

Senate Standing Committee on Education and Employment

**QUESTIONS ON NOTICE
Budget Estimates 2014-2015**

Agency - Comcare

Department of Employment Question No. EM0739_15

Senator Bilyk provided in writing.

Question

Comcare – Injured Commonwealth Worker

Relating to an injured Commonwealth worker, Ms Katherine Heather Excell: Ms Excell had no offers of employment with the Commonwealth or otherwise during or at the end of her work trial in 1992 or when Comcare determined that her entitlement to weekly payments of compensation were to be redeemed. Mr O'Connor's letter to me of 31 March 2014 included the following advice:

"While she was undertaking the [work] trial, she was an 'employee' of the Commonwealth, and any suitable employment had to be with the Commonwealth. On either side of the trial, she had ceased to be an employee and 'suitable employment' was not constrained to employment with the Commonwealth." However, a letter from my constituent's Claims Services Officer dated 14 February 2014 gives this advice: "...although you provided your written consent to be retired on invalidity grounds, we do not think it could be said that you terminated your employment. Your employer terminated your employment, albeit upon your consent. Accordingly... the relevant question was your capacity to engage in suitable employment with the Commonwealth." Please clarify which is the correct advice.

Answer

Ms Excell was retired from her employment with Centrelink (DSS) on invalidity grounds effective 21 April 1989. Ms Excell was then engaged by Centrelink, on what appears to be temporary basis, for a work trial in the period 5 August 1992 to 30 October 1992.

For clarity, 'suitable employment' as it relates to Ms Excell:

- (a) For incapacity suffered up to and including 12 April 2007 only refers to suitable employment with the Commonwealth; and
- (b) For incapacity from 13 April 2007 refers to any suitable employment.

The definition of suitable employment was amended by the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2007* (SRCOLA). SRCOLA received royal assent from 13 April 2007.