

## 8. Compensation Reduction Amount (CRA)

### 8.1 What is a CRA?

A CRA is an amount the National Disability Insurance Agency (NDIA) may reduce a participant's funding for [reasonable and necessary supports](#) to account for [compensation](#) being received or given up. A CRA is not a debt owed to the NDIA.

The CRA does not require a participant to make a payment to the NDIA out of their compensation. A CRA operates on future funding for reasonable and necessary supports. As a result, a CRA will reduce the participant's entitlement to funding for reasonable and necessary supports.

### 8.2 In what circumstances is a CRA calculated?

A CRA will be calculated if a participant sustains a [personal injury](#) (even if that personal injury was sustained prior to becoming a participant), which caused, [to any extent](#), their [impairment](#), and the participant:

- received compensation from a [non-consent judgement](#), [consent judgement](#) or [settlement](#);
- [commuted](#) their entitlement to medical and like expenses under a [scheme of insurance](#), or compensation under a Commonwealth, State or Territory law; or
- entered into an agreement to give up compensation and the NDIA is not satisfied it was reasonable, in the circumstances, to have entered into the agreement.

It does not matter whether the participant was a participant at the time they sustained the personal injury, or whether the compensation amount from a non-consent judgement, consent judgement or settlement was received prior to becoming a participant.

### 8.3 Why is a CRA calculated?

The NDIS is designed to complement, not replace, existing compensation arrangements for personal injury (rule 1.1 of the [National Disability Insurance Scheme \(Supports for Participants – Accounting for Compensation\) Rules 2013](#)) (Compensation Rules).

The Compensation Rules make it mandatory for the NDIA to calculate a CRA which may reduce the funding for reasonable and necessary supports in a participant's plan that would otherwise be approved (rule 3.5 of the Compensation Rules).

If a participant has received more than one compensation payment, the NDIA will calculate a CRA for each compensation payment received.

Any reduction in funding is subject to operation of the special circumstances provisions (rule 3.10 of the Compensation Rules). For more information on special circumstances, see [Special Circumstances](#).

### 8.4 How is a CRA calculated?

The Compensation Rules determine how a CRA is calculated in relation to a participant, if the impairment of that participant was caused, to any extent, by a personal injury.

How a CRA is calculated depends on whether rules 3.1(a), (b), (c) or (d) of the Compensation Rules applies.

#### 8.4.1 Compensation received under a non-consent judgement, consent judgement or settlement where the NDIS component is objectively identifiable (Rule 3.1(a) of the Compensation Rules)

This Rule applies where the participant received compensation under a non-consent judgement, consent judgement or settlement in respect of the injury, which caused to any extent that participant's impairment, in which:

- It is possible to identify the [NDIS component](#) of the amount of compensation; and
- The component is either [fixed](#) by a non-consent judgement or is objectively identifiable (e.g. commutation of benefits under a statutory scheme).

If the participant received compensation under a non-consent judgement and that non-consent judgement specifies an amount that relates to the provision of supports of a kind that may be funded or provided under the NDIS after the date of non-consent judgement (i.e. future NDIS supports), rule 3.1(a) of the Compensation Rules will apply.

If the participant received compensation under a consent judgement or settlement and the compensation includes an element that consists of [periodic payments](#), and these periodic payments were received in full or in part, rule 3.1(a) of the Compensation Rules will apply (see rule 3.3 of the Compensation Rules).

Where rule 3.1(a) of the Compensation Rules applies, a CRA will be calculated in accordance with rules 3.11-3.12 of the Compensation Rules.

It does not matter whether the participant was a participant at the time they sustained the personal injury, or whether the compensation amount from a non-consent judgement, consent judgement or settlement was received prior to becoming a participant.

For information on calculating the CRA under rules 3.11-3.12 of the Compensation Rules, [Calculating the CRA when compensation is fixed by a non-consent judgment, consent judgment or settlement and the NDIS component is objectively identifiable](#).

### 8.4.2 Compensation received where the NDIS component is not objectively identifiable (rule 3.1(b) of the Compensation Rules)

This Rule applies where the [person](#) received compensation under a non-consent judgement, consent judgement or settlement in respect of the injury, which:

- Does not satisfy rule 3.1(a); and
- Fixes an amount of compensation in respect of that injury.

If the compensation amount is fixed, and it is not possible to objectively identify the NDIS component of the compensation figure, rule 3.1(b) of the Compensation Rules applies.

Where the criteria of rule 3.1(b) is met, a CRA will be calculated in accordance with rules 3.13-3.16 of the Compensation Rules.

It does not matter whether the participant was a participant at the time they sustained the personal injury, or whether the compensation amount from a non-consent judgement, consent judgement or settlement was received prior to becoming a participant.

For information on calculating the CRA under rules 3.13-3.16 of the Compensation Rules, see [Calculating the CRA when compensation is fixed by a non-consent judgment, consent judgment or settlement and the NDIS component is not objectively identifiable](#).

### 8.4.3 Compensation is being received under a scheme of insurance or Commonwealth, State or Territory law (rule 3.1(c) of the Compensation Rules)

If the participant is receiving compensation under a scheme of insurance, or under a Commonwealth, State or Territory law, including a payment under a contract entered into under such a scheme, rule 3.1(c) of the Compensation Rules applies.

It does not matter whether the participant was a participant at the time they sustained the personal injury.

For information on calculating the CRA under rules 3.17-3.18 of the Compensation Rules, see [Where participant is receiving compensation under a scheme of insurance or compensation under a Commonwealth, State or Territory law](#).

### **8.4.4 A right of compensation given up under an agreement (rule 3.1(d) of the Compensation Rules)**

Where a participant has entered into an agreement to give up a right to compensation, a CRA will be calculated in accordance with rules 3.19-3.21 of the Compensation Rules.

It does not matter whether the participant was a participant at the time they sustained the personal injury, or whether, the agreement entered into to give up a right of compensation was made prior to a person becoming a participant.

For information on calculating the CRA under rules 3.19-3.21 of the Compensation Rules, see [Agreements to give up a right to compensation](#).

## **8.5 Applying the CRA to a statement of participant supports**

The CRA may be applied to one or more statements of participant supports.

### **8.5.1 Applying a CRA to a statement of participant supports in only one plan**

In order to apply the total CRA to a statement of participant supports, the funding in a participant's statement of supports must exceed the total CRA (i.e. a CRA that has not been divided (amortised) over a period not exceeding the participant's expected lifetime under rule 3.7 of the Compensation Rules).

For example, if the amount that will be funded in a statement of participant supports prior to the application of a CRA is \$100,000, and the CRA is \$60,000, it is possible to apply the total CRA to only one plan.

The above is subject to, for example:

- The plan containing the statement of participant supports, with the final CRA applied, remains unchanged prior to its scheduled review date; and
- The participant remaining a participant in the NDIS; and
- The participant obtaining further compensation.

A decision to apply the total CRA to only one plan is not automatic. Such a decision will be made having regard to the circumstances of the case.

### 8.5.2 Applying a CRA to more than one statement of participant supports

The CRA may be divided over a period of time, not exceeding the remainder of the participant's expected lifetime (rule 3.7 of the Compensation Rules).

The CRA, if divided over a period of time, will continue to be applied to a statement of participant supports in future plans until the CRA is reduced to nil.

The period over which the CRA is divided is not fixed. For each new statement of participant supports the NDIA may re-calculate and re-divide the CRA over a new period of time, up to the remainder of the participant's expected lifetime.

The NDIA will generally not apply a CRA to reduce the funding in a statement of participant supports by less than 10% of the total funding in that statement of participant supports (subject to the CRA being equal to or more than 10% of the total funding in that statement of participant supports).

For example, if the amount that will be funded in a statement of participant's supports prior to the application of the CRA is \$100,000, generally the minimum amount that will be deducted from this plan is \$10,000.

A key consideration when applying a minimum reduction of 10% of the total funding in a statement of participant's supports is the financial sustainability of the NDIS.

### 8.6 For how long will a CRA be applied to statements of participant supports?

The CRA will be applied to a statement of participant supports until the CRA is reduced to nil.

### 8.7 What happens if the CRA is reduced to nil?

#### 8.7.1 During the calculation of the CRA

If the calculation of the CRA, pursuant to rules 3.1(a), (b) or (d) of the Compensation Rules, is reduced to nil, the NDIA is to record the CRA as nil and there will be no reduction to the statement of participant supports (see rule 3.12, rule 3.16 and rule 3.21 of the Compensation Rules) in relation to that compensation.

### 8.7.2 After application of the CRA to a participant's statement of supports

If the CRA is reduced to nil following its application to the statement of participant supports, the participant will not have a CRA applied to future statements of participant supports in relation to that compensation.

The above is subject to, for example:

- If the plan containing the statement of participant supports, with the final CRA applied, remains unchanged prior to its scheduled review date; and
- The participant remaining a participant in the NDIS; and
- The participant obtaining further compensation.

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