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LawTalk Blog



Changes to Assessment of Permanent Impairment under the Return to Work Scheme

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On 28 May 2021, Return to Work SA put out a consultation paper on proposed changes to the Impairment Assessment Guidelines for injured workers. On 24 August 2021, a number of these changes were Gazetted by the Treasurer, Rob Lucas, and have now become law. These changes will have an effect on any worker who suffers a work injury after 24 August 2021 and seeks to claim lump sum compensation under the IAG. Note, as per the terms of the *Return to Work Act SA (2014)* these changes do not apply retrospectively, and will not apply to a worker who has suffered an injury prior to 24 August 2021.

For workers seeking to claim lump sum compensation under the South Australian workers compensation scheme, they are required to undergo an assessment of their injuries in accordance with the terms of the IAG. If the assessment under this scheme results in the worker receiving a whole person impairment of 5% or higher, they will be entitled to lump sum compensation.

Concerns have been raised by both medical and legal professionals in regard to the changes proposed in May on the basis that they will make it more difficult for workers to receive compensation under the scheme, and will ultimately mean workers are left worse off in the case that they suffer a workplace injury.

It is worth noting that thankfully, a number of the more problematic changes to the legislation have not been included in the final amended version of the IAG's as Gazetted on 24 August 2021. In particular, proposed changes which would have reduced a workers whole person impairment automatically if they had any pre-existing injuries or degenerative changes, as well as changes which would have limited the types of doctors that can undertake assessments under the scheme have not been passed into law.

While the deletion of those changes is welcome news to any workers subject to the current workers compensation scheme, it is worth noting that there are still amendments to the way key impairments are assessed under the IAG to the lower extremity, upper extremity, spine, skin (including scarring resulting from surgery), and the digestive system that are likely to disadvantage and reduce workers entitlements to compensation payments under the scheme.

Having been made aware of the proposed changes to the IAG's, in June 2021 the Labor Party sought to introduce a Bill into Parliament as to the process required to make the proposed changes. Although the Treasurer was aware of that Bill and its introduction to Parliament being delayed until 25 August 2021, the proposed changes were pushed through and Gazetted on 24 August 2021.

If you are concerned by these recent changes to the Impairment Assessment Guidelines, we encourage you to [contact](#) our office to speak with one of our specialist workers compensation lawyers.

This article was researched and written by Michael McCaffrie and Matthew Fuss.

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