Legislation Update: *Safety, Rehabilitation and Compensation (Catastrophic Injury) Rules 2018*

**Key Points**

A “catastrophic injury” for the purposes of the *Safety, Rehabilitation and Compensation Act 1988 (Cth)* (the SRC Act) is now defined in the *Safety, Rehabilitation and Compensation (Catastrophic Injury) Rules 2018 (Cth)* (the Rules).

**Definition of “catastrophic Injury”**

Section 4(1) of the SRC Act defines a “catastrophic injury” as an injury which satisfies the criteria set out in the Rules. As of 23 August 2018, an injury will be classified as a catastrophic injury where it meets the criteria for any of the following:

- catastrophic spinal cord injury;
- catastrophic brain injury;
- catastrophic amputation injury;
- catastrophic burn injury;
- catastrophic blindness injury.

The specific criteria for each type of catastrophic injury, listed above, are set in the Rules. For instance, to meet the definition of a catastrophic spinal injury a worker must have sustained a lesion of the spinal cord or cauda equina which results in one or more of: a sensory deficit, a motor deficit, bladder dysfunction and/or bowel dysfunction.

**Application**

The definition is designed to ensure that those who require a higher level of assistance due to the nature of their injury are adequately provided for. The definition of catastrophic injury is currently only relevant to the provision of household and attendant care services.

Where there is a catastrophic injury, section 29A of the SRC Act provides that:

- Comcare (or a licensee) is immediately liable to pay compensation for household and attendant care services; and
- there is no cap on the amount that can be claimed for household and attendant care services.

This is distinct from the provisions relating to non-catastrophic injury, in section 29 of the SRC Act, which impose a 28-day period after the date of injury in which Comcare is not liable to
pay compensation for household and attendant care services, and a cap on the amount that can be claimed (currently $473.25 per week).

The definition of “catastrophic injury” in the Rules applies retrospectively. It will therefore be relevant to injuries meeting the criteria of any of the five catastrophic injuries sustained before or after the commencement of the Rules.

Specific Criteria

For more information on the specific criteria for each type of catastrophic injury, please see Rules 7 to 11 at this link.

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