

Entitlements to compensation after age 65

Today it is possible for Commonwealth and ACT Government employees to work beyond the age of 65. It is important, therefore, that they are aware of their entitlements under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

Under the SRC Act, reaching age 65 affects different employees in different ways, depending on when the compensable injury occurred. The three categories of employees are:-

1. those who have a claim accepted for an injury or disease where the date of 'injury' is on or after their 65th birthday;
2. those whose date of injury is on or after 1 December 1988, but before they reach age 65; and
3. those who reach 65 and who fall within the SRC Act's definition of a "former employee".

Category 1 – date of injury after 65th birthday

Incapacity Payments

Employees, and ex-employees, who have a claim accepted where the date of injury is on or after their 65th birthday, should be aware that under the SRC Act incapacity payments are not payable. Subsection 23(1) of the SRC Act states:

"Compensation is not payable under section 19, 20, 21, 21A or 22 to a person who has reached 65."
(Sections 19 to 22 deal with incapacity payments & redemption of incapacity payments).

It is important that this fact be pointed out to existing employees who want to work after they reach age 65, and to those employees who start work for an agency after they've reached age 65.

Other Benefit Payments

A person in this category may still claim for all other benefits available under the SRC Act. These include medical treatment, lump sum payments for permanent impairment and death, and rehabilitation.

For more details of the benefits available please refer to Comcare's booklet, *All about Workers' Compensation – a Guide for Employees*. (This booklet is reproduced on Comcare's website, <http://www.comcare.gov.au>).

Employees may be able to use sick leave without jeopardising other entitlements under the SRC Act.

Category 2 – date of injury on or after 1 December 1988 but before 65th birthday

Incapacity Payments

Subsection 23(1) also applies to all employees, and ex-employees, who are in this category. Incapacity payments are not payable after a person reaches age 65.

Other Benefit Payments

A person in this category may still claim for all other benefits available under the SRC Act.

Employees may be able to use sick leave without jeopardising other entitlements under the SRC Act.

Category 3 – those who reach 65 & who fall within definition of a 'former employee'

Incapacity

The benefits available under the SRC Act came into effect on 1 December 1988. The Act contained special transitional provisions for certain "former employees" who were in receipt of incapacity payments before that date. A "former employee" is defined as follows:

" "former employee" means a person who, immediately before the commencing day, was receiving weekly payments of compensation under the 1971 Act in respect of an injury resulting in an incapacity and had ceased to be an employee within the meaning of that Act before that day."

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For a person falling within this definition, the SRC Act provided for continuing incapacity payments after the age of 65:

- for a "former employee" who was over 65 on 1 December 1988, he/she continued to receive the same amount as under the previous, 1971 Act;
- for a "former employee" who reaches age 65 on or after 1 December 1988, then the incapacity payment is reduced using the formula in section 134 of the SRC Act.

Other Benefit Payments

All "former employees" whatever their age, may still claim for most of the other benefits available under the SRC Act.

More Information?

If you would like more information on issues raised in this Circular please contact:

- Comcare Help Line 1800 150 555; or
- email: claims.help@comcare.gov.au

Indexation of benefits from 1 July 1998

Comcare has received a number of enquiries from agencies and employees asking why the benefits under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) were not changed on 1 July 1998.

Section 13 of the SRC Act provides for indexation to be applied to relevant sections on 1 July every year. For this year, the relevant figure from the Australian Bureau of Statistics, showed a *decrease* of 0.2%.

As legal advice obtained by Comcare indicates that the SRC Act does not allow for statutory benefit rates to be decreased, the rates applicable from 1 July 1998, therefore, remain the same as those from 1 July 1997.

If you would like further information on this issue please call the Comcare National Claims Help Line on 1800 150 555.

If you would like more copies of this Circular, or copies of earlier Circulars, please contact:

Dave Byers,
Comcare, GPO Box 211, Canberra ACT 2601

Tel: (02) 6275 0090

Fax: (02) 6248 0322

Email: byers.dave@comcare.gov.au

Other useful addresses

Comcare's internet site:
<http://www.comcare.gov.au>

OHS Hotline:
1800 642 770

OHS email:
ohs@comcare.gov.au

Where to Find Us

Correspondence

All claims-related correspondence should be addressed to:

Comcare, GPO Box 9905, CANBERRA ACT 2601

Telephone Enquiries

Comcare has set up a General Enquiry Line to answer *all* straightforward queries on claims. The telephone number for the Comcare General Enquiry Line is:

1300 366 979

Claims Management Centres

All claims processing is undertaken in either Canberra or Melbourne.

Australian Capital Territory

The Canberra Claims Management Centre manages all claims with a date of injury **on or after 1 July 1996**. The Canberra Office also processes all benefit payments:

Level 5, CFM Centre, 12 Moore Street, Canberra ACT 2601
Fax: (02) 6247 0176

Victoria

The Melbourne Claims Management Centre manages all claims with a date of injury **prior to 1 July 1996**:

84 Flinders Lane, Melbourne VIC 3000
Fax: (03) 9652 3513

Comcare Service Centres

The Comcare Service Centres provide customer, client and service-provider liaison, network support, training delivery and dispute management (including AAT matters):

New South Wales

Level 2, 92 Parramatta Road, Camperdown NSW 2050

Queensland

Level 13, 60 Edward Street, Brisbane QLD 4000

South Australia

Level 18, 25 Grenfell Street, Adelaide SA 5000

Western Australia

Level 18, 2 The Esplanade, Perth WA 6000

Tasmania

Level 4, 22 Elizabeth Street, Hobart TAS 7000