



Military Rehabilitation and Compensation Commission

## Safety, Rehabilitation and Compensation (Defence-related Claims) (Catastrophic Injury) Rules 2018

Instrument 2018 No. MRCC65

The Military Rehabilitation and Compensation Commission, under subsection 122A(1) of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*, makes the following instrument.

Dated this 4<sup>th</sup> day of September 2018

The Seal of the  
Military Rehabilitation and Compensation Commission )  
was affixed hereto in the ) SEAL  
presence of: )  
)

Elizabeth Cosson  
**ELIZABETH COSSON**  
AM CSC  
CHAIR

C Orme  
**CRAIG ORME**  
DSC AM CSC  
MEMBER

M A Kelly  
**MAJOR GENERAL MARK KELLY**  
AO DSC  
MEMBER

B S Wolski  
**REAR ADMIRAL BRETT**  
**WOLSKI**  
AM  
MEMBER

T Smart  
**AIR VICE-MARSHAL**  
**TRACY SMART**  
AM  
MEMBER

## 1 Name

This instrument is the *Safety, Rehabilitation and Compensation (Defence-related Claims) (Catastrophic Injury) Rules 2018*.

## 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

## 3 Authority

This instrument is made under subsection 122A(1) of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

## 4 Purpose

The purpose of this instrument is to prescribe conditions that must be satisfied for the purpose of the definition of catastrophic injury in section 4 of the *Act*.

## 5 Definitions

In this instrument:

*Act* means the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

*catastrophic amputation injury*, see section 9.

*catastrophic blindness injury*, see section 11.

*catastrophic brain injury*, see section 8.

*catastrophic burn injury*, see section 10.

*catastrophic injury*, see subsection 4(1) of the *Act*.

*catastrophic nerve injury*, see section 7.

*employee*, see subsection 4(1) of the *Act*.

*FIM<sup>TM</sup> score sheet* is the Functional Independence Measure score sheet which is a basic indicator of severity of functional limitation, being the version of the document as it exists on the day of commencement of this instrument and published by the Australasian Rehabilitation Outcomes Centre.

*Note:* The *FIM<sup>TM</sup> score sheet* is available at: <https://ahsri.uow.edu.au/aroc/whatisfim/index.html> by opening the page and clicking on the excel diagram under the heading “AN-SNAP Calculator With Benchmarks”.

*injury* means an injury in respect of which compensation is payable under the *Act*.

*Note:* Under paragraph 5A(1)(a) of the *Act*, an injury includes a disease suffered by an employee. For disease, see subsection 5B(1) of the *Act*.

*Standardised Mini-Mental State Examination (SMMSE) tool* is a common cognitive screening or assessment tool used in clinical practices, being the version

of the document as it exists on the day of commencement of this instrument and published by the Independent Hospital Pricing Authority.

*Note :* The *Standardised Mini-Mental State Examination (SMMSE) tool* is available at: <https://www.ihpa.gov.au/what-we-do/standardised-mini-mental-state-examination-smmse> by opening the page and clicking on the heading “Standard Mini-Mental Examination (SMMSE) tool”.

## **6 Conditions of a catastrophic injury**

For the purposes of the definition of *catastrophic injury* in subsection 4(1) of the Act, an *injury* is a *catastrophic injury* if both of the following conditions are satisfied:

- (a) the *injury* results in an impairment assessed by a FIM<sup>TM</sup> credentialed medical or health care professional at a score of 5 or less on any of the items on the *FIM<sup>TM</sup> score sheet*;
- (b) the Commission is satisfied that the *injury* is:
  - (i) a *catastrophic nerve injury*; or
  - (ii) a *catastrophic brain injury*; or
  - (iii) a *catastrophic amputation injury*; or
  - (iv) a *catastrophic burn injury*; or
  - (v) a *catastrophic blindness injury*.

## **7 Catastrophic nerve injury**

An *injury* is a *catastrophic nerve injury* if the injury is a lesion of the spinal cord, cauda equina, brachial plexus, lumbosacral plexus, cervical plexus or coccygeal plexus which results in one or more of the following:

- (a) sensory deficit;
- (b) motor deficit;
- (c) bladder dysfunction;
- (d) bowel dysfunction.

## **8 Catastrophic brain injury**

An *injury* is a *catastrophic brain injury* if the injury results in an impairment of cognitive, physical or psychosocial functions and it results in:

- (a) one or more of the following:
  - (i) a period of post traumatic amnesia of at least 7 days;
  - (ii) a significant brain imaging abnormality;

- (iii) a score for the *Standardised Mini-Mental State Examination (SMMSE)* tool of less than 25; or
- (b) damage to the brain similar in effect and severity to that referred to in subparagraph (a)(i), (ii) or (iii).

## **9 Catastrophic amputation injury**

An *injury* is a *catastrophic amputation injury* if the *injury* results in:

- (a) one or more of the following:
  - (i) a forequarter amputation;
  - (ii) a shoulder disarticulation;
  - (iii) a hindquarter amputation;
  - (iv) a hip disarticulation;
  - (v) an amputation involving the loss of 65% or more of the length of the femur; or
- (b) the loss of at least two of the following:
  - (i) 50% or more of the length of the tibia of the left leg;
  - (ii) 50% or more of the length of the tibia of the right leg;
  - (iii) the thumb of the left hand at or above the first metacarpophalangeal joint;
  - (iv) the thumb of the right hand at or above the first metacarpophalangeal joint.

## **10 Catastrophic burn injury**

An *injury* is a *catastrophic burn injury* if the *injury* is:

- (a) full thickness burns:
  - (i) for a person aged 16 years or above at the time of the *injury*—greater than 40 per cent of the total body surface area; or
  - (ii) for a person aged under 16 years at the time of the *injury*—greater than 30 per cent of the total body surface area; or
  - (iii) to the hands, face or genital area; or
- (b) inhalation burns resulting in vital capacity or forced expiratory volume in one second which is less than 50% of that predicted for the person's age, height and ethnicity.

## **11 Catastrophic blindness injury**

An *injury* is a *catastrophic blindness injury* if the *injury* results in one or more of the following:

- (a) visual acuity after correction by suitable lenses of less than 6/60 in both eyes;
- (b) constriction to within 10 degrees of fixation in the better eye irrespective of corrected visual acuity;
- (c) a combination of visual defects resulting in the same degree of visual impairment as that specified in paragraph (a) or (b).

*Note:* A person would have visual acuity of 6/60 if he or she is only able to see at a distance of 6 metres a symbol which a person with normal vision could see at a distance of 60 metres.