

Lifetime Care and Support (Catastrophic Injuries) Eligibility Guidelines 2026

Disallowable instrument DI2026 – 174

made under the

Lifetime Care and Support (Catastrophic Injuries) Act 2014, section 93 (LTCS guidelines)

1 Name of instrument

This instrument is the *Lifetime Care and Support (Catastrophic Injuries) Eligibility Guidelines 2026*.

2 Commencement

This instrument commences on the day after its notification.

3 Guidelines

I make the guidelines attached to this instrument. The guidelines are Part 1, Eligibility, of the LTCS Guidelines made under the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*.

4 Revocations

The *Lifetime Care and Support (Catastrophic Injuries) Guidelines 2016* (DI2016-167) is revoked.

Nicola Clark
Lifetime Care and Support Commissioner of the ACT

29 June 2026

Part 1: Eligibility for participation

This Part of the Lifetime Care and Support Guidelines is made under the *Lifetime Care and Support (Catastrophic Injuries) Act 2014* (the LTCS Act), section 93 for the purposes of Part 4, Participation in LTCS Scheme, of the LTCS Act.

Part 1 of the Lifetime Care and Support Guidelines (the LTCS Guidelines) takes effect on commencement and applies to applications for participation in the Lifetime Care and Support Scheme (the LTCS Scheme), whether for interim or lifetime participation, made on and from that date.

The Lifetime Care and Support Commissioner (the LTCS Commissioner) may waive observance of any part or parts of this Guideline. Waiving observance of all or part of this Guideline in any particular circumstances is not an indication that the LTCS Commissioner will waive observance of this part or any other parts of the Guideline in other circumstances.

1 Application for participation

- 1.1 Only people who sustain a motor accident injury or a work injury in the ACT
- a) to which section 6 of the LTCS Act applies, and
 - b) who satisfies the criteria under section 15 of the LTCS Act and in this Part of the LTCS Guidelines, are eligible for participation in the LTCS Scheme.
- 1.2 An application to the LTCS Commissioner to become a participant in the LTCS Scheme must demonstrate:
- a) in the case of a motor accident injury¹, that:
 - i) the injured person had a motor accident within the meaning of the *Motor Accident Injuries Act 2019* (the MAI Act);
 - ii) the accident occurred in the Australian Capital Territory (ACT); and
 - iii) the injury was suffered as a result of the motor accident.
 - b) in the case of a work injury², that:
 - i) the injured person suffered a work injury;
 - ii) the injury arises out of, or in the course of, the injured person's employment, within the meaning of section 31, *Workers Compensation Act 1951*; and
 - iv) the ACT is the Territory or State of connection in relation to the worker's employment.

¹ Section 6 (1)(a) of the LTCS Act and the motor accident must have been on or after 1 July 2014.

² Section 6(1)(b) of the LTCS Act and the work injury must have happened on or after 1 July 2016.

1.3 For these Guidelines a reference to a motor accident injury or a work injury is to the criteria referred to in clause 1.2.

2 Making an application

2.1 An application to the LTCS Commissioner to become a participant in the LTCS Scheme must be made on the Application Form approved by the LTCS Commissioner. The application can be made by or on behalf of the injured person or by the insurer of a claim made by the person in respect of the injury. An application by the insurer does not require the consent of the person.

2.2 The approved Interim Application Form is available on the ACT Lifetime Care and Support Scheme website at www.treasury.act.gov.au/lcass, and Lifetime Care's website at www.icare.nsw.gov.au. NSW Lifetime Care and Support Authority is authorised to provide the application form.

2.3 Subject to clause 7 below:

- a) an application in respect of an injured person for a particular motor accident injury or work injury is an application for interim participation in the LTCS Scheme if the person has not already been an interim participant in the LTCS Scheme in relation to that motor accident injury or work injury; and
- b) an application in respect of an injured person for a particular motor accident injury or work injury is an application for lifetime participation in the LTCS Scheme if the person has already been accepted as an interim participant in the LTCS Scheme in relation to that motor accident injury or work injury. This is the case even if the person is no longer an interim participant in the LTCS Scheme on the date of the application.

2.4 If the application is made by or on behalf of the injured person, the injured person, or a person signing on their behalf, will be required to provide authorisation for the LTCS Commissioner and its administration partner, NSW Lifetime Care and Support Authority, to obtain information and documents from specified persons in connection with the application, relevant³ to:

- a) the motor accident injury (the motor accident, or motor vehicle(s) involved in the motor accident) or
- b) the work injury (including in relation to the worker, or the worker's employment).

The authorisation is part of the Application Form.

2.5 The Application Form must be signed by the injured person, the person making the application on the person's behalf or the insurer. All questions on the Application Form

³ Section 17 of the LTCS Act.

must be completed and all relevant documentation specified in the Application Form must be attached.

- 2.6 There are no fees for making an application.
- 2.7 The LTCS Commissioner may determine that an application is not complete unless it consists of:
- a) a signed Application Form;
 - b) a medical certificate completed by an appropriately qualified medical specialist registered under the relevant regulation agency;
 - c) a FIM™ or WeeFIM® score sheet where applicable (for brain injury or burns).
- 2.8 The LTCS Commissioner may exercise discretion to treat an incomplete application as complete.
- 2.9 If the Application Form does not contain the information necessary for the LTCS Commissioner to make a decision about eligibility, the applicant (and/or the injured person or a person acting on their behalf if the application was made by the insurer) will be requested to provide additional information⁴. The LTCS Commissioner may specify a time within which additional information must be provided, which will usually be 20 working days, but which may be a shorter or longer period at the discretion of the LTCS Commissioner. The person from whom the additional information is requested may request an extension of time, which may be granted at the discretion of the LTCS Commissioner. A request that a FIM™ or WeeFIM® score sheet be completed in accordance with clause 3.2 or clause 6.4 (or both) is a request for additional information under this clause.
- 2.10 The LTCS Commissioner may require the injured person, or a person acting on their behalf, to provide authorisation for the LTCS Commissioner and its administration partner, NSW Lifetime Care and Support Authority, to obtain information and documents relevant to:
- a) the motor accident injury (the motor accident, or motor vehicles involved in the motor accident) or
 - b) the work injury (including factors that led to the injury the worker, or the worker's employment),
- from specified persons in connection with the application, where no such authorisation was provided as part of the Application Form. The LTCS Commissioner will specify a time within which such an authority must be provided, which will usually be 20 working days, but which may be a shorter or longer period at the discretion of the LTCS Commissioner. The injured person, or a person acting on their behalf, may request an extension of time, which may be granted at the discretion of the LTCS Commissioner.

⁴ Section 18(a) of the LTCS Act.

- 2.11 The LTCS Commissioner may request that the injured person attend an assessment to obtain information in relation to any or all injury criteria. The LTCS Commissioner will specify a time within which the injured person must attend such an assessment, which will usually be 20 working days, but which may be a shorter or longer period at the discretion of the LTCS Commissioner. The injured person, or a person acting on their behalf, may request an extension of time, which may be granted at the discretion of the LTCS Commissioner.
- 2.12 If the LTCS Commissioner requests that the injured person attend an assessment under clause 2.11, the LTCS Commissioner will pay for the costs of the assessment.
- 2.13 The LTCS Commissioner will not be able to make a determination about the applicant's eligibility until one or more of the following occurs. The LTCS Commissioner has:
- a) received all relevant information to the applicant's eligibility, or has exercised the discretion under clause 2.8 to treat an application as complete; or
 - b) requested and not yet received additional information under clause 2.9 within the time specified in the request, or within any extended time period as requested after the date by which the additional information was to be provided; or
 - c) requested and not yet received an authorisation required in accordance with clause 2.10, and the time specified in the request, or within any extension of time approved for the provision of the authorisation after the date by which it was to be provided, has lapsed; or
 - d) requested that the injured person attend an assessment in accordance with clause 2.11, and the time specified in the request for such attendance, or within any extension of time approved for the injured person's attendance has lapsed without the injured person's compliance.

Applications made by an insurer

- 2.14 Although the injured person's consent is not needed for the insurer to make an application⁵, if an insurer makes an application on behalf of an injured person, the insurer must:
- a) advise the injured person that the application has been made, and must send a copy of that application to the injured person at the same time as it sends the application to the LTCS Commissioner; and
 - b) complete that part of the Application Form that confirms it has provided a copy of its application to the injured person.

⁵ Section 16(5) of the LTCS Act.

3 Information relevant to determination of eligibility

- 3.1 The LTCS Commissioner may consider any or all of the following information before making an eligibility determination:
- a) the application form and any information and/or documentation provided with it, and any information and/or documentation provided in response to a request for additional information;
 - b) any FIM™ and WeeFIM® score sheet or form;
 - c) the relevant claim form - MAI Scheme Personal Injuries Application Form, Workers Compensation claim form or other personal injury forms (eg. notification of injury);
 - d) ambulance or air ambulance/retrieval records;
 - e) hospital records;
 - f) treating doctor's reports and other medical reports;
 - g) past medical records or school records;
 - h) accident investigations;
 - i) police reports;
 - j) other pre-accident information or general medical information; and
 - k) other information the LTCS Commissioner considers relevant.

Medical Certification

- 3.2 An appropriately qualified medical specialist must certify that the injured person meets the injury criteria as specified in this Part of the Guidelines. This includes certification that the specialist has examined the injured person and has sighted and agrees or disagrees with the FIM™ or WeeFIM® score sheet where applicable.
- 3.3 The certification required under clause 3.2 must be completed on the medical certificate which forms part of the Application Form.

4 FIM™ and WeeFIM® for use for brain injuries and burns

- 4.1 The Lifetime Care and Support Commissioner approves the use of the NSW Lifetime Care and Support Authority score sheets developed to be used with the FIM™ and the WeeFIM® for injured persons who have sustained brain injuries and burns. These forms include a section where the clinician completing the form can indicate which scores relate to the injury and reasons why the score has been given. The score sheets must be used for all interim and lifetime participation applications for brain injuries and burns. Further information about the FIM™ and the WeeFIM® tools and score sheets are available on Lifetime Care's website at: www.icare.nsw.gov.au.

- 4.2 The WeeFIM[®] tool and the appropriate age norms must be used if the injured person:
- a) has acquired a brain injury or burns; and
 - b) is a child aged between 3 and 8 years.
- 4.3 The LTCS Commissioner may request that a FIM[™] or WeeFIM[®] be completed on Lifetime Care's score sheets where no such score sheet forms part of the application. Any request under this clause constitutes a request for additional information pursuant to clause 2.9.

Functional Independence Measure (FIM[™]) assessment

- 4.4 The FIM[™] or WeeFIM[®] assessment is to be conducted by a person who has been trained in FIM[™] or WeeFIM[®], passed the relevant examination and is credentialed through the Australian Rehabilitation Outcomes Centre, or equivalent if the assessment is conducted outside of Australia.
- 4.5 If the injured person is not yet a participant in the Scheme and clause 2.9 does not apply, the FIM[™] or WeeFIM[®] assessment must be conducted within 20 working days of the date of a completed application for participation or such other period as the LTCS Commissioner permits.
- 4.6 The FIM[™] or WeeFIM[®] assessment must be conducted within 40 working days of the date of a completed application for participation or such other period as the LTCS Commissioner permits if:
- a) the injured person is an interim participant in the LTCS Scheme, or
 - b) an interim participation period has lapsed and the application for participation is made after the interim participation period has expired.
- 4.7 If more than one FIM[™] or WeeFIM[®] assessment has been conducted, the most recent assessment will be relied upon for the eligibility determination.
- 4.8 Reference to the age norm of any item on the WeeFIM[®] is a reference to the normative data published in the WeeFIM[®] Version 5.0 (or subsequent versions) issued by Uniform Data System for Medical Rehabilitation.

Pre-existing and co-existing conditions

- 4.9 If the LTCS Commissioner receives an application from an injured person who has a pre-existing or co-existing condition, such as previous stroke, brain injury or dementia, the LTCS Commissioner may request information on these conditions before making an eligibility determination. *For example, an injured person may have had a stroke resulting in right-sided hemiplegia and is then involved in a motor vehicle accident or subsequently suffers a work injury resulting in traumatic brain injury.*

In these circumstances, the LTCS Commissioner may require information on the person's conditions prior to the accident to determine the impact of the injury on the injured person's function. Any request under this clause constitutes a request for additional information pursuant to clause 2.9.

5 Deferring the making of an application⁶

5.1 The LTCS Commissioner may require that the making of an application for participation in the LTCS Scheme be deferred until the injury has stabilised or is unlikely to change. *For example, an injured person may not meet the eligibility criteria immediately after the motor vehicle accident or work injury but may do so after subsequent surgery.*

6 Eligibility criteria for participation in the Scheme

6.1 The eligibility criteria set out in this clause apply to both interim participation and lifetime participation in the LTCS Scheme.

6.2 A person is eligible for participation only where:

- a) the person has suffered a motor accident injury or work injury; and
- b) the person meets the injury criteria for one or more kinds of injury set out in the LTCS Act, and in this clause, at the time the eligibility decision is made.

6.3 If the LTCS Commissioner is satisfied that a person is eligible to be a participant and that application for the person's acceptance as a participant has been duly made, the LTCS Commissioner must accept the person as an interim or lifetime participant as appropriate⁷.

6.4 Functional assessment using either FIMTM or the WeeFIM[®] is part of the eligibility criteria for both interim participation and lifetime participation in the LTCS Scheme if the injured person has sustained a brain injury or burns.

Spinal cord injury

6.5 A spinal cord injury is an acute traumatic lesion of the neural elements in the spinal canal (spinal cord and cauda equina) resulting in permanent sensory deficit, motor deficit and/or bladder/bowel dysfunction.

6.6 A person who has a spinal cord injury that satisfies the following criteria is eligible for participation in the LTCS Scheme:

- a) the spinal cord injury was caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker's employment; and
- b) the spinal cord injury has resulted in permanent neurological deficit.

⁶ Section 18(c) of the LTCS Act.

⁷ Sections 19 and section 21(7) of the LTCS Act.

Brain injury

- 6.7 A traumatic brain injury is an insult to the brain, usually with an associated diminished or altered state of consciousness that results in permanent impairments of cognitive, physical and/or psychosocial functions.
- 6.8 A person who has a brain injury that satisfies the following criteria is eligible for participation in the LTCS Scheme:
- a) the brain injury was caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker's employment; and
 - b) the duration of Post Traumatic Amnesia (PTA) is greater than 1 week. If the PTA assessment is not available or applicable (*for example, if the injured person is a child who is under 8 years of age, or the injured person has a penetrating brain injury*), there must be:
 - i) evidence of a very significant impact to the head causing coma for longer than one hour, or
 - ii) a significant brain imaging abnormality due to the motor accident or work injury; and
 - c) subject to clause 8 below, one of the following criteria is met:
 - i) if the injured person is over 8 years of age at the time of assessment, there is a score of 5 or less on any of the items on the FIMTM or WeeFIM[®] due to the brain injury; or
 - ii) if the injured person is aged between 3 and 8 years at the time of assessment, there is a score at least two less than the age norm on any item on the WeeFIM[®] due to the brain injury; or
 - iii) if the injured person is aged less than 3 years at the time of the assessment, there is a medical certificate from a paediatric rehabilitation physician that states the child will probably have permanent impairment due to the brain injury resulting in a significant adverse impact on their normal development.

Amputations

- 6.9 A person who has had one or more amputations as described below, or the equivalent impairment, is eligible for participation in the LTCS Scheme if either 6.10 or 6.11 are satisfied. For the purpose of the Guidelines. "equivalent impairment" means that the person's limb function is equivalent to amputation described in clauses 6.10 and 6.11(i) to (iv).
- 6.10 This clause is satisfied if:
- a) the injury resulting in the impairments (whether amputations, equivalent impairments or some combination) was caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker's employment; and
 - b) one of (i), (ii) or (iii) below is satisfied:

- i) there are multiple amputations of the upper and/or lower extremities, meaning that there is more than one of the following types of amputation at or above, proximal to, the level of:
 - a “short” transtibial or standard transtibial amputation, as defined by the loss of
 - 50% or more of the length of the tibia. This includes all other amputations of the lower extremity (such as knee disarticulation or transfemoral amputation) above this level;
 - a thumb and index finger of the same hand, at or above the first metacarpophalangeal joint. This includes all other amputations of the upper extremity (such as below-elbow or above-elbow amputation) above this level;
- ii) there are multiple amputations, each of which is an equivalent impairment to an amputation described at (i);
- iii) there is at least one amputation described at (i) and at least one equivalent impairment to an amputation described at (i).

6.11 This clause is satisfied if:

- a) the injury resulting in the impairment (whether amputation or an equivalent impairment) was caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker’s employment; and
- b) the injured person has had at least one of the following types of injury:
 - i) forequarter amputation (complete amputation of the humerus, scapula and clavicle) or shoulder disarticulation;
 - ii) hindquarter amputation (hemipelvectomy by trans-section at sacroiliac joint, or partial pelvectomy);
 - iii) hip disarticulation (complete amputation of the femur);
 - iv) “short” transfemoral amputation as defined by the loss of 65% or more of the length of the femur;
 - v) brachial plexus avulsion or rupture resulting in an equivalent impairment to an upper limb amputation described in part 6.11.b(i);
 - vi) an equivalent impairment to any of the injuries described at (i)-(iv) above; or
 - vii) any other severe orthopaedic and/or neuromuscular injury of either an upper or lower limb producing an equivalent impairment to the amputations described in 6.10 and 6.11.b(i) to (iv).

6.12 For the purpose of the Guidelines, “equivalent impairment” means the functional equivalent to an amputation, resulting from an injury such as (but not limited to) brachial plexus avulsion or rupture, where paralysis exists and movement in the paralysed limb, or relevant part thereof, is minimal or non-existent due to the injury.

6.13 In relation to:

- a) clause 6.10 - measurement of percentage loss of length of the amputated tibia is to be calculated using x-ray imaging pre- and post-amputation. There may be rare circumstances such as traumatic bilateral transtibial amputation, where contralateral tibial length and tibial length prior to amputation is unknown and therefore percentage measurement is not applicable. In this case, percentage loss is defined as 50% of tibial length calculated from estimated knee height. Estimated knee height is to be calculated from the injured person's documented total height prior to the motor accident injury or work injury.
- b) clause 6.11 - measurement of percentage loss of length of the amputated femur is to be calculated using x-ray imaging pre- and post-amputation. Where x-ray imaging is not available, measurement of the contralateral length of the femur should be compared with the length of the amputated femur to measure percentage loss.

Burns

6.14 A person who has sustained burns is eligible for participation in the LTCS Scheme if the following criteria are met:

- a) the burns were caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker's employment; and
- b) one of the following criteria is met:
 - i) there are full thickness burns greater than 40% of total body surface area, or, if the injured person is a child under 16 years of age, there are full thickness burns greater than 30% of total body surface area; or
 - ii) there are inhalation burns causing long term respiratory impairment; or
 - iii) there are full thickness burns to the hand, face or genital area; and
- c) subject to clause 8 below, one of the following criteria is met:
 - i) if the injured person is over 8 years of age at the time of assessment, there is a score of 5 or less on any of the items on the FIMTM or WeeFIM® due to the burns; or
 - ii) if the injured person is aged between 3 and 8 years at the time of assessment, there is a score of at least two less than the age norm on any item on the WeeFIM® due to the burns; or
 - iii) if the injured person is aged less than 3 years at the time of assessment, there is a medical certificate from a paediatrician or an appropriately qualified medical specialist otherwise approved in writing by the LTCS Commissioner that states the child will probably have permanent impairment due to the burns resulting in a significant adverse impact on their normal development.

Permanent blindness

6.15 A person who has lost sight in both eyes is eligible for participation in the LTCS Scheme if the following criteria are met:

- a) the loss of sight was caused by a motor accident; or in the case of a work injury arose out of, or in the course of, the worker's employment; and
- b) the person is legally blind, that is:
 - i) visual acuity on the Snellen Scale after correction by suitable lenses is less than 6/60 in both eyes;
 - ii) field of vision is constricted to 10 degrees or less of arc around central fixation in the better eye irrespective of corrected visual acuity (equivalent to 1/100 white test object); or
 - iii) a combination of visual defects resulting in the same degree of visual loss as that occurring in (i) or (ii) above.

7 The LTCS Commissioner's determination

7.1 The LTCS Commissioner will consider the following when making a determination about eligibility for participation in the LTCS Scheme:

- a) the information set out in clause 3.1 above; and
- b) the eligibility criteria in clause 6 above.

7.2 The LTCS Commissioner will make a determination as soon as possible after receiving an application for participation, subject to clause 2.13 above. The LTCS Commissioner will advise the following parties of the outcome, including reasons, in writing:

- a) the injured person and their legal representatives, if legally represented;
- b) the insurer, if the insurer is not the applicant; and
- c) if the applicant is a person other than the injured person or the insurer: the applicant and their legal representative, if legally represented.

7.3 If the LTCS Commissioner denies an application for participation in the LTCS Scheme, the LTCS Commissioner will provide the applicant (and the injured person, if the injured person is not the applicant) with information about the LTCS Scheme's process for resolving dispute resolution.

7.4 If the LTCS Commissioner is satisfied that by reason of any mistake of law or fact a determination about interim eligibility for participation was wrongly made, the LTCS Commissioner may withdraw the previous determination and make a new determination within 12 months of the original determination. The LTCS Commissioner will provide the applicant (and the injured person, if the injured person is not the applicant) with information about the LTCS Scheme's process for dispute resolution.

8 Interim and lifetime participation

- 8.1 Subject to clauses 8.3 and 8.4, once eligibility for participation in the LTCS Scheme in accordance with clause 6 above has been established, an injured person will be accepted as an interim participant for a period of two years⁸. The period of interim participation in the LTCS Scheme commences on the date of the LTCS Commissioner's determination. The period of interim participation is imposed because of the possibility of recovery and ongoing improvement in the injured person's condition. Recovery may mean that the injured person may not meet the eligibility criteria after the interim participation period.
- 8.2 A person may only be accepted as an interim participant once in relation to any particular motor accident injury or work injury⁹. A person will be accepted as a lifetime participant if an application is made in respect of the same motor accident or work injury, and eligibility for the LTCS Scheme is established (or was previously established and participation has lapsed), in accordance with clause 6 above and the requirements of the LTCS Act¹⁰.
- 8.3 A child who becomes an interim participant under the age specified under section 20(2)(b) of the LTCS Act will spend longer than two years as an interim participant.

Bringing forward a decision about lifetime participation

- 8.4 Notwithstanding clauses 8.1 and 8.3, the LTCS Commissioner may make a decision that an interim participant is to be accepted as a lifetime participant prior to the expiry of the interim participation period referred to in clause 8.1 and 8.3 if the medical information available to the LTCS Commissioner provides evidence that the injured person's motor accident injury or work injury is such that they will meet the injury criteria for lifetime participation (which are the same as for interim participation) at the end of the interim participation period.

9 Time limit on application

- 9.1 An interim application to the LTCS Scheme must be made within three years of the date of the motor accident injury or work injury.
- 9.2 The LTCS Commissioner may extend this time limit if there is a full and satisfactory explanation for why the application was not made within three years of the date of the motor accident injury or work injury. An applicant who submits an application more than three years after the date of the motor accident injury or work injury must advise the LTCS Commissioner, in writing, of the circumstances the applicant says provide a full and

⁸ Section 20(2)(a) of the LTCS Act.

⁹ Section 20(3) of the LTCS Act.

¹⁰ Section 20(2)(b) of the LTCS Act.

satisfactory explanation as to why the application was not made within three years.

9.3 Examples of circumstances that would not be accepted as a full and satisfactory explanation include:

- when a reasonable person in the position of the applicant would not have delayed making the application;
- there is an unjustified delay in seeking medical advice or legal advice; and
- there is an unjustified delay in terms of the intent of the Lifetime Care and Support (Catastrophic Injuries) Act.

Provisions of the LTCS Act applicable to this Guideline	
Part 1 - LTCS Guidelines	LTCS Act reference
Clause 1 - Application for participation	sections 6 and 15
Clause 2 - Making an application	sections 17, 16(5) and 18(a)
Clause 5 - Deferring the making of an application	sections 18(c)
Clause 6 - Eligibility criteria for participation in the Scheme	sections 19 and 21(7)
Clause 8 - Interim and lifetime participation	section 20(2) and 20(3)