

IMPAIRMENT INSIDER



Returnto
WorkSA

ISSUE 14
DECEMBER 2024

Introduction

Welcome to Issue 14 of the Impairment Insider.

As another year draws to a close, I want to take the opportunity to thank you all for your contributions throughout the year, and to wish you a Merry Christmas and Happy New Year.

2025 is shaping up to be an even bigger year with the implementation of the Third Edition of the Impairment Assessment Guidelines and the Impairment Assessor Accreditation Scheme, subject to parliamentary processes.

An update on both important projects is provided in this edition, along with an important update regarding changes to the *Return to Work Act 2014*.

Jodie Yorke

Manager, Provider Programs



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Important changes to South Australia’s work injury insurance scheme

There have been some important changes to South Australia’s work injury insurance scheme.

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 changes, which came into effect on 1 December 2024, introduce important updates that everyone involved in the Scheme should be aware of.

The main changes at a glance

The legislation has delivered two key outcomes.

Firstly, it strengthens protections for workers returning from injury by extending an employer’s obligation to provide them with suitable employment. It also addresses financial consequences for employers who do not comply with this. These amendments also cover self-insured employers, labour hire employers and host employers.

Secondly, the legislation makes it easier for workers suffering from dust diseases and/or a terminal illness resulting from a work injury to access entitlements more quickly. It achieves this by more clearly defining when a worker’s condition has ‘stabilised’, at which point they may seek a permanent impairment assessment and introduces a fair way to calculate their financial support.

There are other changes relating to attendance at medical appointments, recovery and return to work plans and the South Australian Employment Tribunal (the Tribunal).

Assessment of permanent impairment

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

An assessment resulting from an injury must not be made until there is evidence the injury has stabilised.

The *Return to Work Act 2014* 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).

Two key exceptions have also been introduced to ensure workers with dust diseases or terminal 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 progressive conditions receive clarity on their eligibility for a permanent impairment assessment, allowing them to access entitlements without unnecessary delays.

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

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

The definition of stabilised includes the phrase “with or without medical treatment,” reinforcing the principle that a worker’s choice to decline medical treatment does not prevent their condition from being treated as “stable”. The assessor must, however, note the potential for improvement in the worker’s condition in the evaluation report, and the reasons for refusal by the worker, but must not adjust the degree of impairment on the basis of the worker’s decision not to undergo treatment that is likely to improve their condition.

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.

What you need to do

The physical, psychiatric and noise induced hearing loss report templates have been updated to replace *maximum medical improvement* with *stabilised*. Please visit [Impairment assessor news and resources](#) to download the latest versions.

Medical appointments

Another change is that the injured worker’s employer (including its agent) and ReturnToWorkSA (including its claims agents, Employers Mutual and Gallagher Bassett) are not allowed to be present while an injured worker is being physically or clinically examined, or treated by their health practitioner, or where they are undergoing diagnostic examinations or tests required for treatment purposes.

If the injured worker wants their employer or claims agent to be present during such appointments, they can provide express written consent using a designated form, which will be made available shortly on the ReturnToWorkSA website.

The worker’s employer (including its agent) and ReturnToWorkSA (including its agents) can still be present during a consultation involving the worker and a health practitioner to discuss their recovery and return to work. This safeguard ensures that services aimed at facilitating a worker’s reintegration into the workplace can continue uninterrupted.

For further information, please visit [Changes to legislation](#) or contact ReturnToWorkSA by email wpi@rtwsa.com or call **8238 5960**.



Update on the Third Edition of the Impairment Assessment Guidelines

The formal consultation on the draft Third Edition Impairment Assessment Guidelines (the Guidelines) was held from 19 June to 31 July 2024.

There were 11 submissions received from accredited impairment assessors, and the Stakeholder Representative Consultation Group (SRCG) thanks these assessors for their time and feedback.

The SRCG has reviewed each item of feedback in detail. Some changes will be drafted as a result of the feedback, and then the draft Guidelines will be provided by the SRCG to the Scheme Actuary and then to the Minister. The draft Guidelines will be subject to Parliamentary disallowance, which is a newly implemented process following the 2022 amendments to the *Return to Work Act 2014*.

ReturnToWorkSA has commenced work on the implementation of the new Guidelines which is inclusive (but not restricted to) the development of online modules for each body system based upon the Guidelines.

Shortly following the Guidelines being allowed through the Parliament, the implementation and training effort will commence. All assessors will be required to complete the Core module and those for each of their elected body systems, and pass the multiple-choice and competency based assessment, if looking to maintain their accreditation.

Face to face training detailing the associated key changes to the Guidelines will also be provided for some body systems.

Please contact Simon Hynes, Project Manager, IAG3 Implementation for any further questions

simon.hynes@rtwsa.com or 0448 511 774.



Update on the Impairment Assessor Accreditation Scheme Review

In 2023, The Minister for Industrial Relations and Public Sector approved ReturnToWorkSA to undertake a comprehensive review of the Impairment Assessor Accreditation Scheme (IAAS). The goal was to establish a clearer and more accountable IAAS that enhances the whole person impairment process for both the Permanent Impairment Assessor and injured worker.

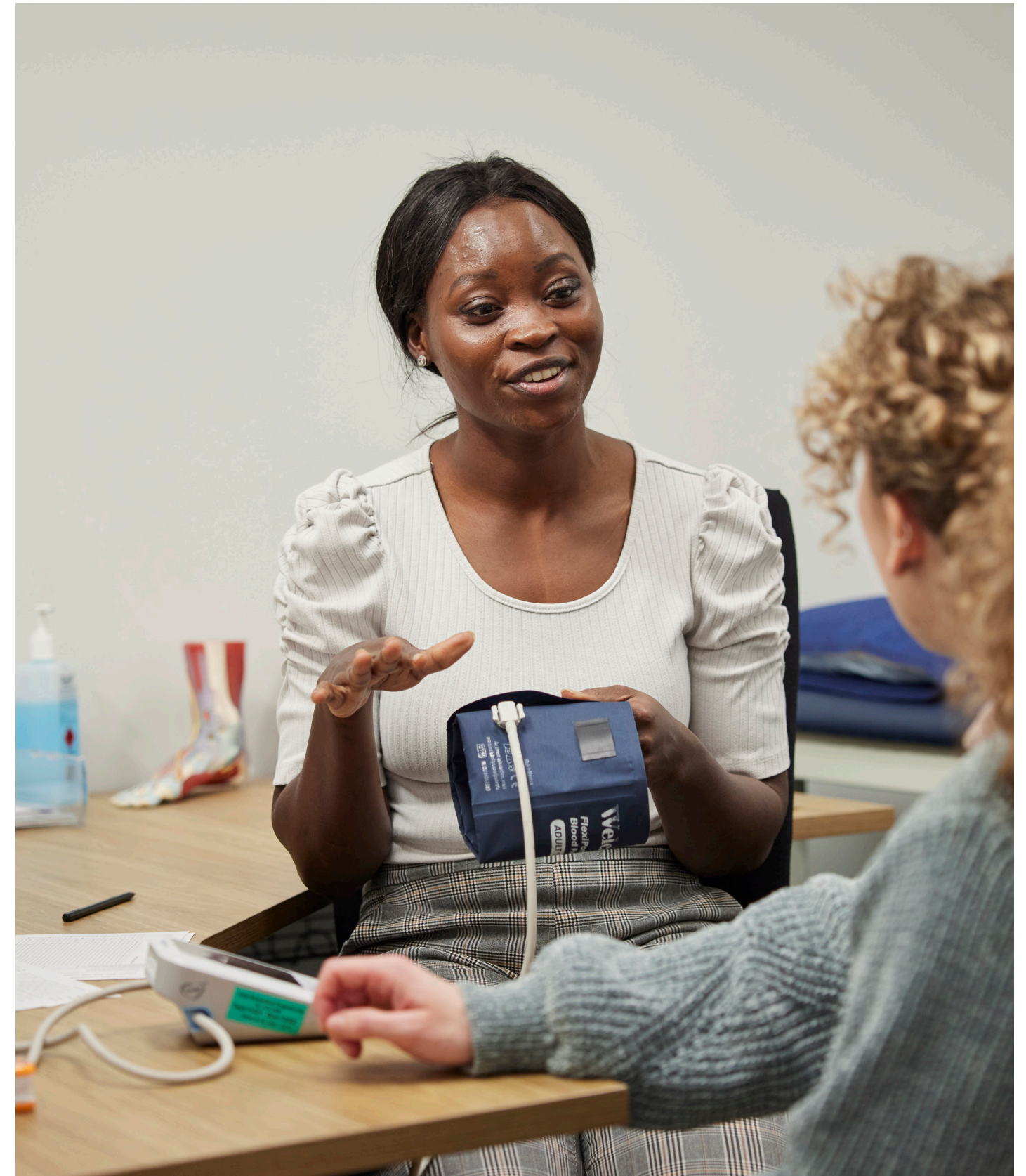
ReturnToWorkSA has now completed the final phase of consultation for the review gathering feedback on the second proposed draft of the IAAS from a range of stakeholders, including accredited assessors.

We thank all of those assessors that provided feedback throughout the review which is all being considered.

If you have any questions about the review, please contact:

Simon Hynes, Project Manager – Impairment Assessor Accreditation Scheme Review

simon.hynes@rtwsa.com or 0448 511 774.



Rating Arthritis

Impairment due to arthritis as a direct result of a work injury is uncommon and may indicate a pre-existing condition is present, which should be assessed and disregarded in accordance with Chapter 1 of the Guidelines and sections 22(8)(b) and 22(8)(g) of the *Return to Work Act 2014*.

“Only a work injury, or an impairment to the extent that it is attributable to a work injury, is to be assessed and compensated.”

Ideally, cartilage loss can be measured by a properly aligned x-ray, and determined cartilage loss intervals in Table 17-31 AMA5 can be applied.

When assessing the knee joint, only the compartment with the major impairment is to be used to rate the impairment. That is, measured loss in different compartments cannot be added or combined. Your report should give a clear description of all joints and the reason you have selected the relied upon value.

Comparison with the contralateral side will assist the assessor with assessment of the worker’s baseline. If comparison views are not available, Table 17-31 AMA5 is used as a guide to joint space narrowing.

Whist AMA5 and the Guidelines direct that properly aligned plain x-rays are required to determine cartilage interval loss in the lower extremity, the absence of these does not mean that the assessor is unable to assess pre-existing arthritis. The Supreme Court decision of *Paschalis* delivered in November 2021 highlighted that *‘The Act does not mandate that an assessment of an unrelated injury or cause be subject to an assessment under the Guidelines in the same way as the relevant work injury must be assessed’*. Therefore, whilst difficult, the assessor must, estimate the degree of impairment that the unrelated injury or cause contributed to the overall WPI, relying upon the assessor’s expertise and available objective evidence (e.g. clinical evidence, medical records and reports, the worker’s history, etc.).

For example, if the assessor has an operation record from an arthroscopy which indicates established degenerative changes which are considered to be independent of the work injury, the assessor is able to provide an assessment of unrelated impairment based on their clinical judgement. Any such

assessment should provide detailed rationale with reference to the objective evidence relied upon.

The requestor should provide all relevant information to enable assessment of pre-existing or unrelated arthritis. If you consider that investigations are inadequate, the assessor should consider whether the evaluation should proceed, or whether it should be deferred until the additional information is provided.

It should be noted that further investigations should not be ordered purely for the purpose of assessing the degree of impairment. For example, if a worker has a knee injury and any other valid method of assessment does not yield a ratable impairment, an x-ray should not be ordered simply for the purpose of determining if there is rateable arthritis present. Further tests or investigations should only be undertaken when it is considered essential to complete the assessment.

Footnote - The *Paschalis* decision has previously been reviewed in [Issue 9 of the Impairment Insider Newsletter](#).

Clinical reasoning for diagnosis

A whole person impairment assessment report is required to be clear, comprehensive, accurate and fair and provide detailed reasoning to support the assessment provided. The assessor is required to consider all available information along with their own observations and examination findings to arrive at an impairment assessment consistent with the methodology of the Guidelines.

The report is required to include the diagnoses for the impairment(s) being assessed. Providing a clinical diagnosis is a complex activity requiring clinical reasoning based on the worker’s symptoms, clinical signs and the investigations provided to you. The basis and evidence used for determining the diagnoses should be provided in the report.

Pain, as a subjective condition, should not be a ‘stand-alone’ diagnosis.



Accessing medical imaging

Medical imaging is not only a useful diagnostic tool, but it may help in rating the level of impairment as a result of work related or non-work related factors. For some injuries, imaging is necessary to rate the impairment.

A worker may undergo many tests and investigations prior to and throughout the life of the claim that are relevant to the work injury, but these results are not always readily available to the claims agents. To try to reduce delays for the worker, the claims agent may instruct you to log onto the relevant imaging portal to view imaging and documents.

If an assessor prefers not to access the imaging via the Portal, the assessor should clearly communicate this to the requestor and defer the assessment until such time as relevant imaging can be obtained and provided via another format.



Information for workers: permanent impairment assessments

ReturnToWorkSA has released a series of brochures for injured workers that address key topics, including one for permanent impairment assessments (PIA).

The PIA brochure provides clear and supportive information to workers about the PIA process and offers guidance as to what they can expect.

You can download a copy directly from the ReturnToWorkSA website:

[Download PIA Brochure](#)

To obtain physical copies of the brochure to provide to workers, or for further information and support, please contact the Impairment Assessment Services team at ReturnToWorkSA – wpi@rtwsa.com or call **8238 5960**.



New applications

We are currently accepting applications for the below listed body-systems:

- Haematology
- Endocrinology
- Ophthalmology
- Cardiovascular
- Gastroenterology
- Urology
- Respiratory

If you have any colleagues interested in applying to become an Accredited Permanent Impairment Assessor in the Accreditation Scheme, please ask them to contact Scott on **(08) 8233 2112** or wpi@rtwsa.com for further discussion.



Did you know you can access previous editions of this newsletter?

Have a question about how to manage a particular assessment? Try looking through some previous editions of the Impairment Assessor Insider in case we have clarified it earlier.

The **Impairment Assessor news and resources page** on the ReturnToWorkSA website contains all previous editions published since the Return to Work scheme came into effect, as well as notices, templates and other resources.

If you have an idea for an article or resource you would like to see on that page, please let us know at wpi@rtwsa.com or call our Impairment hotline on **(08) 8238 5960**.



Questions, concerns or content suggestions

The whole person impairment process is extensive, complex and prone to change, in light of significant legal decisions. We aim to make these newsletters engaging and relevant to current topics.

If you have any queries, concerns or content suggestions email us at wpi@rtwsa.com or phone our Impairment hotline on **(08) 8238 5960**.



Update your Assessor listing

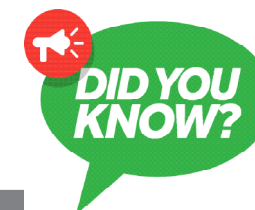
To ensure our **public listings** are current, please notify us if your details require updating.

This may include changes to your address, practice details, COVID-19 vaccination requirements or an update to your referral requirements.

We also publish information about areas of special clinical interest, spoken languages and consultation in rural and remote areas.

Please email us at wpi@rtwsa.com or call our Impairment hotline on **(08) 8238 5960**.

A requirement of your accreditation is to maintain adequate insurance cover. If you have renewed this recently, please provide us with a copy of your certificate of public liability and professional indemnity insurance.

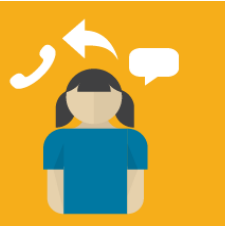


Where ReturnToWorkSA requires clarification before your report can be marked as compliant, this is not considered a supplementary report.

Corrections and amendments to a report after initial submission are covered in the agreed PIA fee and do not attract an additional fee.

Supplementary fees apply where a request for further opinion after the fact has been made by the requestor.

Preferred communication method



To ensure that you are receiving all relevant information, please advise ReturnToWorkSA of any changes to your preferred private method of communication.

If you have changed your private communication preference, please contact **wpi@rtwsa.com** with your preferred private method of communication (eg. email or phone preferences).

Online Services Portal

As a Whole Person Impairment Assessor, you can access to ReturnToWorkSA's Online Services, allowing you to submit documents securely and efficiently.

You or your clinic may already have a registration for online services and, as such, will see a new 'document upload' tile on your dashboard. Alternatively, if you don't currently have a registration, please contact Impairment Assessment Services at wpi@rtwsa.com.au or by phone **08 8238 5960**.

If you believe you may have uploaded a report to the incorrect claim, please contact the requestor or Impairment Assessment Services as soon as practicable to advise of the error and discuss how to remedy the problem.

If submitting a report through the online services portal, you have the ability to review the referral via the report uploaded tab for 10 days.

Following that, the referral is visible in the history tab for 90 days after the referral is closed/completed.

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