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JURISDICTIONAL POLICY ADVICE NO. 2010/07 *Safety, Rehabilitation and Compensation Act 1988*

Notice of the rate applicable to 'weekly interest on the lump sum'— subsection 21(5) effective from 1 July 2010

PURPOSE

1. The purpose of this jurisdictional policy advice is to inform determining authorities of a change to the rate of the 'weekly interest on the lump sum' from 1 July 2010. This rate is a component of the formulae in subsections 21(3) and 21A(3) of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) used to calculate weekly incapacity benefits for employees who have received a superannuation lump sum benefit.

BACKGROUND

2. Employees who retire from employment—whether voluntarily or otherwise—may receive or be entitled to receive a superannuation lump sum benefit. The SRC Act considers that the employee benefits from this lump sum. The SRC Act therefore states that determining authorities need to allocate a weekly amount and take this into account when calculating the employee's weekly incapacity entitlements under subsections 21(3) and 21A(3).
3. Subsection 21(5) of the SRC Act states that the Minister may specify a rate of weekly interest by a legislative instrument. The Minister has specified that the '10-year Government bond rate' obtained from the Reserve Bank of Australia is the rate that reflects current interest rates on long term investments.
4. The current legislative instrument expires on 30 June 2010 and an instrument specifying the new rate has been issued. The new instrument and rate are applicable from 1 July 2010.

POLICY ADVICE

5. Determining authorities must have appropriate processes and procedures in place to ensure calculations under subsections 21(3) and 21A(3) use the rate specified by the Minister under subsection 21(5) from 1 July 2010.
6. These entitlements apply to all employees receiving benefits under subsections 21(3) and 21A(3), regardless of when the employee retired.
7. Determining authorities should apply the rate 5.38% from 1 July 2010. This rate will expire on 30 June 2011.

LEGISLATION

8. Sections 21 and 21A of the SRC Act provide compensation for injuries resulting in incapacity where an employee has retired and is receiving, or has had access to, a lump sum superannuation benefit.
9. The *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2007* introduced the requirement for a specified annual rate of interest on superannuation lump sums to be applied to the calculation of weekly incapacity entitlements under sections 21 and 21A of the SRC Act.
10. The amount of weekly compensation payable and the formula for calculating the 'weekly interest on the lump sum' is specified in subsections 21(3) and 21A(3).
11. According to subsection 21(5) of the SRC Act, using a legislative instrument the Minister can specify the rate that applies to the 'weekly interest on the lump sum' for a period of 12 months commencing 1 July in any year. The specified rate applies to the formula used to calculate payments made under subsections 21(3) and 21A(3) of the SRC Act.

MORE INFORMATION

12. For enquiries concerning this policy advice, please contact the Strategic Policy Team by telephone on 1300 366 979, or by email at SRC.Policy@comcare.gov.au.

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