



Australian Government

Comcare

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Jurisdictional Policy Advice No. 2009/9
Safety, Rehabilitation and Compensation Act 1988 (SRC Act)
Notice of the rate applicable to “*weekly interest on the lump sum*”–subsection 21(5)
Effective from 1 July 2009

Purpose

1. To advise of the change, from 1 July 2009, in the rate of ***weekly interest on the lump sum***, a component of the subsection 21(3) and 21A(3) formulae for calculating 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 the employee has the capacity to benefit from this lump sum such that it allocates a weekly amount, whether actual or notional, to be taken into account when calculating the employee’s weekly incapacity entitlements under subsections 21(3) and 21A(3).
3. The SRC Act, under subsection 21(5), provides that the Minister may specify a rate of weekly interest by a legislative instrument. In so doing, the Minister has applied the ‘10-year Government bond rate’ obtained from the Reserve Bank of Australia as a rate that reflects current interest rates on long term investments.
4. The current legislative instrument expires on 30 June 2009 and an instrument specifying the new rate applicable from 1 July 2009 has now been issued.

Policy Advice

5. Determining authorities should have suitable processes and procedures in place to ensure that all calculations of entitlements under subsections 21(3) and 21A(3) use the rate specified by the Minister under subsection 21(5) from 1 July 2009.
6. These entitlements apply to all employees on subsection 21(3) and 21A(3) benefits, regardless of when the employee retired.
7. The rate to apply from 1 July 2009 is **5.35%**. This rate will expire on 30 June 2010.

Legislation

8. Sections 21 and 21A of the SRC Act provide for compensation for injuries resulting in incapacity where an employee is in receipt of or has had access to a lump sum superannuation benefit as a result of retirement.
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

10. sums to be applied to the calculation of weekly incapacity entitlements under sections 21 and 21A of the SRC Act.
11. The amount of weekly compensation payable and the manner in which the “weekly interest on the lump sum” is taken into account is specified in formulae within subsections 21(3) and 21A(3).
12. Under the provisions of subsection 21(5) of the SRC Act, the Minister may by legislative instrument specify a rate that applies to the “weekly interest on the lump sum” as provided for in the formula used to calculate post retirement payments under subsections 21(3) and 21A(3), for a 12 month period commencing from 1 July in any year.
13. For enquiries concerning this policy advice, please contact the SRC Policy Section by telephone on 1300 366 979, or by email at SRC.Policy@comcare.gov.au.

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