1993/195



THE ACCIDENT REHABILITATION AND COMPENSATION INSURANCE (INDEPENDENCE ALLOWANCE ASSESSMENT) REGULATIONS 1998

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 28th day of June 1993

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 167 of the Accident Rehabilitation and Compensation Insurance Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

- 1. Title and commencement
- 2. Interpretation
- 3. Application for assessment
- 4. Training
- 5. Contracting for assessments
- Assessment of disability arising from personal injury only
- 7. Assessment procedure
- 8. Reassessment of disability

- 9. Assessment documentation
- 10. Calculation of disability
- 11. Entitlement
- 12. Payment
- 13. Transport to and from place of assessment
- 14. Accommodation costs
- 15. Revocation Schedules

REGULATIONS

- 1. Title and commencement—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Independence Allowance Assessment) Regulations 1993.
 - (2) These regulations shall come into force on the 1st day of July 1993.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,-

"Act" means the Accident Rehabilitation and Compensation

Insurance Act 1992:

- "Assessment" means a disability assessment using the Functional Limitations Profile set out in the First Schedule to these regulations, and includes any reassessment undertaken in the
- same manner:
 "Assessor" means a person accredited by the Corporation under regulation 4 of these regulations:

"Claimant" means a person who has suffered personal injury and has

had a claim in respect of it accepted under the Act: "Independence allowance" means an allowance payable under section 54 of the Act in respect of disability arising from personal injury.

- these regulations, unless the context otherwise requires, expressions defined in or for the purposes of the Act have the meanings so defined.
- 3. Application for assessment—(1) Upon receipt of a written application from a claimant for payment of an independence allowance, the Corporation shall arrange for an assessment of the claimant's degree of disability to be completed before the expiry of the longest of the following periods:

(a) The period of 13 weeks after the date on which the personal injury

causing the disability was suffered; or

(b) The period of 14 days after the date of receipt of the application; or

(c) Such other period as may be agreed by the claimant.

- 2) Any written application may be signed by a person on behalf of the claimant in accordance with section 63 (5) of the Act.
- **4. Training**—(1) For the purpose of accrediting persons as assessors trained in the use of the Functional Limitations Profile referred to in regulation 7 of these regulations, the Corporation shall-

(a) Hold or arrange training to explain the procedures relating to the

assessment of disability under these regulations; and

- (b) Issue certificates accrediting as assessors those persons who have undertaken training in the use of the assessment of disability under this regulation and who have demonstrated a proficient understanding of the relevant procedures involved in that assessment; and
- (c) Require assessors accredited under this regulation to undertake such further training as the Corporation thinks fit.

(2) A certificate issued under subclause (1) (b) of this regulation may be

issued on such conditions as the Corporation thinks fit.

- (3) The Corporation may cancel or suspend the accreditation of any person under this regulation if any condition relating to the accreditation is not complied with.
- 5. Contracting for assessments—(1) For the purposes of undertaking the assessment referred to in regulation 7 of these regulations, the Corporation shall contract with a person who or an organisation that, in the opinion of the Corporation, is capable of providing the necessary resources to undertake the assessment in accordance with these regulations.

(2) The Corporation, in deciding the location and number of persons with whom or organisations with which the Corporation will contract to provide the assessments referred to in regulation 7 of these regulations, shall have regard to—

(a) The availability of assessors to claimants; and

- (b) The availability of assessors with the skills and qualifications the Corporation believes necessary to undertake the assessments;
- (c) The ability of the contractor to provide interpretation services as necessary; and

(d) The number of assessments that the assessors will need to undertake in any one year to maintain adequate standards of quality.

- (3) The person with whom or organisation with which the Corporation contracts to undertake the assessment shall be responsible for providing the services of an interpreter as necessary and payment for those services shall be included in the contract price paid by the Corporation.
- **6.** Assessment of disability arising from personal injury only—(1) The assessment referred to in regulation 7 of these regulations shall determine the claimant's disability resulting from personal injury covered by the Act and in respect of which a claim has been accepted under the Act or the Accident Compensation Act 1972 or the Accident Compensation Act 1982.
- (2) The assessment referred to in regulation 7 of these regulations shall not include as disability any impairment, handicap, incapacity, or inability to do any thing that does not result from personal injury covered by the Act or personal injury by accident in respect of which a claim has been accepted under the Accident Compensation Act 1972 or the Accident Compensation Act 1982.
- **7. Assessment procedure**—(1) The claimant shall undergo a disability assessment carried out by an assessor using the Functional Limitations Profile set out in the First Schedule to these regulations, which Profile shall be used by the assessor without reference to the weightings set out in the Functional Limitations Profile.
- (2) The assessor shall undertake the assessment in consultation with the claimant or, to the extent to which the claimant is not able to participate, the principal caregiver or a family member acting on behalf of the claimant.
- (3) The assessment shall be undertaken having regard to the culture, language, and gender of the claimant.
- (4) The assessment of the degree of disability of a claimant shall be undertaken on behalf of and at the expense of the Corporation.
- **8. Reassessment of disability**—(1) The Corporation may at any time, on its own motion, or at the request of the claimant, require a claimant's disability to be reassessed, but no such reassessment shall occur within 12 months of a previous reassessment.

(2) Any reassessment under this regulation shall be undertaken in accordance with regulation 7 of these regulations, in the same manner as an initial assessment.

9. Assessment documentation—The assessor shall record the assessment on the assessment form provided by the Corporation and shall provide a copy of the completed form to the Corporation and the claimant.

- 10. Calculation of disability—The Corporation shall, upon receiving a copy of the completed assessment form referred to in regulation 9 of these regulations, calculate the claimant's percentage disability resulting from personal injury in accordance with Part I of the Second Schedule to these regulations.
- 11. **Entitlement**—(1) The amount of any entitlement to an independence allowance—

(a) Shall be based on the degree of disability of the claimant calculated by the Corporation under regulation 10 of these regulations; and

(b) Shall be established using the table set out in Part II of the Second Schedule to these regulations,—

but shall not in any case exceed \$40 per week.

(2) The Corporation shall notify the claimant of—

(a) The percentage disability calculated by the Corporation; and

(b) The effect of that decision on the claimant, and the entitlement of the claimant to an independence allowance.

(3) The Corporation shall not, and an exempt employer shall not be required to, pay an independence allowance where the degree of disability calculated in accordance with this regulation is less than 10 percent.

(4) Any entitlement to an independence allowance under these regulations is subject to section 148 of the Act in any case where the person has received a payment under section 119 or section 120 of the Accident Compensation Act 1972 or section 78 or section 79 of the Accident Compensation Act 1982.

12. Payment—(1) The amount of any entitlement under these

regulations shall be paid quarterly in advance to the claimant.

(2) No payment shall be made by the Corporation, or be required to be made by an exempt employer, for any period beginning earlier than 13 weeks after the date on which the personal injury causing the disability was suffered.

(3) Where a reassessment under this regulation results in a change to a claimant's entitlement to an independence allowance, that change shall apply from the next quarterly payment date.

13. Transport to and from place of assessment—(1) Subject to these regulations, where a claimant requires transport to the place where the assessment or reassessment will be undertaken, the Corporation shall contribute to the costs incurred by the claimant—

(a) An amount equivalent to the lowest fare payable for the journey on whichever is the cheapest of any available scheduled public

transport; or

(b) Where there is no scheduled public transport, an amount calculated at the rate of 50 cents per kilometre—

irrespective of the means of transport actually adopted by the claimant.

(2) Notwithstanding subclause (1) (a) of this regulation, if the cheapest scheduled public transport is not appropriate because of the condition of the claimant resulting from personal injury and is not used, the

the claimant resulting from personal injury and is not used, the Corporation shall contribute to the costs incurred at the rate specified in subclause (1) (b) of this regulation if that contribution would be greater than that payable under subclause (1) (a) of this regulation.

(3) The Corporation shall not make any payment under this regulation unless the journey is of at least 20 kilometres from the commencement point to the place where the assessment or reassessment is to be

undertaken.

(4) The Corporation shall not be liable to make any payment under this regulation for a journey longer than the journey from the place of commencement to the place where the assessment or reassessment is to be undertaken.

(5) The Corporation shall be liable for an actual return journey to the place of commencement on the same basis and to the same extent (if any)

as it is liable for the journey from the place of commencement.

(6) Payments under this regulation shall be made only to the claimant. (7) Where the claimant does not present for the assessment or reassessment to which the transport relates, no amount shall be payable under this regulation unless the journey is undertaken and the failure to present for assessment or reassessment was beyond the control of the claimant.

- 14. Accommodation costs—Where it is necessary for the claimant to remain away from his or her place of residence, at any place other than premises where the assessment or reassessment is undertaken, the Corporation shall contribute the amount of \$50 per night towards the costs of accommodation.
- 15. Revocation—The Accident Rehabilitation and Compensation Insurance (Independence Allowance Rates) Regulations 1992* are hereby revoked.

*S.R. 1992/162

Higulations 1999		
SCHEDULES		
FIRST SCHEDULE		Reg. 7
The Functional Limitations Profile		
AMBULATION ITEMS	ITEM	WEIGHT
The following statements describe walking and use of s	tairs.	
1. I walk shorter distances or often stop for a rest.		(054)
2. I do not walk up or down hills.		(064)
3. I only use stairs with a physical aid; for example, a handrail, stick, or crutches.		(082)
4. I only go up and down stairs with assistance from someone else.		(087)
5. I get about in a wheelchair.		(121)
6. I do not walk at all.		(126)
7. I walk by myself but with some difficulty; for example, I limp, wobble, stumble, or I have a stiff leg.		(071)
8. I only walk with help from someone else.		(098)
9. I go up and down stairs more slowly; for example, one step at a time or I often have to		(069)
stop.		(062)
10. I do not use stairs at all.		(106)
11. I get about only by using a walking frame, crutches, stick, walls, or hold on to furniture.		(096)
12. I walk more slowly.		(039)

FIRST SCHEDULE—continued

BODY CARE AND MOVEMENT ITEMS	ITEM	WEIGHT
The following statements describe movements, bat	hing, go	ing to the
toilet, dressing.	6, 6	6
13. I make difficult movements with help; for		
example, getting in or out of the bath or a car.		(082)
14. I do not get in and out of bed or chairs without		(,
the help of a person or mechanical aid.		(100)
15. I stand for only short periods of time.		(067)
16. I do not keep my balance.		(093)
17. I move my hands or fingers with some difficulty		, ,
or limitation.		(066)
18. I stand up only with someone's help.		(093)
19. I kneel, stoop, or bend down only by holding on		
to something.		(061)
20. I am in a restricted position all the time.		(124)
21. I am very clumsy.		(047)
22. I get in and out of bed or chairs by grasping		
something for support or by using a stick or		
walking frame.		(079)
23. I stay lying down most of the time.		(120)
24. I change position frequently.		(053)
25. I hold onto something to move myself around in		(000)
bed.		(082)
26. I do not bathe myself completely; for example, I		(005)
need help with bathing.		(085)
27. I do not bathe myself at all, but am bathed by		(100)
someone else.		(100)
28. I use a bedpan with help.		(107)
29. I have trouble putting on my shoes, socks, or		(054)
stockings. 30. I do not have control of my bladder.		(054)
		(122)
31. I do not fasten my clothing, for example, I require assistance with buttons, zips, or shoe		
laces.		(068)
32. I spend most of the time partly dressed or in		(000)
pyjamas.		(075)
33. I do not have control of my bowels.		(124)
34. I dress myself, but do so very slowly.		(043)
35. I get dressed only with someone's help.		(082)
6,		()

FIRST SCHEDULE—continued

MOBILITY ITEMS These next statements describe how the claimant gets and outside.	ITEM s about	WEIGHT the house
36. I get about in only one building.		(076)
37. I stay in one room.		(101)
38. I stay in bed more.		(091)
39. I stay in bed most of the time.		(114)
40. I do not use public transport now.		(052)
41. I stay at home most of the time.		(079)
42. I go out only if there is a lavatory nearby.		(064)
43. I do not go into town.		(047)
44. I stay away from home only for short periods.		(046)
45. I do not get about in the dark or in places that are not lit unless I have someone to help.		(057)

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FIRST SCHEDULE—continued

HOUSEHOLD MANAGEMENT ITEMS The following statements describe daily work around the statements describe daily work around the statements describe daily work around the statements described and the statements described are statements.	ITEM ne home	WEIGHT
The following statements describe daily work around the	ic monne.	
46. I do housework or work around the house only for short periods of time or I rest often.		(050)
47. I do less of the daily household chores than I used to do.		(037)
48. I do not do any of the daily household chores that I used to do.		(090)
49. I do not do any of the maintenance or repair work that I would usually do in my home or garden.		(075)
50. I do not do any of the shopping I used to do.		(084)
51. I do not do any of the cleaning that I used to do.		(078)
52. I have difficulty using my hands; for example, turning taps, using kitchen gadgets, sewing, or doing repairs.		(078)
53. I do not do any of the clothes washing that I used to do.		(075)
54. I do not do heavy work around the house.		(059)
55. I have given up taking care of personal or household business affairs; for example, paying bills, banking, or doing household accounts.		(069)

FIRST SCHEDULE—continued

RECREATION AND PASTIME ITEMS	ITEM	WEIGHT
The following statements describe spare time activitentertainment, or just to pass the time.	ties for r	elaxation,
56. I spend shorter periods of time on my hobbies and recreation.		(032)
57. I go out less often to enjoy myself.		(027)
58. I am cutting down on some inactive pastimes I used to do, for example, I watch TV less, play cards less, or read less.		(050)
59. I am not doing any inactive pastimes I used to do, for example, I do not watch TV, play cards, or read.		(091)
60. I am doing more inactive pastimes instead of other activities I used to do.		(043)
61. I take part in fewer community activities.		(025)
62. I am cutting down on some physical recreation or more active pastimes I used to do.		(034)
63. I am not doing any physical recreation or more active pastimes I used to do.		(081)

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FIRST SCHEDULE—continued

SOCIAL INTERACTION ITEMS	ITEM	WEIGHT
These statements describe contact with family and frien	ds.	
64. I go out less often to visit people.		(031)
65. I do not go out at all to visit people.		(091)
66. I show less interest in other people's problems;		
for example, I don't listen when they tell me		(O#O)
about their problems, I don't offer to help.		(050)
67. I am often irritable with those around me; for		(064)
example I snap at people or criticise easily. 68. I show less affection.		(064)
		(044)
69. I take part in fewer social activities than I used to, for example, I go to fewer parties or social		
events.		(025)
70. I am cutting down the length of visits with		(020)
friends.		(031)
71. I avoid having visitors.		(073)
72. My sexual activity is decreased.		(064)
73. I often express concern over what might be		()
happening to my health.		(044)
74. I talk less with other people.		(044)
75. I make many demands on other people; for		
example, I insist that they do things for me or		
tell them how to do things.		(076)
76. I stay alone much of the time.		(091)
77. I am disagreeable with my family; for example, I		(000)
act spitefully or stubbornly.		(086)
78. I frequently get angry with my family; for example, I hit them, scream, or throw things at		
them.		(103)
79. I isolate myself as much as I can from the rest of		(103)
my family.		(100)
80. I pay less attention to the children.		(059)
81. I refuse contact with my family; for example, I		()
turn away from them.		(109)
82. I do not look after my children or family as well		, ,
as I used to do.		(066)
83. I do not joke with members of my family as much		
as I used to do.		(038)

FIRST SCHEDULE—continued

EMOTION ITEMS The next statements describe feelings and behaviour.	ITEM	WEIGHT
84. I say how bad or useless I am; for example, that I am a burden on others.		(089)
85. I laugh or cry suddenly.		(058)
86. I often moan and groan because of pain or discomfort.		(067)
87. I have attempted suicide.		(141)
88. I behave nervously or restlessly.		(048)
89. I keep rubbing or holding areas of my body that hurt or are uncomfortable.		(059)
90. I am irritable and impatient with myself; for example, I run myself down, I swear at myself, I blame myself for things that happen.		(079)
91. I talk hopelessly about the future.		(096)
92. I get sudden frights.		(056)

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FIRST SCHEDULE—continued

ALERTNESS ITEMS	ITEM	WEIGHT
93. I am confused and start to do more than one thing at a time.		(074)
94. I have minor accidents; for example, I drop things, I trip and fall, I bump into things.		(090)
95. I react slowly to things that are said or done.		(052)
96. I do not finish things I start.		(045)
97. I have difficulty reasoning and solving problems; for example, making plans, making decisions, learning new things.		(078)
98. I sometimes get confused; for example I do not know where I am, who is around, or what day it is.		(115)
99. I forget a lot; for example, things that happened recently, where I put things, or to keep appointments.		(085)
100. I do not keep my attention on any activity for long.		(052)
101. I make more mistakes than I used to.		(049)
102. I have difficulty doing things which involve thought and concentration.		(071)

FIRST SCHEDULE—continued

SLEEP AND REST TIMES These statements describe your sleep and rest activities	ITEM	WEIGHT
103. I spend much of the day lying down to rest.		(096)
104. I sit for much of the day.		(062)
105. I sleep or doze much of the time, day and night.		(111)
106. I lie down to rest more often during the day.		(072)
107. I sit around half asleep.		(084)
108. I sleep less at night; for example, I wake up easily, I don't fall asleep for a long time, or I keep waking up.		(086)
109. I sleep or doze more during the day.		(080)

FIRST SCHEDULE—continued

EATING TIMES	ITEM	WEIGHT	
The following statements describe eating and drinking habits.			
110. I eat much less than I used to.		(034)	
111. I feed myself but only with specially prepared food or special utensils.		(076)	
112. I eat special or different food; for example, I follow a soft food, bland, low salt, low fat, or low sugar diet.		(052)	
113. I eat no food at all, but I take liquids.		(113)	
114. I just pick or nibble at my food.		(039)	
115. I drink less fluids.		(033)	
116. I feed myself with help from someone else.		(095)	
117. I do not feed myself at all but have to be fed.		(121)	
118. I eat no food at all except by tubes or intravenous injection.		(143)	

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FIRST SCHEDULE—continued		
THE FUNCTIONAL LIMITATIONS PROFILE—con	tinued	
COMMUNICATION ITEMS The statements relate to talking to other people and with	ITEM riting.	WEIGHT
119. I have trouble writing or typing.		(050)
120. I communicate mostly by nodding my head, pointing, or using sign language, or other gestures.		(127)
121. My speech is understood by only a few people who know me well.		(094)
122. I often lose control of my voice when I talk; for example, my voice gets louder or softer or changes unexpectedly.		(059)
123. I don't write except to sign my name.		(084)
124. I carry on a conversation only when very close to other people or looking directly at them.		(059)
125. I speak with difficulty; for example, I get stuck for words, I stutter, I stammer, I slur my words.		(076)
126. I am understood with difficulty.		(089)
127. I do not speak clearly when I am under stress.		(047)

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FIRST SCHEDULE—continued

WORK ITEMS		ITEM
The next group of statements is intended to cover paid and other than items discussed in statements 46-55.	unpaid	work
Do you usually work other than managing your home?	YES	NO
IF YES, COMPLETE THE WORK SECTION		
IF NO:		
Are you retired?	YES	NO
If you are retired, was your retirement due to your health?	YES	NO
If you are not retired, but are not working, is this due to your health?	YES	NO
IF YES, PLEASE TICK ITEM 128 AND SKIP THE RESITEMS IN THIS SECTION	ST OF	THE
IF NO, PLEASE SKIP THIS SECTION		
128. I do not work at all. (Includes being retired because of health)	-	
IF YES, PLEASE SKIP THE REST OF THE ITEMS IN THIS SECTION		
129. I do part of my job at home.	-	
130. I am not getting as much work done as I used to.		
131. I often get irritable with my workmates; for example, I at them or criticise them easily.	snap	
132. I work shorter hours.		
133. I do only light work.		
134. I work only for short periods of time or often stop to	rest	
135. I work at my usual job but with some changes; for exam use different tools or special aids or I swap jobs someone else.	ple, I with	
136. I do not do my job as carefully and accurately as I use	ed to.	

SECOND SCHEDULE PART I

Regs. 10, 11 (1) (b)

Reg. 10

Calculation of Percentage Disability

The Corporation shall ascertain the claimant's disability score by using the following formula:

 $\frac{A}{9933} \times 100$

Where A is the sum total of the weight ratings for all the items in the First Schedule to these regulations that are answered in the positive either with a tick or by stating "Yes".

The disability score obtained by using the above formula shall then be

The disability score obtained by using the above formula shall then be converted into a Percentage Degree of Disability by using the following table:

Disability Score	Percentage Degree of Disability
0-13.0	0-9
13.1-18.3	10-14
18.4-22.0	15-19
22.1-24.9	20-24
25.0-27.3	25-29
27.4-29.3	30-34
29.4-31.1	35-39
31.2-32.6	40-44
32.7-34.0	45-49
34.1-35.2	50-54
35.3-36.3	55-59
36.4-37.4	60-64
37.5-38.4	65-69
38.5-39.3	70-74
39.4-40.1	75-79
40.2-40.9	80-84
41.0-41.6	85-89
41.7-42.3	90-94
42.4-43.0	95-99
43.0 +	100

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SECOND SCHEDULE—continued

Reg. 11 (1) (b)

PART II Weekly Rate of Independence Allowance Scale

Percentage Degree of Disability	Weekly Rate of Independence Allowance
%	\$
0-9	0
10-19	4
20-29	5
30-39	7
40-49	9
50-59	11
60-69	15
70-79	19
80-89	24
90-99	31
100	40

DIANE WILDERSPIN, Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 1993, prescribe—

(a) The method of assessment of entitlement to an independence allowance; and

(b) The various rates of independence allowance payable—
under section 54 of the Accident Rehabilitation and Compensation Insurance Act 1992 in respect of persons with varying degrees of disability.

These regulations revoke and replace the Accident Rehabilitation and Compensation Insurance (Independence Allowance Rates) Regulations 1992.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in Gazette: 30 June 1993. These regulations are administered in the Accident Rehabilitation and Compensation Insurance Corporation.