

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment

*Safety, Rehabilitation and Compensation Act 1988*

Subsection 26(3)

### **Safety, Rehabilitation and Compensation (Rate of Interest Payable – s26(3)) Notice 2016**

The *Safety, Rehabilitation and Compensation Act 1988* ('the Act') establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

#### Rate of interest payable under subsection 26(3)

The Act provides for lump sum payments to claimants for injuries which result in permanent impairment. The amount of compensation for permanent impairment is assessed under section 24 while the assessments of an interim payment of compensation for permanent impairment are made under section 25 of the Act. Provision exists under section 26 for payment of interest to a claimant in limited circumstances. If payment is not made pursuant to sections 24 or 25 to the claimant within 30 days after the date of assessment of the amount, interest is payable for the period from the 31<sup>st</sup> day to the day on which the amount is paid.

This instrument specifies the rate of interest payable to be the weighted average yield of 90 day bank accepted-bills settled immediately prior to the last day of the 30 day settlement period. The Reserve Bank of Australia publishes the rate of 90 day bank-accepted bills, and also outlines the 30 day settlement period for the rate.

This instrument remakes, in the same terms, the *Safety, Rehabilitation and Compensation (Rate of Interest Payable) Notice 2005 (1)* ('2005 notice').

#### Repeal of the *Safety, Rehabilitation and Compensation (Rate of Interest Payable) Notice 2005 (1)*

To provide certainty that there will be no concurrent operation of this instrument and the 2005 notice, this instrument repeals the 2005 notice. The 2005 notice was due to sunset on 1 April 2016 as a result of the operation of section 50 of the *Legislation Act 2003*.

#### Legislative instrument

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation was undertaken with Comcare and private sector self-insurers by way of correspondence outlining the proposal to make this instrument in the same terms as the 2005 notice. Comcare and private sector self-insurers agreed to the proposal.

The Office of Best Practice Regulation has confirmed that a regulation impact statement is not required. (OBPR ID No. 20680)

This instrument will commence on 1 April 2016.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Safety, Rehabilitation and Compensation (Rate of Interest Payable – s26(3)) Notice 2016**

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the legislative instrument**

The *Safety, Rehabilitation and Compensation Act 1988* ('the Act') establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations.

This instrument sets the rate of interest payable in respect of permanent impairment payments (including interim payments of compensation for permanent impairment) to a claimant under section 24 or 25 of the Act which are not made within 30 days after the date of assessment of the amount of permanent impairment.

#### **Human rights implications**

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* provides for the right of everyone to social security, including social insurance. General Comment 19 by the Committee on Economic, Social and Cultural Rights elaborates on Article 9, stating that 'States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work'.<sup>1</sup>

The Act provides support for employees who have been injured at work by way of rehabilitation, weekly compensation payments, payment of medical expenses, permanent impairment benefits as well as other benefits.

The interest rate in respect of a lump sum for permanent impairment engages the right to social security by ensuring that, if a lump sum amount for permanent impairment is due to a claimant under section 24 or 25 of the Act, that it be paid promptly or the claimant will be entitled to interest, as specified in this notice, on that lump sum.

#### **Conclusion**

This legislative instrument is compatible with human rights because, where it engages the right to social security, it encourages the prompt payment of an amount of compensation to a claimant or compensates for the late payment of that amount by awarding interest to the claimant in respect of the overdue amount.

**Senator the Hon Michaelia Cash**

Minister for Employment

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, *General Comment 19: The Right to Social Security (art. 9)*, U.N. Doc E/C.12/GC/19 (2008), [17].