What is ‘serious injury’?

‘Serious injury’ is a legal term. It is defined in the Transport Accident Act 1986 as:

- serious long-term impairment or loss of a body function; or
- permanent serious disfigurement; or
- severe long-term mental or severe long-term behavioural disturbance or disorder; or
- loss of a foetus.

A ‘serious injury’ may also be a permanent impairment of 30% or more.

A ‘serious injury’ may be a single significant injury, or a combination of injuries. The injuries need to be as a result of your transport accident.

‘Serious injury’ takes into account both:

- your injuries, and
- the long-term impact of the transport accident on your life.

If you have a ‘serious injury’ and someone else was at fault (or partly at fault) for the accident, you may be eligible for common law compensation.

How do I know if I have a ‘serious injury’?

You have a ‘serious injury’ if your injury meets the definition.

If you think you might have a ‘serious injury’ or you’re unsure, you or your lawyer can ask us to look into your situation. This may include a ‘serious injury’ application.

To help us decide if you have a ‘serious injury’ we may ask you for more information about your injury. We also need to understand how your injury has affected your life.

You may be asked to attend medical examinations and share medical and financial information with us. This will help us understand your injuries and your situation.

You can choose to engage a lawyer at any time to provide you with independent legal advice about this process.

If we decide you have a ‘serious injury’, we will let you know. You or your lawyer will receive this decision from us in writing.

We will provide a Serious Injury Certificate, or a letter that states your injury meets an impairment rating of 30% or more.

We will also let you or your lawyer know if you do not have a ‘serious injury’.

What is a Serious Injury Certificate?

A Serious Injury Certificate is a document that legally recognises that you have a ‘serious injury’ as a result of your transport accident.

It takes into account both your injury and the long-term impact of the accident on your life.

It can be used to start the process to claim common law compensation.

What do I do next?

If you think you have a ‘serious injury’ and someone else was at fault (or partly at fault) for your accident, you may be eligible for common law compensation.

If you want to claim common law compensation, you need the TAC to consider if your injury meets the definition of a ‘serious injury’.
What is ‘serious injury’?

To do this, you can contact us directly or engage a personal injury lawyer to act on your behalf.

A lawyer will provide you with independent legal advice based on your individual situation.

They will work with us to help us decide if your injury is ‘serious’.

We recommend choosing a law firm that operates within the Common Law Protocols. Engaging a lawyer who follows the Protocols will generally result in a faster decision on your ‘serious injury’ application.

Reviewing a ‘serious injury’ decision

We will let you and your lawyer know if we believe your injury does not meet the legal requirement of a ‘serious injury’.

Your lawyer can provide you with independent legal advice about reviewing our decision.

Decisions are reviewed in the County Court, where a Judge will decide if your injury meets the legal definition of a ‘serious injury’.

Where can I get more help?

We want you to receive the compensation you are entitled to as quickly as possible, to help you get your life back on track.

If you want to speak to someone about your situation, please contact us.

You can find more information on our website: tac.vic.gov.au/commonlaw