



INTEREST RATE FOR LATE COMPENSATION PAYMENTS FOR PERMANENT IMPAIRMENT

PURPOSE

To provide decision makers with scheme guidance on the interest rate to be applied to permanent impairment entitlements which are not paid within the specified period under section 26 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

BACKGROUND

Sections 24 and 25 of the SRC Act provide for lump sum payments to employees for injuries which result in permanent impairment. Provision exists under section 26 of the SRC Act for payment of interest to an employee if a permanent impairment lump sum payment is not made to the employee within 30 days after the date of assessment letter.

Up until 24 June 2003, the rate of interest was:

the weighted average yield derived from the Treasury note tender for 90 day notes settled immediately prior to the last day of the thirty day settlement period.¹

However, the Reserve Bank of Australia (RBA) ceased to provide regular 90 day Treasury note tenders and, on the 25 June 2003, the rate was revised in a Ministerial Notice of Declaration to:

the weighted average yield of 90 day bank-accepted bills, as published by the Reserve Bank of Australia, settled immediately prior to the last day of the thirty day settlement period.²

This specified rate has been retained in the two revised legislative instruments that have subsequently been issued.³

GUIDANCE

With effect from 25 June 2003, calculation of interest payable under subsection 26(3) should be made using the weighted average yield derived from 90 day bank-accepted bills settled immediately prior to the last day of the thirty day settlement period for payment of permanent impairment amounts.

The reference to 'settled immediately prior to the last day of the thirty-day settlement period' refers to the weighted average yield settled on the 29th day after the date of assessment, which is published by the RBA on the following day. Where an interest rate has not been settled by the RBA on the 29th day, the applicable interest rate is the last previous interest rate settled before the 29th day.

Interest is payable for the period from the 31st day to the day on which the amount is paid.

The rate is available from the RBA's website: www.rba.gov.au. On the RBA home page select Market Operations, then select the Statistics tab and click on Interest Rates. Select Interest Rates and Yields – Money Market – Daily.

1 Clause 5, Commonwealth Gazette S 365, 30 November 1988.

2 *Safety, Rehabilitation and Compensation Act 1988*, Notice under section 26(3), Notice No 4 of 2003, *Commonwealth of Australia Gazette No. GN 25*, 25 June 2003.

3 The *Safety, Rehabilitation and Compensation (Rate of Interest Payable) Notice 2005* (Notice 1 of 2005, F2005L04063) and the *Safety, Rehabilitation and Compensation (Rate of Interest Payable – s 26(3)) Notice 2016* (F2016L00464).

Exceptions

There are limited circumstances where the interest payable to an employee under section 26(2) of the SRC Act does not apply. These include:

- > where there has been a request for reconsideration on the determination (section 26(4)(a))
- > where there is a proceeding in respect of the determination before the AAT (section 26(4)(b))
- > where the payment has been delayed due to compliance with the *Health and Other Services (Compensation) Act 1995* (HOSC Act).⁴

A decision not to pay interest under section 26 is not a determination under the Act and is not subject to the reconsideration process.

Calculations

The following calculations should be used by claims managers when assessing the amount of interest payable:

Applicable RBA interest rate ÷ 100 = interest rate percentage

Interest rate percentage x section 24 award amount = yearly amount

Yearly amount ÷ 365 = daily amount

Daily amount x number of days late = amount payable.

Example:

An employee has an accepted claim for an injury resulting in permanent impairment. The section 24 permanent impairment amount was assessed as \$12,706 on 11 December 2018, however was not paid until 27 June 2019, 168 days after the 30 day timeframe expired. The applicable interest rate 29 days after the date of assessment is 2.05%, that being the rate set by the RBA for the 9 January 2019, but not published by the RBA until 10 January 2019.

In this scenario, the interest payable under section 26 of the SRC Act would be calculated as follows:

$2.05 \div 100 = 0.0205$ (interest rate percentage)

$0.0205 \times \$12,706 = \260.473 (yearly amount)

$\$260.473 \div 365 = 0.713624657$ (daily amount)

$\$0.713624657 \times 168 = \119.89 (amount payable)

FURTHER INFORMATION

Scheme e-guidance on the permanent impairment provisions can be found on the [Comcare website](#).

For further information, please contact Comcare's Scheme Policy and Design team on 1300 366 979 or email [Scheme Policy and Design](#).

⁴ See Scheme Guidance *Application of the Health and Other Services (Compensation) Act 1995* to claims made under the *Safety, Rehabilitation and Compensation Act 1988*.