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Furzer Crestani Forensic has been providing forensic accounting services to the legal profession since 1985. We provide independent expertise in analysing and assessing litigation claims in an easy to understand manner.

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

Our range of 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](mailto: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](mailto: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**

<b>Term</b>	<b>Reference to the Act</b>	<b>Definition/Explanation</b>
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:  $\text{Previous maximum amount} \times \frac{\text{Current September CPI number}}{\text{Previous September CPI number}}$
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**

<u>Date of Assent</u>	<u>Quarter Ended</u>	<u>All Groups CPI Index Number</u>	<u>Maximum</u>
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

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



## ALL GROUPS CONSUMER PRICE INDEX

Quarter Ended	Index Number	% Change
Mar-2013	102.4	0.4%
Jun-2013	102.8	0.4%
Sep-2013	104.0	1.2%
Dec-2013	104.8	0.8%
Mar-2014	105.4	0.6%
Jun-2014	105.9	0.5%
Sep-2014	106.4	0.5%
Dec-2014	106.6	0.2%
Mar-2015	106.8	0.2%
Jun-2015	107.5	0.7%
Sep-2015	108.0	0.5%
Dec-2015	108.4	0.4%
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%

**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



<b>COMPETITION AND CONSUMER ACT 2010</b> <b>SECTIONS 87Q, 87R AND 87S</b> <b>NON ECONOMIC LOSS DAMAGES</b>						
<b>% of MEC</b>	<b>% of Max Amount</b>	<b>Award (Rounded)</b>	<b>%</b>	<b>Amount Awarded</b>	<b>Net Amount</b>	
100%	100%	350,750	50%	50%	175,380	
99%	99%	347,240	49%	49%	171,870	
98%	98%	343,740	48%	48%	168,360	
97%	97%	340,230	47%	47%	164,850	
96%	96%	336,720	46%	46%	161,350	
95%	95%	333,210	45%	45%	157,840	
94%	94%	329,710	44%	44%	154,330	
93%	93%	326,200	43%	43%	150,820	
92%	92%	322,690	42%	42%	147,320	
91%	91%	319,180	41%	41%	143,810	
90%	90%	315,680	40%	40%	140,300	
89%	89%	312,170	39%	39%	136,790	
88%	88%	308,660	38%	38%	133,290	
87%	87%	305,150	37%	37%	129,780	
86%	86%	301,650	36%	36%	126,270	
85%	85%	298,140	35%	35%	122,760	
84%	84%	294,630	34%	34%	119,260	
83%	83%	291,120	33%	33%	115,750	
82%	82%	287,620	32%	30.0%	105,230	
81%	81%	284,110	31%	26.0%	91,200	
80%	80%	280,600	30%	23.0%	80,670	
79%	79%	277,090	29%	18.0%	63,140	
78%	78%	273,590	28%	14.0%	49,110	
77%	77%	270,080	27%	10.0%	35,080	
76%	76%	266,570	26%	8.0%	28,060	
75%	75%	263,060	25%	6.5%	22,800	
74%	74%	259,560	24%	5.5%	19,290	
73%	73%	256,050	23%	5.0%	17,540	
72%	72%	252,540	22%	4.5%	15,780	
71%	71%	249,030	21%	4.0%	14,030	
70%	70%	245,520	20%	3.5%	12,280	
69%	69%	242,020	19%	3.0%	10,520	
68%	68%	238,510	18%	2.5%	8,770	
67%	67%	235,000	17%	2.0%	7,020	
66%	66%	231,500	16%	1.5%	5,260	
65%	65%	227,990	15%	1.0%	3,510	
64%	64%	224,480	14%			
63%	63%	220,970	13%			
62%	62%	217,470	12%			
61%	61%	213,960	11%			
60%	60%	210,450	10%			
59%	59%	206,940	9%			
58%	58%	203,440	8%			
57%	57%	199,930	7%			
56%	56%	196,420	6%			
55%	55%	192,910	5%			
54%	54%	189,410	4%			
53%	53%	185,900	3%			
52%	52%	182,390	2%			
51%	51%	178,880	1%			

**NO DAMAGES TO BE AWARDED**

**NOTES:**

1. Maximum Amount = \$350,750 (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)
<b><u>2012</u></b>	May	1,053.20	2,106.40	26.33
	November	1,081.30	2,162.60	27.03
<b><u>2013</u></b>	May	1,105.00	2,210.00	27.63
	November	1,114.20	2,228.40	27.86
<b><u>2014</u></b>	May	1,123.00	2,246.00	28.08
	November	1,128.70	2,257.40	28.22
<b><u>2015</u></b>	May	1,136.90	2,273.80	28.42
	November	1,145.70	2,291.40	28.64
<b><u>2016</u></b>	May	1,160.90	2,321.80	29.02
	November	1,163.50	2,327.00	29.09
<b><u>2017</u></b>	May	1,179.00	2,358.00	29.48
	November	1,191.50	2,383.00	29.79
<b><u>2018</u></b>	May	1,207.40	2,414.80	30.19

**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:

- 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.

**Note** Earnings are gross before income tax.

**Source** Australian Bureau of Statistics



**COMPETITION AND CONSUMER ACT 2010**

**SECTION 87ZA**

**INTEREST ON DAMAGES**

<u>Published Date</u>	<u>Applicable Period</u>			<u>Interest Rate</u>
3/01/2012	1/03/2012	to	31/08/2012	3.84%
2/07/2012	1/09/2012	to	28/02/2013	3.09%
2/01/2013	1/03/2013	to	31/08/2013	3.40%
1/07/2013	1/09/2013	to	28/02/2014	3.82%
2/01/2014	1/03/2014	to	31/08/2014	4.33%
1/07/2014	1/09/2014	to	28/02/2015	3.59%
2/01/2015	1/03/2015	to	31/08/2015	2.87%
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%

**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: [www.rba.gov.au/statistics/tables/index.html#interestrates](http://www.rba.gov.au/statistics/tables/index.html#interestrates)