



ABOUT FURZER CRESTANI FORENSIC

Since 1985, Furzer Crestani Forensic has provided a broad range of forensic accounting and related services across a variety of industries. We have been engaged on behalf of plaintiffs and defendants, as well as a single expert, shadow expert and independent referee.

You and your clients will benefit from our team's extensive knowledge and skill set, as well as our comprehensive library of resources.

Our services include:

1. Business and entity valuations
2. Calculations for negotiation purposes
3. Compensation to Relatives claims
4. Complex commercial claims reports
5. Costs of funds management reports
6. Damages quantification, including future care and other needs
7. Detailed economic loss reports
8. Estate and will disputes reports
9. Financial investigations
10. Provision of expert witness testimony

If you would like to discuss any of the services we provide or how we could assist your clients' litigation claims, please contact our office on (02) 9635 3044 or mail@furzercrestani.com.au

This Handbook has been prepared as a helpful guide to use when assessing economic loss matters by reference to the *Competition and Consumer Act 2010*.

If you have any comments on this Handbook which you consider would be beneficial to your practice, please contact us at mail@furzercrestani.com.au or (02) 9635 3044.

Whilst care has been taken in the preparation of this Handbook, we can take no legal responsibility for any inaccuracies that might be contained herein.



COMPETITION AND CONSUMER ACT 2010

TABLE OF CONTENTS

<u>Reference to the Act</u>		<u>Page No.</u>
-	Definitions and Explanations	1
Section 87M	Maximum Amount of Damages for Non Economic Loss	2
-	Consumer Price Index - Australia	3
Sections 87Q, 87R and 87S	Non Economic Loss Damages	4
	Average Weekly Earnings	
Section 87V	- Average Weekly Earnings of Total Employees Seasonally Adjusted	5
Section 87U	- Loss of Earning Capacity	5
Sections 87W and 87X	- Gratuitous Attendant Care Services	5
Section 87ZA	Interest on Damages	6



**COMPETITION AND CONSUMER ACT 2010
DEFINITIONS AND EXPLANATIONS**

Term	Reference to the Act	Definition/Explanation
Applicable Percentage:	Section 87Q(2)	The extent of the non economic loss the plaintiff suffers, expressed as a percentage of the most extreme case - refer Page 4.
Average Weekly Earnings:	Section 87V	Average Weekly Earnings for All Employees Total Earnings, Seasonally Adjusted published by the Australian Bureau of Statistics, Catalogue No. 6302.0 - refer Page 5.
Consumer Price Index ("CPI") Number:	Section 87N	The All Groups Consumer Price Index number, weighted average of the eight (8) capital cities issued by the Australian Bureau of Statistics Catalogue No. 6401.0 - refer Page 3.
Gratuitous Attendant Care Services:	Section 87W(5)	When awarding personal injury damages for gratuitous attendant care services under Sections 87W and 87X, the equivalent weekly amount must not exceed: a) The Average Weekly Earnings for that quarter, if the services were provided for at least forty (40) hours per week; or b) 1/40 of the Average Weekly Earnings for that quarter, if the services were provided for less than forty (40) hours per week.
Maximum Amount of Damages for Non Economic Loss:	Section 87M	The maximum amount of damages for non economic loss is calculated as: Previous maximum amount x $\frac{\text{Current September CPI number}}{\text{Previous September CPI number}}$
Maximum Loss of Earning Capacity:	Section 87U	In determining personal injury damages for loss of earning capacity, a Court must disregard the amount by which the plaintiff's gross weekly earnings during any quarter would have exceeded twice the Average Weekly Earnings - refer Page 5.
Quarter:	-	A period of three months ending on 31 March, 30 June, 30 September or 31 December.



**COMPETITION AND CONSUMER ACT 2010
SECTION 87M
MAXIMUM AMOUNT OF DAMAGES FOR NON ECONOMIC LOSS**

Date of Assent	Quarter Ended	All Groups CPI Index Number	Maximum
13 July 2004	Sep-2004	80.9	250,000
	Sep-2005	83.4	257,730
	Sep-2006	86.7	267,930
	Sep-2007	88.3	272,870
	Sep-2008	92.7	286,470
	Sep-2009	93.8	289,870
	Sep-2010	96.5	298,210
	Sep-2011	99.8	308,410
	Sep-2012	101.8	314,590
	Sep-2013	104.0	321,390
	Sep-2014	106.4	328,810
	Sep-2015	108.0	333,750
	Sep-2016	109.4	338,080
	Sep-2017	111.4	344,260
	Sep-2018	113.5	350,750
	Sep-2019	115.4	356,620
	Sep-2020	116.2	359,090

The Maximum has been rounded to the nearest multiple of \$10 as per Section 87M of the Act



COMPETITION AND CONSUMER ACT 2010 ALL GROUPS CONSUMER PRICE INDEX

Quarter Ended	Index Number	% Change
Mar-2016	108.2	-0.2%
Jun-2016	108.6	0.4%
Sep-2016	109.4	0.7%
Dec-2016	110.0	0.5%
Mar-2017	110.5	0.5%
Jun-2017	110.7	0.2%
Sep-2017	111.4	0.6%
Dec-2017	112.1	0.6%
Mar-2018	112.6	0.4%
Jun-2018	113.0	0.4%
Sep-2018	113.5	0.4%
Dec-2018	114.1	0.5%
Mar-2019	114.1	0.0%
Jun-2019	114.8	0.6%
Sep-2019	115.4	0.5%
Dec-2019	116.2	0.7%
Mar-2020	116.6	0.3%
Jun-2020	114.4	-1.9%
Sep-2020	116.2	1.6%
Dec-2020	117.2	0.9%
Mar-2021	117.9	0.6%

Definition of Consumer Price Index as per Section 87N of the *Competition and Consumer Act 2010*.

The All Groups Consumer Price Index number, being the weighted average of the eight (8) capital cities issued by the Australian Bureau of Statistics ("ABS") Catalogue No. 6401.0. We have extracted the applicable data from the ABS.

Note 1: Percentage change is from the previous quarter.

Source: Australian Bureau of Statistics



**COMPETITION AND CONSUMER ACT 2010
SECTIONS 87Q, 87R AND 87S
NON ECONOMIC LOSS DAMAGES**

% of MEC	% of Max Amount	Award (Rounded)	%	Amount Awarded	Net Amount
100%	100%	359,090	50%	50%	179,550
99%	99%	355,500	49%	49%	175,950
98%	98%	351,910	48%	48%	172,360
97%	97%	348,320	47%	47%	168,770
96%	96%	344,730	46%	46%	165,180
95%	95%	341,140	45%	45%	161,590
94%	94%	337,540	44%	44%	158,000
93%	93%	333,950	43%	43%	154,410
92%	92%	330,360	42%	42%	150,820
91%	91%	326,770	41%	41%	147,230
90%	90%	323,180	40%	40%	143,640
89%	89%	319,590	39%	39%	140,050
88%	88%	316,000	38%	38%	136,450
87%	87%	312,410	37%	37%	132,860
86%	86%	308,820	36%	36%	129,270
85%	85%	305,230	35%	35%	125,680
84%	84%	301,640	34%	34%	122,090
83%	83%	298,040	33%	33%	118,500
82%	82%	294,450	32%	30.0%	107,730
81%	81%	290,860	31%	26.0%	93,360
80%	80%	287,270	30%	23.0%	82,590
79%	79%	283,680	29%	18.0%	64,640
78%	78%	280,090	28%	14.0%	50,270
77%	77%	276,500	27%	10.0%	35,910
76%	76%	272,910	26%	8.0%	28,730
75%	75%	269,320	25%	6.5%	23,340
74%	74%	265,730	24%	5.5%	19,750
73%	73%	262,140	23%	5.0%	17,950
72%	72%	258,540	22%	4.5%	16,160
71%	71%	254,950	21%	4.0%	14,360
70%	70%	251,360	20%	3.5%	12,570
69%	69%	247,770	19%	3.0%	10,770
68%	68%	244,180	18%	2.5%	8,980
67%	67%	240,590	17%	2.0%	7,180
66%	66%	237,000	16%	1.5%	5,390
65%	65%	233,410	15%	1.0%	3,590
64%	64%	229,820	14%		
63%	63%	226,230	13%		
62%	62%	222,640	12%		
61%	61%	219,040	11%		
60%	60%	215,450	10%		
59%	59%	211,860	9%		
58%	58%	208,270	8%		
57%	57%	204,680	7%		
56%	56%	201,090	6%		
55%	55%	197,500	5%		
54%	54%	193,910	4%		
53%	53%	190,320	3%		
52%	52%	186,730	2%		
51%	51%	183,140	1%		

NO DAMAGES TO BE AWARDED

NOTES:

1. Maximum Amount = \$359,090 (per Section 87M. Also refer to page 2 of this publication (Definitions))
2. "MEC" denotes Most Extreme Case
3. "Max Amount" denotes the maximum amount to be awarded for non economic loss damages per Sections 87Q, 87R and 87S
4. Award amounts have been rounded to the nearest \$10 per Section 87M



**COMPETITION AND CONSUMER ACT 2010
AVERAGE WEEKLY EARNINGS**

Period End	Average Weekly Earnings All Employees Total Earnings Section 87V (A)	Maximum Loss of Earning Capacity Section 87U (B = A x 2)	Attendant Care Services Rate per Hour Sections 87W and 87X (C = A x 1/40)
<u>2016</u>			
May	1,160.90	2,321.80	29.02
November	1,163.50	2,327.00	29.09
<u>2017</u>			
May	1,179.00	2,358.00	29.48
November	1,191.50	2,383.00	29.79
<u>2018</u>			
May	1,207.40	2,414.80	30.19
November	1,225.30	2,450.60	30.63
<u>2019</u>			
May	1,237.90	2,475.80	30.95
November	1,257.00	2,514.00	31.43
<u>2020</u>			
May	1,304.70	2,609.40	32.62
November	1,280.30	2,560.60	32.01

Definition of Average Weekly Earnings as per Section 87V of the *Competition and Consumer Act 2010*.

Average Weekly Earnings for All Employees Total Earnings, Seasonally Adjusted published by the Australian Bureau of Statistics, Catalogue No. 6302.0.

Definition of Maximum Loss of Earning Capacity as per Section 87U of the *Competition and Consumer Act 2010*.

In determining personal injury damages for loss of earning capacity, a Court must disregard the amount by which the plaintiff's gross weekly earnings during any quarter would have exceeded twice the Average Weekly Earnings.

Definition of Gratuitous Attendant Care Services as per Sections 87W and 87X of the *Competition and Consumer Act 2010*.

When awarding personal injury damages for gratuitous attendant care services under Sections 87 W and 87X, the equivalent weekly amount must not exceed:

- The Average Weekly Earnings for that quarter, if the services were provided for at least forty (40) hours per week; or
- 1/40 of the Average Weekly Earnings for that quarter, if the services were provided for less than forty (40) hours per

Note: Earnings are gross before income tax.

Source: Australian Bureau of Statistics



**COMPETITION AND CONSUMER ACT 2010
SECTION 87ZA
INTEREST ON DAMAGES**

Published Date	Applicable Period			Interest Rate
1/07/2015	1/09/2015	to	29/02/2016	3.01%
4/01/2016	1/03/2016	to	31/08/2016	2.82%
1/07/2016	1/09/2016	to	28/02/2017	1.96%
3/01/2017	1/03/2017	to	31/08/2017	2.75%
3/07/2017	1/09/2017	to	28/02/2018	2.61%
2/01/2018	1/03/2018	to	31/08/2018	2.66%
2/07/2018	1/09/2018	to	28/02/2019	2.60%
2/01/2019	1/03/2019	to	31/08/2019	2.29%
1/07/2019	1/09/2019	to	29/02/2020	1.36%
2/01/2020	1/03/2020	to	31/08/2020	1.35%
1/07/2020	1/09/2020	to	28/02/2021	0.94%
4/01/2021	1/03/2021	to	31/08/2021	0.98%

Definition of Interest on Damages as per Section 87ZA of the Competition and Consumer Act 2010.

The relevant interest rate is represented by the Commonwealth Government 10 Year benchmark bond rate as published by the Reserve Bank of Australia and applies:

- On the first business day of January each year (for the period from 1 March until 31 August of that year); or
- On the first business day of July each year (for the period from 1 September until the last day of February of the following year).

Source: <https://www.rba.gov.au/statistics/tables/index.html>