



Queensland

# Civil Liability Amendment Regulation (No. 1) 2004

## Subordinate Legislation 2004 No. 196

made under the

*Civil Liability Act 2003*

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**1 Short title**

This regulation may be cited as the *Civil Liability Amendment Regulation (No. 1) 2004*.

**2 Commencement**

This regulation commences on 25 September 2004.

**3 Regulation amended**

This regulation amends the *Civil Liability Regulation 2003*.

**4 Replacement of s 6 (Ranges of injury scale values—Act, s 61(1)(c)(i))**

Section 6—

*omit, insert—*

**‘6 Rules for assessing injury scale value—Act, s 61(1)(c)(i)**

- ‘(1) This section and schedules 3 to 6<sup>1</sup> provide the rules under which a court must assess the injury scale value for an injury.
- ‘(2) Schedule 4 provides the ranges of injury scale values for particular injuries that the court is to consider in assessing the injury scale value for those injuries.
- ‘(3) For an injury not mentioned in schedule 4, a court, in assessing an injury scale value for the injury, may have regard to the ranges prescribed in schedule 4 for other injuries.
- ‘(4) Schedule 3 provides matters to which a court is to have regard in the application of schedule 4.
- ‘(5) Schedule 6 provides the psychiatric impairment rating scale that may be used with schedule 4.
- ‘(6) Schedule 5 provides matters relevant to the application of schedule 6 and requirements with which a medical expert

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<sup>1</sup> Schedules 3 (Matters to which court is to have regard in the application of schedule 4), 4 (Ranges of injury scale values), 5 (Matters relevant to PIRS assessment by medical expert) and 6 (Psychiatric impairment rating scale)

must comply in assessing a PIRS rating for a mental disorder of an injured person.’.

## **5 Amendment of schs 1 and 2**

Schedules 1 and 2, ‘*State Counter-Disaster Organisation Act 1975*’—

*omit, insert—*

‘*Disaster Management Act 2003*’.

## **6 Replacement of sch 3 (Matters to which court is to have regard in the application of schedule 4)**

Schedule 3—

*omit, insert—*

### **‘Schedule 3 Matters to which court is to have regard in the application of schedule 4**

section 6(1)

## **‘Part 1 Objectives of schedule 4 (Ranges of injury scale values)**

### **‘1 Objectives of sch 4**

‘The objectives of schedule 4 include promoting—

- (a) consistency between assessments of general damages awarded by courts for similar injuries; and
- (b) similar assessments of general damages awarded by courts for different types of injury that have a similar level of adverse impact on an injured person.

*Notes—*

- Under the Act, section 61(1), if general damages are to be awarded by a court in relation to an injury arising after

1 December 2002, the court must assess an injury scale value as follows—

- the injured person's total general damages must be assigned a numerical value (***injury scale value***) on a scale running from 0 to 100—the Act, section 61(1)(a)
- the scale reflects 100 equal graduations of general damages, from a case in which an injury is not severe enough to justify any award of general damages to a case in which an injury is of the gravest conceivable kind—the Act, section 61(1)(b)
- in assessing the injury scale value, the court must—
  - assess the injury scale value under any rules provided under a regulation; and
  - have regard to the injury scale values given to similar injuries in previous proceedings—the Act, section 61(1)(c).
- Under the Act, section 61(2), if a court assesses an injury scale value for a particular injury to be more or less than any injury scale value prescribed for or attributed to similar particular injuries under the Act, section 61(1)(c), the court must state the factors on which the assessment is based that justify the assessed injury scale value.

## **‘Part 2                      How to use schedule 4**

### **‘Division 1                Injury**

#### **‘2                      Injury mentioned in sch 4**

- ‘(1) In assessing the injury scale value (***ISV***) for an injury mentioned in the injury column of schedule 4, a court must consider the range of injury scale values stated in schedule 4 for the injury.
- ‘(2) The range of ISVs for the injury reflects the level of adverse impact of the injury on the injured person.

**‘3 Multiple injuries**

- ‘(1) Subject to section 4, in assessing the ISV for multiple injuries, a court must consider the range of ISVs for the dominant injury of the multiple injuries.
- ‘(2) To reflect the level of adverse impact of multiple injuries on an injured person, the court may assess the ISV for the multiple injuries as being higher in the range of ISVs for the dominant injury of the multiple injuries than the ISV the court would assess for the dominant injury only.

*Note—*

This section acknowledges that—

- the effects of multiple injuries commonly overlap, with each injury contributing to the overall level of adverse impact on the injured person; and
- if each of the multiple injuries were assigned an individual ISV and these ISVs were added together, the total ISV would generally be too high.

**‘4 Multiple injuries and maximum dominant ISV inadequate**

- ‘(1) This section applies if a court considers the level of adverse impact of multiple injuries on an injured person is so severe that the maximum dominant ISV is inadequate to reflect the level of impact.
- ‘(2) To reflect the level of impact, the court may make an assessment of the ISV for the multiple injuries that is higher than the maximum dominant ISV.
- ‘(3) However, the ISV for the multiple injuries—
- (a) must not be more than 100; and

*Note—*

Under the Act, section 61(1)(a), an ISV is assessed on a scale running from 0 to 100.

- (b) should rarely be more than 25% higher than the maximum dominant ISV.
- ‘(4) If the increase is more than 25% of the maximum dominant ISV, the court must give detailed written reasons for the increase.

‘(5) In this section—

*maximum dominant ISV*, in relation to multiple injuries, means the maximum ISV in the range for the dominant injury of the multiple injuries.

## ‘5 **Adverse psychological reaction**

‘(1) This section applies if a court is assessing an ISV where an injured person has an adverse psychological reaction to a physical injury.

‘(2) The court must treat the adverse psychological reaction merely as a feature of the injury.

## ‘6 **Mental disorder**

‘(1) This section applies if—

- (a) a court is assessing an ISV; and
- (b) a PIRS rating for a mental disorder of an injured person is relevant under schedule 4.

‘(2) The PIRS rating for the mental disorder of the injured person is the PIRS rating accepted by the court.

‘(3) A PIRS rating is capable of being accepted by the court only if it is—

- (a) assessed by a medical expert as required under schedules 5 and 6; and
- (b) provided to the court in a PIRS report as required under schedule 5, section 12.

## ‘7 **Aggravation of pre-existing condition**

‘(1) This section applies if an injured person has a pre-existing condition that is aggravated by an injury for which a court is assessing an ISV.

‘(2) In considering the impact of the aggravation of the pre-existing condition, the court may have regard only to the extent to which the pre-existing condition has been made worse by the injury.

## **‘Division 2            Other matters**

### **‘8        Court must have regard to particular provisions of sch 4**

- ‘(1) In addition to providing ranges of ISVs for particular injuries, schedule 4 sets out provisions relevant to using schedule 4 to assess an ISV for particular injuries.

*Examples of relevant provisions—*

- examples of the injury
- examples of factors affecting ISV assessment
- comments about appropriate level of ISV

- ‘(2) In assessing an ISV, a court must have regard to those provisions to the extent they are relevant in a particular case.

- ‘(3) The fact that schedule 4 provides examples of factors affecting an ISV assessment is not intended to discourage a court from having regard to other factors it considers are relevant in a particular case.

### **‘9        Court may have regard to other matters**

‘In assessing an ISV, a court may have regard to other matters to the extent they are relevant in a particular case.

*Examples of other matters—*

- the injured person’s age, degree of insight, life expectancy, pain, suffering and loss of amenities of life
- the effects of a pre-existing condition of the injured person
- difficulties in life likely to have emerged for the injured person whether or not the injury happened
- in assessing an ISV for multiple injuries, the range for, and other provisions of schedule 4 in relation to, an injury other than the dominant injury of the multiple injuries

### **‘10      Whole person impairment**

‘The extent of whole person impairment is an important consideration, but not the only consideration affecting the assessment of an ISV.



**‘11 Medical report stating whole person impairment percentage**

‘If a medical report states a whole person impairment percentage, it must state how the percentage is calculated, including—

- (a) the clinical findings; and
- (b) how the impairment is calculated; and
- (c) if the percentage is based on criteria provided under AMA 5—
  - (i) the provisions of AMA 5 setting out the criteria; and
  - (ii) if a range of percentages is available under AMA 5 for an injury of the type being assessed—the reason for assessing the injury at the selected point in the range.

*Note—*

It is the function of a court, and not a medical report, to assess an ISV for an injury.

**‘12 Greater weight to assessments based on AMA 5**

- ‘(1) This section does not apply to a medical assessment of scarring or of a mental disorder.
- ‘(2) In assessing an ISV, a court must give greater weight to a medical assessment of a whole person impairment percentage based on the criteria for the assessment of whole person impairment provided under AMA 5 than to a medical assessment of a whole person impairment percentage not based on the criteria.

**‘13 Greater weight to assessments of PIRS rating**

‘In assessing an ISV, a court must give greater weight to a PIRS report provided as required under schedule 5 than to another medical assessment of the permanent impairment caused by a mental disorder.

**‘14 ISV must be a whole number**

‘An ISV assessed by a court must be a whole number.

*Note—*

Under the Act, section 61(1)(a), an ISV is assessed on a scale running from 0 to 100.’.

**7 Amendment of sch 4 (Ranges of injury scale values)**

- (1) Schedule 4, table heading, ‘(ISV)’—

*omit, insert—*

‘(ISVs)’.

- (2) Schedule 4, item 81, ‘,’—

*omit.*

- (3) Schedule 4, items 87 and 92, second and third dot points, ‘be’, first mention—

*omit.*

- (4) Schedule 4, item 112, ‘inter phalangeal’—

*omit, insert—*

‘interphalangeal’.

**8 Replacement of schs 5 and 6**

Schedules 5 and 6—

*omit, insert—*

## **‘Schedule 5      Matters relevant to PIRS assessment by medical expert**

section 6(1)

### **‘Part 1                      Explanation of the PIRS**

#### **‘1      PIRS rates permanent impairment caused by mental disorder**

‘The PIRS set out in schedule 6 rates permanent impairment caused by a mental disorder.

*Note—*

PIRS ratings are referred to in schedule 4, part 2.<sup>2</sup> A PIRS rating is capable of being accepted by a court under schedule 3, section 6<sup>3</sup> only if it is—

- (a) assessed by a medical expert as required under this schedule and schedule 6; and
- (b) provided to the court in a PIRS report as required under section 12.

#### **‘2      Areas of functional impairment**

- ‘(1) The PIRS consists of 6 scales, each of which rates permanent impairment in an area of function.
- ‘(2) Each scale has 5 classes of impairment, ranging from little or no impairment to total impairment.

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2      Schedule 4 (Ranges of injury scale values), part 2 (Mental disorders)

3      Schedule 3 (Matters to which court is to have regard in the application of schedule 4), section 6 (Mental disorder)

## **‘Part 2                      Assessment of PIRS rating**

### **‘3            Medical expert must comply with requirements**

- ‘(1) A medical expert must comply with this schedule and schedule 6 in assessing a PIRS rating for a mental disorder of an injured person.
- ‘(2) The medical expert may give an assessment only if the medical expert has examined the injured person.

### **‘4            How to assess a PIRS rating**

- ‘(1) To assess a PIRS rating for a mental disorder of an injured person, a medical expert must follow the steps set out in this section.

*Note—*

Section 8 provides an example completed worksheet that could be used to assess a PIRS rating.

- ‘(2) Step 1—for each area of functional impairment set out in the PIRS, the medical expert must—
  - (a) decide which level of impairment set out in the PIRS describes the level of impairment caused by the mental disorder of the injured person; and
  - (b) read off from the PIRS the class, for example, class 1, that corresponds to the level that has been decided.
- ‘(3) In deciding which level to choose for an area of functional impairment, the medical expert—
  - (a) must have regard to—
    - (i) the examples of indicators of the level of impairment set out in the PIRS for the area to the extent they are relevant in a particular case; and
    - (ii) all factors the medical expert considers relevant to the injured person’s level of impairment, including, for example, the injured person’s age and pre-existing functional capacity for the area; and

- (b) may have regard to the range of percentages of impairment set out in the PIRS for the area as a guide to the level of impairment.

*Note—*

The examples of impairment set out in the PIRS assume a full pre-existing functional capacity for the area which may not be appropriate in a particular case.

- ‘(4) Step 2—the medical expert must list the class number of the 6 classes read off under step 1 in ascending order.
- ‘(5) Step 3—the medical expert must work out the median of the class numbers (the ***median class score***) under section 6.
- ‘(6) Step 4—the medical expert must work out the total of the class numbers (the ***total class score***) by adding together all of the class numbers.
- ‘(7) Step 5—from the conversion table in section 7, the medical expert must read off the percentage impairment, that corresponds to the particular median class score when found in conjunction with the particular total class score.
- ‘(8) Subject to section 5, the percentage impairment is the PIRS rating assessed by the medical expert for the mental disorder of the injured person.

## ‘5 **Assessment if pre-existing mental disorder**

- ‘(1) If an injured person has a pre-existing mental disorder, a medical expert must—
  - (a) work out a percentage impairment for the pre-existing mental disorder at the time immediately before the injury using the steps set out in section 4 (the ***pre-injury rating***); and
  - (b) work out a percentage impairment for the current mental disorder using the steps set out in section 4 (the ***post-injury rating***); and
  - (c) subtract the pre-injury rating from the post-injury rating.
- ‘(2) The remaining percentage impairment is the PIRS rating assessed by the medical expert for the mental disorder of the injured person.<sup>4</sup>

**‘6 How to work out a median class score**

- ‘(1) A median class score is the number that would fall at the middle point between the third class number and the fourth class number if all the class numbers are listed in ascending order.
- ‘(2) If the median class score under subsection (1) is not a whole number, the median class score must be rounded up to the nearest whole number.

*Note—*

A median class score, as opposed to a mean class score or average class score, has the advantage of not being too influenced by 1 extreme score.

**‘7 Conversion table**

This section sets out the conversion table for use under section 4.

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4 See also section 11 (Pre-existing mental disorder).

## Conversion table for percentage impairment

	Median class score				
	1	2	3	4	5
<b>6</b>	0%				
<b>7</b>	0%				
<b>8</b>	1%				
<b>9</b>	1%	4%			
<b>10</b>	2%	5%			
<b>11</b>	2%	5%			
<b>12</b>	2%	6%			
<b>13</b>	3%	7%	11%		
<b>14</b>	3%	7%	13%		
<b>15</b>		8%	15%		
<b>16</b>		9%	17%		
<b>17</b>		9%	19%	31%	
<b>18</b>		10%	22%	34%	
<b>19</b>			24%	37%	
<b>20</b>			26%	41%	
<b>21</b>			28%	44%	61%
<b>22</b>			30%	47%	65%
<b>23</b>				50%	70%
<b>24</b>				54%	74%
<b>25</b>				57%	78%
<b>26</b>				60%	83%
<b>27</b>					87%
<b>28</b>					91%
<b>29</b>					96%
<b>30</b>					100%

**‘8 Example worksheet**

This section sets out an example of a completed worksheet that could be used to assess a PIRS rating for a mental disorder.

Area of functional impairment		Class				
<b>1</b>	<b>Self care and personal hygiene</b>	1				
<b>2</b>	<b>Social and recreational activities</b>		2			
<b>3</b>	<b>Travel</b>			3		
<b>4</b>	<b>Social functioning</b>					5
<b>5</b>	<b>Concentration, persistence and pace</b>					5
<b>6</b>	<b>Adaptation</b>					5
List of class numbers in ascending order:						
		1	2	3	5	5
Median class score (using section 6):						4
Total class score:						21
Percentage impairment (using conversion table in section 7):						44%
<b>PIRS rating</b> (if no pre-existing mental disorder):						44%

**‘Part 3 Particular cases****‘9 Refusal of treatment**

- ‘(1) This section applies if an injured person refuses treatment that could lead to a significant improvement in the level of permanent impairment caused by a mental disorder of the injured person.



- ‘(2) Despite the injured person’s refusal of treatment, a medical expert may assess a PIRS rating for the mental disorder of the injured person.
- ‘(3) The refusal of treatment must not affect the medical expert’s assessment of the PIRS rating.
- ‘(4) The medical expert must note the refusal of treatment in the PIRS report and state in the report the likely effect of treatment and any reasons known to the medical expert for the refusal of treatment.
- ‘(5) Subsection (6) applies if a PIRS report given to a court states that the injured person refuses treatment that could lead to a significant improvement in the level of permanent impairment caused by the mental disorder of the injured person.
- ‘(6) The court may, in assessing the ISV for an injury or multiple injuries of the injured person, take into account the refusal of treatment and the matters stated in the PIRS report under subsection (4).
- ‘(7) In this section—

***PIRS report*** means a report under section 12.

## ‘10 Cognitive impairment

‘If a medical expert assessing a PIRS rating for a mental disorder of an injured person suspects the injured person has a cognitive impairment, the medical expert must take into account the following factors—

- (a) the relevant medical history of the injured person;
- (b) any medical treatment, and progress towards rehabilitation, for the cognitive impairment;
- (c) any results of radiological scans, including CT and MRI scans, electroencephalograms and psychometric tests made available to the medical expert.

**‘11 Pre-existing mental disorder**

If a medical expert assessing a PIRS rating for a mental disorder of an injured person considers the injured person had a pre-existing mental disorder, the medical expert must—

- (a) make appropriate enquiry into the pre-existing mental disorder; and
- (b) consider any psychiatric or psychological reports made available to the medical expert.

**‘Part 4 Report of PIRS rating****‘12 Court to be given PIRS report**

- ‘(1) This section applies if a party to a proceeding wants a court to accept a PIRS rating assessed by a medical expert for a mental disorder of an injured person.
- ‘(2) The party must give the court a written report from the medical expert stating the following matters—
  - (a) the mental disorder diagnosed by the medical expert;
  - (b) the PIRS rating assessed by the medical expert for the mental disorder of the injured person;
  - (c) how the PIRS rating is assessed, including—
    - (i) for each area of functional impairment set out in the PIRS—
      - (A) the relevant clinical findings; and
      - (B) the level of impairment set out in the PIRS that the medical expert decided described the level of impairment caused by the mental disorder of the injured person; and
      - (C) the class set out in the PIRS that corresponds to the level that was decided; and
    - (ii) the median class score and total class score worked out under section 4; and

- (iii) if the injured person had a pre-existing mental disorder, the information mentioned in subparagraphs (i) and (ii) in relation to the pre-injury rating and the post-injury rating as defined under section 5;
- (d) details of any cognitive impairment of the injured person.

**‘Schedule 6      Psychiatric impairment rating scale**

section 6(1)

**Area of functional impairment: self care and personal hygiene**

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note</i> —These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note</i> —These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment		0 to 3%

Class 2	Mild impairment	<ul style="list-style-type: none"> <li>• can live independently</li> <li>• looks after himself or herself adequately, although may look unkempt occasionally</li> <li>• sometimes misses a meal or relies on take-away food</li> </ul>	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>• can not live independently without regular support</li> <li>• needs prompting to shower daily and wear clean clothes</li> <li>• does not prepare own meals</li> <li>• frequently misses meals</li> <li>• if living independently, a family member or community nurse visits, or needs to visit, 2 to 3 times a week to ensure a minimum level of hygiene and nutrition</li> </ul>	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> <li>• needs supervised residential care</li> <li>• if unsupervised, may accidentally or deliberately hurt himself or herself</li> </ul>	31 to 60%

Class 5	Totally impaired	<ul style="list-style-type: none"><li>needs assistance with basic functions, for example, feeding or toileting</li></ul>	more than 60%
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**Area of functional impairment: social and recreational activities**

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note</i> —These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note</i> —These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> <li>regularly goes to cinemas, restaurants or other recreational venues</li> <li>belongs to clubs or associations and is actively involved in them</li> </ul>	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> <li>occasionally goes to social events without needing a support person, but does not become actively involved, for example, by dancing or cheering a team</li> </ul>	4 to 10%

Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>• rarely goes to social events, and usually only when prompted by family or a friend</li> <li>• does not become involved in social events</li> <li>• will not go out without a support person</li> <li>• remains quiet and withdrawn</li> </ul>	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> <li>• never leaves own residence</li> <li>• tolerates the company of a family member or close friend</li> <li>• will go to a different room or garden when a person, other than a family member or close friend, comes to visit someone at own residence</li> </ul>	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> <li>• can not tolerate living with anybody</li> <li>• extremely uncomfortable when visited by a close family member</li> </ul>	more than 60%

**Area of functional impairment: travel**

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note</i> —These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note</i> —These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> <li>can travel to new environments without supervision</li> </ul>	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> <li>can travel without a support person, but only in a familiar area, for example, to go to the local shops or visit a neighbour</li> </ul>	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>can not travel away from own residence without a support person</li> <li>there may be problems resulting from excessive anxiety or cognitive impairment</li> </ul>	11 to 30%



Class 4	Severe impairment	<ul style="list-style-type: none"><li>• finds it extremely uncomfortable to leave his or her own residence even with a trusted person</li></ul>	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"><li>• can not be left unsupervised, even at own residence</li><li>• may require 2 or more persons to supervise him or her when travelling</li></ul>	more than 60%

**Area of functional impairment: social functioning**

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note</i> —These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note</i> —These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> <li>has no difficulty in forming and sustaining relationships, for example, with a spouse or close friend lasting years</li> </ul>	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> <li>existing relationships are strained</li> <li>tension and arguments between the injured person and a spouse or close family member</li> <li>some friendships are lost</li> </ul>	4 to 10%

Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>established relationships are severely strained, as is shown by periods of separation or domestic violence</li> <li>if the injured person has children, then a spouse, family members or community services are providing most of the care for the children</li> </ul>	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> <li>can not form or sustain long term relationships</li> <li>pre-existing relationships, for example, with a spouse or close friend, have ended</li> <li>can not care for dependents, for example, child dependents (if any) or an elderly parent</li> </ul>	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> <li>can not function within society</li> <li>lives away from populated areas</li> <li>actively avoids social contact</li> </ul>	more than 60%

## Area of functional impairment: concentration, persistence and pace

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note</i> —These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note</i> —These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> <li>can complete a TAFE or university course within a normal time frame</li> </ul>	0 to 3%
Class 2	Mild impairment	<ul style="list-style-type: none"> <li>can undertake a basic or standard retraining course at a slower pace</li> <li>can focus on intellectually demanding tasks for up to 30 minutes, then may feel fatigued or develop headaches</li> </ul>	4 to 10%

Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>• can not read more than newspaper articles</li> <li>• finds it difficult to follow complex instructions, for example, operating manuals or building plans</li> <li>• can not make significant repairs to motor vehicle or type long documents</li> <li>• can not follow a pattern for making clothes or tapestry or knitting</li> </ul>	11 to 30%
Class 4	Severe impairment	<ul style="list-style-type: none"> <li>• able only to read a few lines before losing concentration</li> <li>• has difficulty in following simple instructions</li> <li>• impaired concentration is obvious even during brief conversation</li> <li>• can not live alone or needs regular assistance from family members or community services</li> </ul>	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"> <li>• needs constant supervision and assistance within an institutional environment</li> </ul>	more than 60%

**Area of functional impairment: adaptation**

*Note—*

This area of functional impairment deals with employability.

<b>Class</b>	<b>Level of impairment</b>	<b>Examples of indicators of level of impairment</b> <i>Note—</i> These must be had regard to under schedule 5, section 4(3)(a)(i).	<b>Percentage impairment ranges</b> <i>Note—</i> These may be had regard to under schedule 5, section 4(3)(b).
Class 1	Little or no impairment	<ul style="list-style-type: none"> <li>can work full time in the position in which the injured person worked immediately before the injury (the <i>pre-injury position</i>)</li> <li>the injured person's duties at work and performance of the duties are consistent with the person's education and training</li> <li>can cope with the normal demands of the job</li> </ul>	0 to 3%

Class 2	Mild impairment	<ul style="list-style-type: none"> <li>• can work in the pre-injury position, but for no more than 20 hours a week, for example, because the injured person is no longer happy to work with particular persons</li> <li>• can work full time in a different position where performance of the relevant duties requires the use of comparable skill and intellect to that required to perform the duties of the pre-injury position</li> </ul>	4 to 10%
Class 3	Moderate impairment	<ul style="list-style-type: none"> <li>• can not work at all in the pre-injury position</li> <li>• only able to work less than 20 hours a week in a different position where performance of the relevant duties requires less skill or is otherwise less demanding, for example, less stressful</li> </ul>	11 to 30%

Class 4	Severe impairment	<ul style="list-style-type: none"><li>• can not work more than 1 or 2 days at a time</li><li>• works less than 20 hours a fortnight</li><li>• the pace at which work is done is reduced</li><li>• attendance at work is erratic</li></ul>	31 to 60%
Class 5	Totally impaired	<ul style="list-style-type: none"><li>• needs constant supervision and assistance within an institutional environment</li></ul>	more than 60%’.

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#### ENDNOTES

- 1 Made by the Governor in Council on 23 September 2004.
- 2 Notified in the gazette on 24 September 2004.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.