

Changes to *Return to Work Act 2014* from 1 December 2024

The Parliament of South Australia recently passed the *Return to Work (Employment and Progressive Injuries) Amendment Act 2024* which amends the *Return to Work Act 2014* (the Act).

Most changes come into effect on 1 December 2024

Assessment of permanent impairment

The assessment of permanent impairment is a critical part of the support provided to workers with serious injuries. Recent updates provide greater clarity on when a worker is eligible for a permanent impairment assessment, including specific provisions for workers with terminal or prescribed conditions.

An assessment resulting from an injury must not be made until there is evidence the injury has stabilised. The Act now provides that a work injury has stabilised if the worker's condition is unlikely to change substantially in the next 12 months with or without medical treatment (regardless of any temporary fluctuations in the condition that might occur).

Key exceptions:

Two key exceptions have also been introduced to ensure workers with terminal conditions or prescribed conditions have timely access to their entitlements.

Terminal Conditions: Workers with terminal conditions can proceed directly to a permanent impairment assessment without needing to establish that their injury has stabilised.

A terminal condition is a work injury that is incurable and will, in the opinion of a medical practitioner, cause death.

The determination is based on the opinion of a medical practitioner, ensuring that assessors are not tasked with making difficult predictions about a worker's prognosis.

Prescribed Conditions: This exception will apply to certain conditions that are progressive in nature and unlikely to stabilise, such as those with long latency periods.

The new provision ensures that workers with terminal or prescribed conditions receive clarity on their eligibility for a permanent impairment assessment, allowing them to access entitlements without unnecessary delays.

What does this mean for workers?

- Workers with terminal or prescribed conditions now have a streamlined path to receive a permanent impairment assessment and the entitlements that follow
- Greater certainty for workers with progressive or terminal conditions, enabling them to plan for their future with clarity in respect of their rights and benefits.

To determine what conditions should be named to qualify for a permanent impairment assessment without stabilisation, there will be a consultation process including with:

- Australian Medical Association (SA)
- Return to Work Corporation of South Australia
- Minister's Advisory Committee (which includes representation from worker and employer bodies, as well as unions).

The definition of stabilised

The definition of stabilised includes the phrase “with or without medical treatment,” reinforcing the principle that workers have a choice as to whether or not to undergo medical treatment for their injury and, if they choose to decline medical treatment, it does not prevent their condition from being treated as stable for the purposes of an assessment.