SUPERANNUATION AND COMCARE BENEFITS

Injured employees retired from Commonwealth or ACT Government employment who receive a pension and/or lump sum under a superannuation scheme as a result of their retirement, must have their incapacity payments determined in accordance with section 20, 21 or 21A of the Safety, Rehabilitation and Compensation Act 1988 (SRC Act).

In line with the SRC Act, retirement can include any separation from Commonwealth or ACT Government employment if the separation results in the employee receiving a superannuation benefit.

Retirement can include, but is not limited to:

- age retirement
- redundancy
- resignation
- dismissal
- retirement due to ill health etc.

An employee is considered to have received their superannuation benefit if they have retired from employment and have:

- accessed their superannuation
- reached their minimum preservation age and rolled their superannuation benefit over to another fund (whether by election or not).

SUPERANNUATION CONTRIBUTIONS ACKNOWLEDGED

Comcare only acknowledges the employer contribution portion of the superannuation benefit. That is, the component of pension or lump sum attributable to contributions made to a superannuation scheme by an employee’s Commonwealth or ACT Government employer.

Contributions made by an employee to their superannuation benefit (employee contribution portion) are not taken into account when calculating an employee’s incapacity payments.

OBTAINING SUPERANNUATION INFORMATION

When an employee separates from Commonwealth or ACT Government employment, Comcare obtains information from the employee’s superannuation fund under section 114B of the SRC Act. This is known as a Section 114B(2) Notice.

Section 114B(2) Notice, requires the administrator of the superannuation scheme to advise Comcare whether the employee has accessed any or all of their superannuation benefit, or whether the benefit has been preserved or deferred.
CALCULATION OF INCAPACITY PAYMENTS

An employee can claim incapacity payments if their compensable condition causes some level of medically certified incapacity for employment, regardless of whether an employee is still employed or separated from employment.

Employees who are still employed and who receive incapacity payments have their benefits determined under section 19 of the SRC Act.

When an employee retires from Commonwealth or ACT Government employment and receives a superannuation benefit, Comcare is required to determine incapacity payments under section 20, 21 or 21A of the SRC Act. These sections relate to compensation for injuries resulting in incapacity where the employee is in receipt of a superannuation pension, lump sum or combination of both.

If Comcare continues to pay incapacity payments under section 19 of the SRC Act, to a retired employee who is also in receipt of their superannuation benefit, it is likely the employee will be overpaid. If an overpayment occurs, Comcare can take action to recover the overpaid amount from the employee’s superannuation benefit.

If Comcare is unable to recover overpaid incapacity payments from the employee’s superannuation benefit (i.e. the employee has already accessed their whole superannuation benefit), Comcare will take alternate action to recover the overpaid amount from the employee.

SUPERANNUATION FORMULAS

If an employee is retired and in receipt of their superannuation, the formula used to calculate their weekly compensation payments will depend on the manner in which the employee accessed their superannuation.

<table>
<thead>
<tr>
<th>Accessed superannuation</th>
<th>Compensation calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension (s20)</td>
<td>AC – (SA + 5% NWE)</td>
</tr>
<tr>
<td>Lump sum (s21)</td>
<td>AC – (WI + 5% NWE)</td>
</tr>
<tr>
<td>Pension and lump sum (s21A)</td>
<td>AC – (SA + WI + 5% NWE)</td>
</tr>
</tbody>
</table>

Amount of Compensation (AC)—the amount an employee would be entitled to receive at retirement under section 19 of the SRC Act.

Superannuation Amount (SA)—the employer contribution portion of an employee’s superannuation benefit.

Weekly Interest on the lump sum (WI)—once the employer contribution portion of the superannuation lump sum is established, an interest rate as specified by the Minister is applied in order to convert the lump sum into a weekly amount. The interest rate specified by the Minister commences on 1 July each year.

5% of Normal Weekly Earnings (5% NWE)—common to all the formulas is the reduction of the employee’s compensation amount by 5% of the employee’s normal weekly earnings (NWE). The combined workers’ compensation and superannuation weekly amount cannot exceed 70% of the retired employee’s NWE.

Please note that employees who retired before 27 April 2007 may have their weekly compensation calculated using different formulas. Employees should contact their Claims Manager to discuss their weekly compensation payments.

MEDICAL AND OTHER BENEFITS

An employee is entitled to claim medical expenses (including pharmaceuticals) in relation to their compensable condition following retirement, as long as the criteria is met including supporting medical evidence.

An employee may also claim for other benefits, such as household help, attendant care and claims for aids and appliances. Each claim will be assessed on a case-by-case basis.
REHABILITATION

Despite an employee retiring from employment, their previous Commonwealth or ACT Government employing agency remains the ’rehabilitation authority’ for the purposes of the SRC Act and continues to have the authority, powers and obligations for the rehabilitation.

Should a retired employee be receiving incapacity payments and is certified fit to work, the rehabilitation authority may take all reasonable steps to assist the employee to find suitable employment. ‘Suitable employment’ for an employee separated from Commonwealth or ACT Government employment is any employment to which they are suited, having regard to the definition of suitable employment in section 4 of the SRC Act.

If an employee is able to undertake any work (including volunteer work), they need to provide Comcare with information regarding their employment - such as the name of the organisation, number of hours worked or volunteered, payslips etc. Ongoing incapacity payments are likely to need adjustment in such cases.

To ensure incapacity payments are calculated correctly and to avoid any overpayments an employee should contact Comcare if they have undertaken, or plan to undertake, any work (including volunteer work).

CLAIM REVIEWS

Incapacity payments will continue to be monitored and reviewed by Comcare. Incapacity payments should not be relied upon in determining any long term financial plans.

In some cases, where the medical evidence supports that a return to employment is not possible, incapacity payments can potentially be payable to pension age (as set out in the Social Security Act 1991) subject to tests of eligibility.

If an employee is injured on or after two years before they reach pension age, incapacity payments may be payable after pension age for up to a maximum of 104 weeks.