



Tuesday 19 July 2011

Ms Christine McDonald
Committee Secretary
Senate Finance and Public Administration Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email: fpa.sen@aph.gov.au

Dear Ms McDonald

CPSU Submission to Inquiry into the *Public Service Amendment (Payments in Special Circumstances) Bill 2011*

The Community and Public Sector Union (PSU Group) is pleased to make a submission to the Senate Inquiry into *Public Service Amendment (Payments in Special Circumstances) Bill 2011*.

The CPSU represents workers in the Australian Public Service, and also in the Australian Capital Territory, Northern Territory Public Service, the telecommunications sector, call centres, employment services and broadcasting. We are the principal union covering employees in the Australian Public Service.

The CPSU welcomes the proposed legislation. The *Public Service Act 1999*, at section 73, allows for the Public Service Minister to authorise payments in special circumstances. Payments that may be made by the Public Service Minister under this provision are currently capped at \$100,000. There may be a range of circumstances which warrant special payments in excess of \$100,000, and the payment should not be prevented by an arbitrary limitation. In addition, the CPSU notes this amount has not been updated since the *Public Service Act* commenced in 1999, which therefore means that in relative terms the maximum payment available has decreased over time.

The changes in the proposed legislation arise from a Commonwealth Ombudsman's Report¹ which highlighted the difficulties in redressing defective administration in the Commonwealth Government. That Report made findings regarding two individuals who

¹ *Comcare and Department of Finance and Deregulation Discretionary Payments of Compensation 04/2010* Commonwealth Ombudsman 2010. See: http://www.ombudsman.gov.au/files/comcare_dofd_discretionary_compensation_payments.pdf Last accessed 12 July 2011

had been underpaid Workers Compensation payments due to errors Comcare made in calculating their entitlement. In one instance, the amount owed was over \$200,000.

The difficulties for Comcare, and the Department of Finance and Deregulation in redressing the defective administration, was that Comcare was an agency administered under the *Commonwealth Authorities and Companies Act 1997*, when the usual mechanism for redressing such errors was through the *Financial Management and Accountability Act 1997*. The Report said a further difficulty in granting full compensation to one of the complainants was the \$100,000 limit upon payments in special circumstances in s73 of the *Public Service Act 1999*. It is this limit which the proposed legislation intends to rectify. The Ombudsman's Report illustrated the inadequacy of existing mechanisms for identifying and redressing defective administration in the Commonwealth Government.

The specific circumstances raised in the Commonwealth Ombudsman's report are unusual, but could potentially arise in a range of circumstances. There is nothing to stop such difficulties arising again in the future if adequate mechanisms are not put in place to deal with defective administration. The CPSU supports the measure taken in this proposed legislation to remove the \$100,000 limit upon payments in special circumstances from the *Public Service Act*.

On that basis, the CPSU expresses its support for Senator Xenophon's proposed *Public Service Amendment (Payments in Special Circumstances) Bill 2011*.

Regards,

 Nadine Flood
CPSU National Secretary