

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

COMCARE

Question Number: W656-06

Senator Marshall asked in writing:

- (a) What was the process for developing the new Permanent Impairment Guide?
- (b) Who was consulted?
- (c) How long did the process take?
- (d) Why was the old guide replaced?
- (e) Why is the guide different for armed services personnel than for non-military personnel?
- (f) What will be the impact on existing claims?
- (g) What will be the impact on future claims?
- (h) Does Comcare anticipate cost savings as a result of this new Guide?

Answer:

- (a) Comcare contracted a project team from the Australian Government Solicitor and Sparke Helmore solicitors to review and update Comcare's *Guide to the assessment of the degree of permanent impairment*. Comcare also contracted medical specialists to examine and review relevant medical condition chapters.
- (b) Comcare undertook extensive consultation with a range of parties including unions and the Administrative Appeals Tribunal, as well as medical practitioners, professional groups, plaintiff lawyers and ex-service organisations. Consultation with the unions was managed through the ACTU nominated members of the Safety, Rehabilitation and Compensation Commission.
- (c) The process commenced in 1999 but was not concluded at that time. Consultation with stakeholders resumed in 2002 and the new Guide was approved in 2005.
- (d) The old Guide is outdated, having been approved by the Minister for Industrial Relations on 27 July 1989 and has been criticised by the Administrative Appeals Tribunal and the Federal Court. The main sources of reference for the old Comcare Guide were the 2nd edition of the American Medical Association's *Guides to the evaluation of the degree of permanent impairment*

(AMA Guide) and the Department of Veterans' Affairs' *Guide to the assessment of the rate of veterans' pensions* (GARP).

The AMA Guide and GARP have both been revised three times since 1989 and are both now in their 5th edition. Changes to the AMA Guide and GARP reflect the developments which have occurred in methods of measuring and assessing whole person impairment.

New Zealand and all Australian state transport accident and workers' compensation systems apart from South Australia and the Australian Capital Territory use tools which were developed more recently than Comcare's old Guide and incorporate either the 4th or 5th edition of the AMA Guide.

- (e) The Guide applies to the assessment of claims for permanent impairment from members and former members of the Australian Defence Force only in respect of injuries incurred in Defence service prior to the commencement of the Military Rehabilitation and Compensation Scheme on 1 July 2004 and does not change the existing arrangements which apply to these claims. Military personnel often sustain injuries and yet do not lodge a claim until well after the event. The separate provisions in the Guide for military personnel recognise the specific circumstances of Defence service and ensure they are not disadvantaged by the changes.
- (f) Claims for permanent impairment lodged with determining authorities (ie Comcare and licensed self insurers) before 1 March 2006 will be assessed against the old Guide. Those received after that date will be assessed against the provisions of the new Guide.
- (g) Claims for permanent impairment received after 1 March 2006 will be assessed against the provisions of the new Guide.
- (h) Comcare's intent is that the new Guide should provide a clear and objective system for measuring all impairments likely to result from work related conditions.

While some claimants may have reduced entitlements under the new Guide, others will receive more compensation than they would have done under the old Guide. Given the more comprehensive and up to date nature of the new Guide, its application should result in a more accurate assessment of all permanent impairment entitlements. The changes in the new Guide have not been pursued as a cost savings exercise.