



Customer Circular

instant access to the *latest* information

• Issue No. 21 • May 1998 •

Effect of salary packaging on normal weekly earnings calculation

1. Purpose

The purpose of this Circular is to provide an outline of Comcare's operational policy concerning the effect of salary packaging on normal weekly earnings (NWE) calculations.

2. Background

Section 8 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act), provides for the calculation of an employee's NWE based on an annual salary amount, expressed as a weekly amount using the formula:

$$(NH \times RP) + A$$

where:

NH is the average number of hours worked in each week by the employee in his or her employment during the relevant period;

RP is the employee's average hourly ordinary rate of pay during that period; and

A is the average amount of any allowance payable to the employee in each week in respect of his or her employment during the relevant period, other than an allowance payable in respect of special expenses incurred, or likely to be incurred, by the employee in respect of that employment.

For the purposes of this Circular, 'salary packaging' is defined as a method whereby individual employees are able to make alternative arrangements for the method of receipt of their salary, i.e. part as cash and the

remainder in non-cash components, such as direct payment of school fees, car leasing, child care. This can have taxation advantages for the employee.

Such an arrangement does not affect the quantum of the total annual salary.

Example:

Agency and staff enter into Certified Agreement which gives a 10% pay rise for all staff, therefore an employee on \$40,000 per annum receives an increase in pay to \$44,000 per annum.

The Certified Agreement provides also for employees to split their salary into cash and non-cash components.

For NWE purposes, the employee's salary is \$44,000 per annum.

Any ex-employees on long-term incapacity payments would be entitled also to have their NWE increased by 10% and thereby receive a proportionate increase in their weekly compensation payments.

Note:

It is important to note the distinction between 'salary packaging' and the situation where a group of employees, under an enterprise bargaining arrangement, agree to forego a salary increase (or part thereof) in return for non-salary benefits, such as free car parking, reimbursement of fitness expenses or one-off cash payments. This can also have taxation advantages.

The non-salary benefit never forms part of their total annual salary for the purposes of calculating compensation under the SRC Act.

Example:

Agency and staff enter into Certified Agreement which gives employees improved benefits and conditions (such as free car parking, reimbursement of fitness expenses, one-off cash payments, etc) but there is no increase to staff salaries.

In this case, there is no increase in salary arising out of the Certified Agreement and NWE would be based on an employee's actual salary (i.e. based on the pre-Certified Agreement rate).

For ex-employees this would mean that they would not be entitled to an increase in their NWE and accordingly would not receive any increase in their weekly compensation payments.

3. Issues

Salary packaging arrangements only deal with the method of payment of salary (as distinct from the quantum of the salary), and so there is no need to change the method of calculating the NWE on which the compensation calculation is based.

4. Procedures

Comcare will continue to obtain, from employers, NWE figures based on the actual total annual salary, irrespective of whether this continues to be paid wholly as cash on a fortnightly basis or is paid as a combination of cash and non-cash components through a salary packaging arrangement.

Comcare does not need to know any details of a salary packaging arrangement.

An employee's NWE, and consequently the calculation of their incapacity entitlements, are based on total gross annual salary. The tax advantages derived from a salary packaging arrangement do not affect these calculations. Therefore, Comcare will not compensate an employee for any loss of tax advantage if a salary packaging arrangement is ceased or suspended due to being absent on compensation leave.

Workplace (or certified) agreements in some agencies may include non-salary benefits (see **Note** in section 2). Comcare will not quantify these benefits for the purposes of calculating NWE, even if an employee contends that they are unable to utilise these non-salary benefits due to their compensable condition or absence from the workplace on compensation leave.

5. Further Information

For further information on this topic, please contact your local Comcare Office or call the National Claims Help Line. Contact details are listed below:

NSW	(02) 9550 8777
VIC	(03) 9652 3555
QLD	(07) 3233 1311
WA	(08) 9480 1444
SA/NT	(08) 8224 1600
TAS	(03) 6223 1366
ACT	(02) 6276 0333

National Claims Help Line

1800 150 555

Stress Claims Management Centre

1800 683 402

OHS Hotline

1800 642 770

Internet Site

<http://www.comcare.gov.au>

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

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

Tel: (02) 6275 0090
Fax: (02) 6248 0322
Email: byers.dave@comcare.gov.au