihood of improvement

If the impairment is likely to improve or resolve through the natural healing process or medical or surgical treatment, the condition cannot be regarded as permanent.

In some cases, the condition is not likely to improve, although it may deteriorate. This means there is a quantifiable permanent level of impairment beyond which there is unlikely to be any improvement. In this case, although the condition is not 'stable', PI may still be able to be assessed.

The test to determine improvement is one of **likelihood** as opposed to **certainty** of improvement.

## Reasonable rehabilitative treatment

An assessment of PI should not be undertaken until all reasonable rehabilitative treatment has been completed. You can discuss what treatment may be reasonable with your Injury Manager and the Clinical Panel as necessary. See the [Clinical Panel](#)

page for more information.

## **Refusal to undertake reasonable rehabilitation treatment**

Where an employee has refused to undertake rehabilitative treatment that may have some impact on the degree of PI, you must consider:

- whether the refusal by the employee was reasonable or not, and
- what the rehabilitative treatment consisted of.

When considering rehabilitative treatment, you must consider factors including:

- the risk of failure of the treatment, and
- the possible extent of benefit from the treatment.

When considering the reasonableness of refusal by the employee, you must compare the measures of success of the rehabilitative treatment with the following:

- the prospects of success of the treatment
- the risks of adverse consequences
- pain
- discomfort, and
- any inconvenience involved in the treatment.

[Return to top of page](#) | [Return to top of section](#)

## **Compensable percentage of permanent impairment**

If an employee's claim is assessed under the SRC Act, compensation is payable when the degree of Whole Person impairment (WPI) is 10% or more. The only exceptions are:

- hearing loss claims: in most cases, the degree of WPI will need to be equal to, or greater than 2.5% - (5% binaural hearing loss).
- loss of, or loss of the use of fingers and toes - there is no minimum requirement for the degree of WPI, and
- loss of the sense of taste and smell - there is no minimum requirement for the degree of WPI.

An employee who has had a subsequent increase in the degree of WPI by 10% or more is eligible to claim for a subsequent PI payment. The exception is PI for hearing loss where the increase level of WPI is 2.5% (5% binaural hearing loss).

For guidance on assessing and determining claims, refer to the [Assessing and determining a permanent impairment claim](#) page.

[Return to top of page](#) | [Return to top of section](#)

## Employees with multiple compensable impairments

If an employee has multiple impairments, you must determine if those impairments arose from a single injury or from multiple injuries. Such cases need to be discussed in triage before making a determination on combining values. For further guidance, refer to the [Triage](#) page.

### Single injury leading to two or more impairments

A single injury to an employee may result in two or more impairments. In this case, you calculate the degree of whole person impairment (WPI) of the employee resulting from that injury, expressed as a percentage. This is to be determined in accordance with the combined values chart set out in the approved Guide. See [Permanent impairment guides](#) for the approved Guide to use.

**Example:** An employee suffers a **single** spinal cord injury. The injury results in a 5% WPI loss of function of their lower extremities, a 5% WPI to their urinary system and a 10% WPI to their reproductive functions. As all three impairments are the consequence of the one injury, the WPI values will be combined using the combined values chart within the approved Guide. Using the combined values chart, the employee's overall WPI rating is 19%.

## Two or more injuries from the same incident

Two or more injuries to an employee may arise out of the same incident or the same state of affairs. Each of those injuries may result in one or more impairments. In this case, the injuries must be treated as separate injuries. Therefore, the WPI percentages arising from those injuries must be assessed separately (not combined). This provision is to be applied before making any reduction to the degree of the PI as a result of a pre-existing injury (if applicable).

**Example 1:** An employee suffers **multiple injuries** as a result of a motor vehicle accident. The injuries lead to individual PI assessments of 9% WPI for the right knee, 9% WPI for the left foot, and 9% WPI for the right shoulder. The employee is not entitled to compensation under the permanent impairment provisions as none of the injuries have reached the 10% permanent impairment threshold. Despite the impairments arising from the same incident, they cannot be combined as they are separate injuries.

**Example 2:** An employee suffered injuries to their right and left shoulders as a result of a fall at work. The injuries lead to individual PI assessments of 13% WPI for the right shoulder and 13% for the left shoulder. As the fall resulted in two separate injuries and there is an impairment because of each injury, the injuries must be treated as separate injuries (i.e. two separate PI and non-economic loss determinations).

## Secondary conditions

Secondary conditions would generally be separate injuries. Therefore, any PI associated with the secondary condition would not be combined with the primary condition (or other secondary conditions).

## Employees with compensable, non-compensable and pre-existing conditions

Some employees may submit a claim for multiple conditions (compensable, non-compensable and pre-existing). Some conditions may have liability accepted. The claim may also include conditions for which there is no current liability under section 14 of the SRC Act. For these conditions, you will first need to determine liability under section 14. You can only determine liability for PI for these conditions if liability is first accepted for the conditions under section 14.



Where the employee has multiple conditions contributing to their PI, including compensable, non-compensable and pre-existing conditions, you will need to review the current medical evidence to establish whether it is possible to isolate the degree of PI attributable only to the compensable injury. You may need to request additional medical evidence to confirm whether isolating the effects is possible.

- **Degree of PI attributable to the compensable injury can be isolated through medical evidence:** You must use only the percentage of whole person impairment (WPI) attributed to the compensable injury.
- **Degree of PI cannot be isolated from the compensable, non-compensable and pre-existing injuries:** The degree of PI should be considered as entirely attributable to the compensable injury.

For examples of compensable, non-compensable and pre-existing factors causing **hearing loss**, see [Employees with compensable and non-compensable hearing loss](#).

Where the employee's claim contains multiple conditions for which PI is requested, you need to ascertain which specialists are most appropriate. In some cases, multiple independent assessments may be required.

[Return to top of page](#) | [Return to top of section](#)

## Medicare notification requirements

Services Australia administers and manages the notification requirements of the *Health and Other Services (Compensation) Act 1995* (the HOSC Act), which operates to ensure that the Commonwealth recovers any Medicare benefits paid to an employee where an insurer (such as Comcare) is liable for the injury or illness.

Section 23 of the HOSC Act requires Comcare to notify Medicare in writing of a 'judgment' or a 'settlement'. The notification must occur within 28 days after the judgment or settlement is made in respect of a claim.

Comcare is only obligated to inform **Medicare** of any PI and NEL payments under the HOSC Act. There is no legal obligation to notify Centrelink of a PI or NEL payment as these payments are not compensation (incapacity/income) payments for the purposes of the Social Security Act. Please make sure that notifications are sent to Medicare and **not Centrelink** to avoid any unnecessary delays in the finalisation of the PI and NEL payments.

### Relevant to permanent impairment

The HOSC Act notification requirements apply **where a claim for PI is accepted (excluding interim PI payments) of \$5,000 or more**. The requirements apply whether that decision is an outcome of a primary determination, reviewable decision or AAT/Court decision. This is the meaning of 'judgment' or 'settlement' for the purpose of the HOSC Act.

For further guidance refer to the [Medicare notice and recoveries](#) page and see the [Assessing and determining a permanent impairment claim](#) page.

[Return to top of page](#) | [Return to top of section](#)

## Permanent impairment guides

Section 28 of the SRC Act states that Comcare can prepare and issue a 'Guide to the Assessment of the Degree of Permanent Impairment'. This Guide sets out the criteria with which the degree of PI and NEL shall be determined.

Prior to the introduction of the SRC Act, employees could claim lump sum compensation under the *Compensation (Commonwealth Government Employees) Act 1971* (1971 Act). This act assessed compensation claims using the [Table of](#)

[Maims](#), listed in section 39(4) of the 1971 Act. The Table of Maims does not provide any compensation for non-economic loss (NEL).

Since the introduction of the SRC Act on the 1st December 1988, Comcare has issued four guides:

- Approved Guide (2023) - [Guide to the Assessment of the Degree of PI - Edition 3.0](#) (Approved Guide)
- Approved Guide (2011) - [Guide to the Assessment of the Degree of PI - Edition 2.1](#)
- Approved Guide (2005) - Guide to the Assessment of the Degree of PI - 2nd Edition
- Approved Guide (1989) - Guide to the Assessment of the Degree of PI - 1st Edition.

## Which approved Guide should be used to assess a permanent impairment claim?

Edition 3.0 should be used to assess PI claims received after 1 April 2023.

Edition 2.1 still applies for claims received before 1 April 2023.

**Note:** An employee may have previously been assessed under an earlier edition of the Approved Guide. If that employee applies for a subsequent increase, the claim for an increase will be determined under the relevant Approved Guide based on the date of the claim receipt. An exception is where the employee's PI is assessed as being **less** under the relevant current edition. In this case, the relevant percentage will be taken to be the same as the relevant percentage that was originally assessed under the earlier edition of the Approved Guide. This is to avoid the employee having to repay any monies.

Which employees does each part of the Guide apply to?

**Part 1** of the Approved Guide applies to all Commonwealth employees who are not members or former members of the Australian Defence Force (ADF).

**Part 2** applies only to ADF members who sustain an injury that occurred during their ADF service prior to the commencement of the *Military Rehabilitation Compensation Act 2004*.

## American Medical Association's Guides to the Evaluation of Permanent Impairment

If permanent impairment cannot be assessed under the current approved Guide, you should use the relevant American Medical Association's Guide to the Evaluation of Permanent Impairment (AMA Guide).

The AMA Guide should not be used to evaluate the following conditions:

- mental and behavioural impairments (psychiatric conditions)
- impairments of the visual system
- hearing impairment, or
- chronic pain conditions, except for migraines or tension headaches.

Where unsure, you should seek assistance from your Injury Manager and Assistant Director.

[Return to top of page](#) | [Return to top of section](#)