

**SENATE STANDING COMMITTEE ON
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**

**QUESTIONS ON NOTICE
BUDGET ESTIMATES 2009-10**

Outcome/Agency Comcare

Comcare Question No. EW0037_10

Senator Siewart asked on 2 June in writing

Question

Five per cent deduction for notional superannuation

In relation to the 5 per cent deduction for notional superannuation in section 21:

- What is the rationale behind this deduction or calculation?
- Where does the 5 per cent amount go – is it remitted to a superannuation fund for the benefit of the recipient?
- Do recipients in receipt of workers compensation under section 21 receive that money as superannuation at some point in the future? If so when and how?

Answer

Comcare has provided the following response:

Section 19 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) provides injured employees, who are incapacitated, with weekly benefits equivalent to 100 per cent of their normal weekly earnings (NWE), less actual earnings, for the first 45 weeks of incapacity.

Following 45 weeks, the SRC Act provides weekly benefits equivalent to 75 per cent of NWE, if necessary, to retirement age. As an incentive to return to any work, it also provides higher percentage amounts for partial return to work, eg if an employee can work more than 25 per cent of previous hours, benefits are paid at NWE times 85 per cent less actual earnings.

It is usual for superannuation funds, despite the level that the employee elects to contribute prior to injury, to require a 5 per cent employee contribution to the fund while the employee is on long term workers compensation benefits. This means that the employee's 'available' or take-home weekly benefit is 70 per cent gross of their NWE.

For incapacitated employees who are in receipt of a superannuation benefit (ie retired employees), whether that be a weekly superannuation pension, a lump sum or a combination of both, sections 20, 21 and 21A of the SRC Act provide for the same 70 per cent 'take-home weekly benefit' outcome. This outcome is a result of the *combination* of the superannuation weekly benefit, or deemed weekly benefit from the lump sum, *and* the compensation weekly benefit, minus 5 per cent of NWE, and less any actual earnings.

The 5 per cent adjustment for retired employees, who are superannuation recipients rather than superannuation contributors, provides parity with the 'take home' gross weekly benefit of an injured employee who is not retired and in receipt of superannuation. It achieves a 'take home' outcome for both of 70 per cent of normal weekly earnings.

The 5 per cent adjustment is simply an arithmetic subtraction contained in the sub-section 20(3), 21(3) and sub-section 21A(3) formulae. It is not a 'deduction' which can be applied elsewhere such as a superannuation fund for the benefit of the recipient as a retired employee is already the beneficiary of their former superannuation fund – either through a weekly pension, a lump sum or a combination of both.