

[1] Name of Determination

This Determination is the *GARP M (Transitional Impairment Methodology and Interim Permanent Impairment Lifestyle Methodology) Amendment Determination 2013*.

[2] Commencement

This Determination commences, or is taken to have commenced, on 1 July 2013.

[3] Schedule

GARP M is amended as set out in the applicable sections in the Schedule, and any other section in the Schedule has effect according to its terms.

Schedule

1. Chapter 22

Omit the following heading

Optional methods of assessment

substitute:

Method of assessment of lifestyle effect for calculating interim impairment payments

When calculating an interim impairment payment amount under subsection 75(2) of the Act, the Commission must allocate a lifestyle rating using the following methodology:

- Step (1)** Obtain the lifestyle rating for all conditions previously determined;
- Step (2)** Work out the lifestyle rating for all conditions (including the current condition in respect of which a determination has not been made) using:
 - (a) the top of the shaded area for impairment points between 0 and 15; or
 - (b) in any other case — the bottom of the shaded area.
- Step (3)** Use the higher of the lifestyle ratings from steps 1 and 2 to work out the interim permanent impairment payment.

This method of assessment of lifestyle effect is not to be used when subsection 75(4) of the Act applies.

Optional methods of assessment when all conditions stabilised

2. Chapter 25

substitute:

Chapter 25

METHOD OF WORKING OUT THE AMOUNT OF COMPENSATION PAYABLE UNDER THE MRCA FOR A PERSON WITH A VEA OR SRCA INJURY OR DISEASE

This Chapter deals with situations where an injury or disease (the condition) has been accepted under the VEA and/or the SRCA before a claim is made under the MRCA.

Definitions

In this Chapter:

MRCA determination, in relation to a person, means the determination by the Commission of the degree of impairment suffered by the person as a result of a compensable condition under the Act.

MRCA accepted condition means the injury or disease for which the Commission has accepted liability under section 23 of the Act.

MRCA compensation payment means the payment worked out under this Chapter for a person with a *MRCA condition* and a *SRCA condition* and/or a VEA condition.

MRCA PI, means MRCA Permanent Impairment.

MRCA Permanent Impairment, in relation to a person, means the person's impairment for which compensation is payable under Chapter 4 of Part 2 of the Act.

SRCA accepted condition, in relation to a person, means the person's injury for which Comcare is liable to pay compensation under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA).

Note (1): under s.5A of the SRCA "injury" includes "disease".

Note (2): under s147 of the SRCA, for defence-related claims Comcare means the Military Rehabilitation and Compensation Commission.

VEA accepted condition, in relation to a person, means the person's incapacity from an injury or disease that the Repatriation Commission has determined under section 19 of the Veterans' Entitlements Act 1986 (including as affected by section 71 of that Act) entitles the person to be granted a pension.

VEA percentage means the amount of disability pension payable under the VEA for the conditions referred to in Step 1 as at the date of the MRCA claim expressed as a percentage of the General Rate at that date.

weekly disability pension , means a pension at half the rate at which pension would be payable to a veteran under section 22, 23, 24 or 25 of the *Veterans' Entitlements Act 1986*.

The method to assess the total amount of MRCA PI compensation payable under the MRCA is as follows:

- Step (1)** Use GARP M to assess, as at the date of the MRCA determination the combined effect of : :
- (a) all MRCA accepted conditions; and
 - (b) any VEA accepted conditions and any SRCA accepted conditions which were accepted conditions on the date the person claimed MRCA PI ;
- to work out the resulting compensation that would notionally be payable under MRCA.
- Step (2)** Assess whether, under this Guide, the MRCA accepted condition contributes at least five impairment points to the overall impairment rating:
- (a) if the MRCA accepted condition contributes at least five impairment points to the overall impairment rating, compensation for that condition may be payable and the process continues to Step (3); or
 - (b) if the MRCA accepted condition does not contribute at least five impairment points then the claim is rejected.
- Step (3)** If compensation may be payable, work out the amount of compensation that would be payable under the MRCA for the VEA and/or SRCA accepted conditions referred to in Step 1 as at the date of the MRCA determination, using GARP M, as if those conditions were compensable under the MRCA.
- Step (4)** Reduce the amount worked out under Step (1) by the amount worked out under Step (3).
- Step (5)** The amount worked out at Step (4) is the amount payable under the MRCA subject to the proviso in Step (6).

Step (6) The amount payable cannot take the total sum of:

- (a) the amount worked out under Step (4); and
 - (b) the amount worked out by using the VEA percentage to calculate the notional equivalent amount of disability pension payable using the General Rate payable at the date of the determination; and
 - (c) SRCA section 24, 25 and 27 lump sum amounts paid for the SRCA conditions referred to in Step 1 (the SRCA payments being converted as set out below);
- above the maximum weekly payment of MRCA Permanent Impairment) at the date of the determination. If the proviso applies go to Step (7).

Step (7) If the proviso in Step (6) applies the MRCA compensation payment is worked out as follows:

- (a) excess MRCA PI equals the amount worked out in Step 6(b) plus SRCA section 24, 25 and 27 lump sums converted to periodic payments plus Step (4) amount minus maximum MRCA PI rate.
- (b) amount of weekly MRCA PI payable is equal to Step (4) amount minus excess PI under (a).

Conversion of SRCA lump sums

In order to work out the net MRCA periodic payment for Step (7), lump sums paid to the person under SRCA sections 24, 25 and 27 that a person has received must be converted to a periodic payment.

The SRCA amounts are converted to a current lump sum value (by multiplying by the ratio of the current value for maximum SRCA section 24 payment to the value when the lump sum payment was made) and each lump sum converted to a periodic payment by dividing by an age-based number provided by the Australian Government Actuary for this purpose. The age to be used in applying this age-based number is the age that the person would have been on their next birthday at the time the SRCA lump sum was paid. The converted amount is indexed annually (on 1 July) using the indexation factor calculated under section 404 of the MRCA.

[3] Application provisions

- (a) In this item:

Commencement day means the day on which this determination commences.

Commission means the Military Rehabilitation and Compensation Commission.

permanent impairment, in relation to a person, means the person's impairment for which compensation is payable under Chapter 4 of Part 2 of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

(b) Subject to paragraphs (c) and (d), the amendments made by section 2 of this Schedule are taken to apply to all claims to which section 13 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* applies on and from 1 July 2004.

(c) Subject to paragraph (e), if,

(i) a person is a person whose permanent impairment was calculated under Chapter 25 as it applied prior to the commencement day (pre-existing methodology); and

(ii) on or after the commencement day, the application of the methodology in Chapter 25 of GARP M as amended by section 2 of the Schedule (new methodology) would result in a lower amount of compensation for that person for the same condition and level of impairment that applied on the day that the last determination was made before 1 July 2013:

then, the methodology that is to apply to that person in relation to that condition and impairment on and after the commencement day is the pre-existing methodology.

(d) Subject to paragraph (e), if

(i) a person has made a claim in respect of a permanent impairment before 1 July 2013; and

(ii) the claim has not been determined before 1 July 2013;

then, the methodology that is to apply to that person in relation to that condition and impairment on and after the commencement day is the pre-existing methodology.

- (e) For a person to whom paragraph (c) or (d) applies, the pre-existing methodology is to apply until a determination of the amount of compensation payable for a person's permanent impairment using the new methodology results in a change in the amount of compensation payable.