

## LEVEL OF WPI FOR PURPOSES OF PAYMENT OF LUMP SUM COMPENSATION AND THRESHOLD FOR OTHER ENTITLEMENTS

This operational instruction instructs scheme agents on the action to be taken in relation to assessment of the level of Whole Person Impairment for payment of a lump sum (s66 of the 1987 Act) and the application of that level of impairment for the purpose of establishing a threshold for proceeding with a Claim for Work Injury Damages or other entitlements.

A recent decision in the Court of Appeal (JC Equipment Hire v The Registrar of the Workers Compensation Commission of NSW [2008] NSWCA 43) allows that the level of permanent impairment may be separately assessed to determine whether the threshold for claiming Work Injury Damages is reached, if the agreed level of permanent impairment for lump sum compensation is not accepted for a Claim for Work Injury Damages.

Scheme agents are instructed to ensure that the assessment of Whole Person Impairment for determining the amount of lump sum compensation is accurate and are to pay the Worker in accordance with that assessment. If the level of permanent impairment assessed for lump sum compensation is at or above the threshold for claiming Work Injury Damages and a Claim for Work Injury Damages is subsequently received the Claim is to be determined without the Worker being required to undergo another assessment of permanent impairment.

The scheme agent will then determine the Claim in accordance with the other requirements of the legislation i.e. negligence of the Employer and the Worker's incapacity and resulting amount for economic loss.

A similar approach is to be taken to requests for Commutation of a Claim or requests for domestic assistance. If the level of permanent impairment is assessed at 15% or more, no further medical assessment of the Worker is necessary

A legislative amendment to ensure that the legislation works in this manner is currently being developed.

## **REFERENCES**

Deed - Schedule 14 - Glossary

Workers Compensation Act 1987

Workplace Injury Management and Workers Compensation Act 1998

**Guidelines for Claiming Compensation Benefits** 

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