

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2009-2010**

Outcome 5 - Workplace Relations

DEEWR Question No. EW1049_10

Senator Marshall asked on 10/02/2010, Hansard page 131.

Question

How many people have returned to work and sought to rehabilitate themselves, if possible, as a result of a penalty being applied to them of a further five per cent reduction, and how does that apply to people that are unable to be rehabilitated, who can never return to work because of their injury or illness or incapacity? How does simply penalising those people by a five per cent reduction in their compensation do anything in terms of policy outcome?

Surely there needs to be a distinction from those people who retire early through no choice of their own – for example, those that have an incapacity and cannot return to work and be rehabilitated – which would be the preference of most of those people?

Answer

The focus of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) is on rehabilitation and return to work.

The SRC Act provides for injured employees to receive weekly incapacity payments, to compensate for loss of earnings, to age 65, and compensation for medical, household and attendant care expenses for life.

For injured employees who are still employed, or no longer employed but not in receipt of an employer-financed superannuation pension or lump sum (ie. who have “preserved” their superannuation), the amount of weekly incapacity payments is calculated in accordance with the formula in section 19 of the SRC Act.

For injured employees who are in receipt of an employer-financed superannuation pension, lump sum or both (retirees), the amount of weekly incapacity payments is calculated in accordance with the relevant formulas in sections 20, 21 and 21A of the SRC Act.

Persons are able to access employer-financed superannuation benefits under the various Commonwealth superannuation schemes in situations where:

- they are eligible for an invalidity retirement benefit;
- they have ceased employment due to retrenchment or redundancy, whether voluntary or involuntary; or
- they have reached retirement age (55 or over).

Persons who simply resign from their employment are not able to access the employer-financed component of their superannuation benefit until they reach retirement age. Conversely, persons who cease employment due to retrenchment or redundancy are not obliged to access their employer-financed superannuation – they can elect to preserve this in their superannuation fund until they reach retirement age.

Invalidity retirement benefits under Commonwealth superannuation schemes are payable where the trustees of the superannuation scheme agree to the employee's retirement because of a permanent medical condition (irrespective of whether the medical condition relates to the compensable claim or not) which is likely to prevent the employee from working again.

With respect to how many employees have sought to rehabilitate themselves as a result of the differential between the formula in section 19 compared with the formulas in sections 20/21/21A, a proxy for this might be the number of employees who have ceased employment due to voluntary or involuntary retrenchment or redundancy and who have preserved their employer-financed superannuation and therefore continue to receive benefits under section 19.

Data provided by Comcare show that, as at 1 September 2009, there were 613 claimants in receipt of benefits under section 19 who were no longer in employment. However, in respect of 446 of these claimants, Comcare was not able to provide data on the reasons for which they ceased employment. For the 167 for whom reasons for ceasing employment were available, 19 of these had ceased employment due to voluntary (8) or involuntary (11) redundancy.

In respect of how many employees have retired early because of an incapacity that prevents them from working again, a proxy for this might be the number of employees who receive benefits under sections 20, 21 and 21A who are in receipt of an invalidity retirement benefit.

Data provided by Comcare show that, as at 1 September 2009, the number of claimants on section 20, 21 or 21A benefits who are invalidity retirees was 420.

The Comcare Review considered the current workers' compensation arrangements for retirees and recommended that the current provisions for retirees be retained.