

Definitions below relate only to the Compensation Operational Guideline. The following definitions should not be relied upon in respect of other Operational Guidelines, unless the word is expressly defined within the [National Disability Insurance Scheme Act 2013 \(NDIS Act\)](#) or the [National Disability Insurance Scheme \(Supports for Participants – Accounting for Compensation\) Rules 2013 \(Compensation Rules\)](#) .

## **A**

### **Authorised representative**

is a person who has the authority to make decisions on behalf of the participant, or prospective participant, and may include a person with parental responsibility of a child (child's representative) (see section 75 of [the NDIS Act](#) ), an appointed plan nominee (see section 9 of the NDIA Act), a legal guardian, power of attorney, financial manager or administrator.

## **C**

### **Commute**

an agreement reached between an insurer and an insured person where the insurer agrees to pay out the insured person's entitlement in either one lump sum payment, or periodic payments.

### **Compensable injury**

an injury, which may give rise to a right to claim or obtain compensation.

### **Compensable event**

means the event in which a person's injury occurred that gave rise to the compensation payment or potential compensation payment. If the event is a course of events or conduct, the compensable event is the beginning of that course of events or conduct.

### **Compensation**

see section 11 of [the NDIS Act](#) or [What is compensation?](#)

### **Compensation payer**

a person who is liable to pay compensation to the participant in relation to the participant's impairment (see section 111 of [the NDIS Act](#) ). Includes reference to an authority of a State or Territory.

## **Compensation Reduction Amount (CRA)**

see [Compensation Reduction Amount](#).

## **Compensation Rules**

the [National Disability Insurance Scheme \(Supports for Participants – Accounting for Compensation\) Rules 2013](#) .

## **Consent Judgement**

a decision handed down by the Court, Tribunal or judicial body, which is based on agreed terms by the parties. This will occur in the circumstances of a Court approved settlement.

## **Cost of supports that may be provided to a participant**

includes supports that may be funded or provided by the NDIS to a participant. The kinds of supports which may be funded or provided under the NDIS include general supports and reasonable and necessary supports.

## **D**

## **Damages**

an award of compensation intended to place a person, insofar as money can do so, in the position they would have been in had they not sustained an injury.

## **Disability requirements**

see section 24 of [the NDIS Act](#) .

## **Domestic Care and Assistance**

describes paid and gratuitous attendant care required as the result of an injury. It includes, but is not limited to, tasks such as cleaning, gardening, transfers, toileting, showering, shopping, and preparing meals.

## **E**

### **Early intervention requirements**

see section 25 of [the NDIS Act](#) .

### **Economic Loss**

amounts paid for 'economic loss' compensate for loss of earnings and loss of earning capacity sustained as a result of an injury.

## **F**

### **Fixed**

final, unchangeable, set, unalterable.

## **G**

### **General Damages**

amounts that are incapable of being directly measured in money, for example, pain and suffering, discomfort, loss of pleasure derived from work, hobbies, sport and families, loss of independence, and/or loss of taste and/or smell.

### **General supports**

see section 13 of [the NDIS Act](#) or [What is a general support?](#)

### **Gratuitous care**

care provided by a person's family member or loved one without cost to the injured person. Compensation received for domestic care and assistance, provided on a gratuitous basis, is

calculated at the current commercial rate for the provision of care services. This calculation accounts for the proper and reasonable cost of the injured person's need for domestic care and assistance created by the injury - see *Donnelly v Joyce* (1974) QB 461-462 **and** *Griffiths v Kerkemeyer* (1977) 139 CLR 161 at 168).

## I

### **Ineffective**

a contract may be declared ineffective if, for example, a contracting party lacked capacity to understand the consequences of the agreement.

### **Insurer**

an entity liable, under a contract of insurance, to indemnify a potential compensation payer against any liability arising from a claim of the participant, or prospective participant, for compensation, which relates to the participant, or prospective participant's, impairment (see subsection 109(2) and subsection 111(2) of [the NDIS Act](#) ). Reference to an insurer may also include reference to an authority of a State or Territory (see subsection 11(3) of the NDIS Act).

## J

### **Judgement**

a decision handed down by a Court, Tribunal or judicial body.

## L

### **Lump sum payment**

a global payment covering multiple items for different purposes.

## M

### **Medical and like expenses**

is an umbrella term used to describe, for example only, the reasonable cost of medical treatment, medication, prosthetics, therapy and/or aides and appliances, home and vehicle modifications which a participant, or prospective participant, requires as a result of their injury.

## **N**

### **NDIA**

the National Disability Insurance Agency.

### **NDIS Act**

the [National Disability Insurance Scheme Act 2013](#)

### **NDIS amount**

an amount paid under the NDIS in respect of reasonable and necessary supports funded under a participant's plan (see section 9 of [the NDIS Act](#) ).

### **NDIS component**

of an amount of compensation under a judgement or settlement, means the component that relates to the provision of supports of a kind that may be funded or provided under the NDIS after the date of the judgement or settlement, and may include a component that consists of periodic payments (see rule 4.4 of [the Compensation Rules](#) ).

### **Non-consent judgement**

as opposed to a consent judgement which is made by the agreement of the parties, a non-consent judgement is a decision handed down by a Court, Tribunal or judicial body. Non-consent judgement has the same meaning as judgement.

### **Notifiable amount**

the amount specified in a recovery notice (see section 111 of [the NDIS Act](#) ).

## **P**

## Participant's impairment

means an impairment in relation to which the participant meets the disability requirements, or the early intervention requirements, to any extent (see section 9 of [the NDIS Act](#) ).

## Personal injury

an injury sustained by a person who is a participant or who later becomes a participant.

## Periodic payment

payments made at intervals following a claim for compensation (this includes structured settlements).

## Person

includes a body politic or corporate as well as an individual (see section 2C of the, Acts Interpretation Act 1901).

## Potential compensation payer

the person against whom the participant, or prospective participant, makes a claim for compensation, which relates to the participant, or prospective participant's, impairment (see subsection 109(2) of [the NDIS Act](#) ).

## Pre-existing impairment

the impairment(s) a participant had prior to sustaining the compensable injury that caused, or aggravated, the participant's impairment(s).

## Prospective participant

means a person in relation to whom an access request has been made but not yet decided.

## R

## Reasonable and necessary supports

see [What are reasonable and necessary supports?](#)

## Recoverable amount

is the amount calculated in accordance with subsection 106(2) and subsection d 107(2) of [the NDIS Act](#) .

## S

## Settlement

where two or more parties agree to compromise or resolve a claim for compensation.

## Scheme of insurance

examples of Commonwealth, State and Territory schemes of insurance include, but are not limited to:

ACT: Lifetime Care and Support Scheme

NSW: iCare

NT: Motor Accidents Compensation Commission and Territory Insurance Office

QLD: Motor Accident Insurance Commission and NIIS Queensland

SA: Lifetime Support Authority and ReturnToWorkSA

TAS: Motor Accident Insurance Board and WorkSafe

VIC: Transport Accident Commission and Victorian WorkCover Authority

WA: Insurance Commission of Western Australia and WorkCover WA

CTH: Comcare

## T

## To any extent

means any contribution whatsoever, however minimal.

## Total of all NDIS amounts

amounts paid by the NDIS in respect of reasonable and necessary supports funded under a participant's plan limited to the impairment or impairments which are the subject of the claim

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brought or taken over by the NDIA.

## U

### Unenforceable

a contract may be unenforceable due to, for example, non-compliance with a statutory requirement, the terms of the contract are not fair for one party, duress, influence, misrepresentation, fraud or on public policy grounds, for example, if the parties who entered into the contract did not have the power to make decisions on behalf of the person upon whom the contract operates.

## V

### Void contract

a contract may be void for reasons not limited to illegality and uncertainty.

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This page current as of  
7 March 2024