

EXPLANATORY STATEMENT

Safety, Rehabilitation and Compensation Act 1988

Issued by the Minister for Employment

Safety, Rehabilitation and Compensation (Weekly Interest on the Lump Sum) Notice 2017

This instrument specifies the rate which is used for the purposes of the definition of ‘weekly interest on the lump sum’ in the *Safety, Rehabilitation and Compensation Act 1988* (‘SRC Act’). The instrument is made under subsection 21(5) of the SRC Act.

The SRC Act allows the Minister to specify the rate that applies for a period of 12 months commencing on 1 July in any year. Accordingly, this instrument commences on 1 July 2017 and will be repealed at the start of 1 July 2018.

Section 21 of the SRC Act applies when the injured employee has received a lump sum benefit. Section 21A of the SRC Act applies when the injured employee has received both a lump sum benefit and superannuation pension. In both cases, the weekly amount of the incapacity benefit is reduced by the weekly interest on the lump sum.

The weekly interest amount is calculated by multiplying the value of the lump sum benefit by the interest rate specified by the Minister, under subsection 21(5) of the SRC Act, and dividing the result by 52.

This rate has been derived by obtaining the daily 10 year Government Bond rates from the Reserve Bank of Australia, averaging them for the period 1 April 2016 to 31 March 2017 and rounding to two decimal places. Over this period, the average 10 year Government Bond rate has been calculated to be 2.37 per cent.

Therefore the instrument specifies a rate of 2.37 per cent for the period 1 July 2017 to 30 June 2018.

The rate specified for the period 1 July 2016 to 30 June 2017 was 2.72 per cent.

The Office of Best Practice Regulation has advised that no Regulatory Impact Statement is required (OBPR ID 20920).

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

Consultation

Consultation was not undertaken in relation to this instrument as required under section 17 of the *Legislation Act 2003*. Where consultation has not been undertaken, section 15 of the *Legislation Act 2003* requires an explanation of why the consultation was not undertaken. The proposal is minor in nature and does not have regulatory impacts on businesses, community organisations or individuals.

Routine specification of the interest rate to be applied on the (superannuation) lump sum of retired employees has been determined in accordance with a well-established method, the Government Bond rates, for a number of years. This method of calculating the weekly interest rate has not changed and is well known. Given that this instrument is of a minor nature and does not alter existing arrangements, consultation under section 17 of the *Legislation Act 2003* was considered “not appropriate or reasonably practicable”.

Statement of Compatibility with Human Rights

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

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

Overview of the Legislative Instrument

The purpose of this Legislative Instrument is to specify the annual rate of weekly interest deemed to accrue on the (superannuation) lump sum of retired employees that are in receipt of compensation under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

Where a retired injured employee has received a lump sum benefit under a superannuation scheme, the weekly amount of the incapacity benefit payable under section 21 or 21A is reduced by the weekly interest on the lump sum.

This rate has been derived by obtaining the daily 10 year Government Bond rates from the Reserve Bank of Australia, averaging them for the period 1 April 2016 to 31 March 2017 and rounding to two decimal places. Over this period the average 10 year Government Bond rate has been calculated to be 2.37 per cent. Therefore the instrument specifies a rate of 2.37 per cent for the period 1 July 2017 to 30 June 2018. The rate specified for the period 1 July 2016 to 30 June 2017 was 2.72 per cent.

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 the ‘States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work’.¹ Workers’ compensation is analogous to social insurance in that it provides payment of wages and medical costs to employees for injuries occurring as a result of their employment.

The calculation of the rate of the weekly interest on the lump sum has been determined in accordance with a well-established method, the Government Bond rates. This method has been used to determine the rate of the weekly interest on the lump sum for the purposes of subsection 21(5) of the SRC Act for the past eight years and is considered to conservatively reflect interest rates able to be earned on long term investments.

Conclusion

The Legislative Instrument is compatible with human rights because it does not negatively impact on human rights.

Senator the Hon Michaelia Cash

Minister for Employment

¹ 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].