



February 2017

Discount Rate in Ireland and the UK

Irish Discount Rate at 1%

The Supreme Court in [Russell v The Health Service Executive](#) (Unreported, Supreme Court Determination, 1 February 2017) [2017] IESCDET 10 has refused to hear an appeal on the discount rate being lowered to 1% from 3% stating that the issue is not one that in the interests of justice needs to be further reviewed by the Supreme Court and there is no issue of substantive law which would constitutionally merit a review by the court.

Russell was a catastrophic injury case where the HSE sought to challenge the [Court of Appeal's decision](#) in relation to the estimated interest rate used in calculating the appropriate multiplier so as to arrive at the lump sum figure for the plaintiff's future pecuniary needs: this interest return is known as the Real Rate of Return ("the RRR", or "the Discount Rate").

Given the Supreme Court's refusal to hear this appeal the discount rate now stands at 1%.

UK Ministry of Justice Reduction of Discount Rate to -0.75%

On 27 February 2017 the UK the Ministry [issued reasons](#) for setting the discount rate at minus 0.75%. Pursuant to section 1 of the UK [Damages Act 1996](#) the Secretary of State for Justice and Lord Chancellor can set the discount rate applied to personal injury awards covering future pecuniary losses. She references the object of the award of damages set out by the House of Lords in *Wells v Wells* [1999] 1 AC 34, per Lord Hope of Craighead (page 390A-B):

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“...the object of the award of damages for future expenditure is to place the injured party as nearly as possible in the same financial position he or she would have been in but for the accident. The aim is to award such a sum of money as will amount to no more, and at the same time no less, than the net loss...”

The Association of British Insurers has responded to this decision via [press release](#) commenting that “[c]utting the discount rate to -0.75% from 2.5% is a crazy decision by Liz Truss. Claims costs will soar, making it inevitable that there will be an increase in motor and liability premiums for millions of drivers and businesses across the UK.”

The change will come into effect on 20 March 2017. The government has said that it would launch a consultation on whether there was a better way to calculate the payments.

Comment

With the Irish discount rate at 1% an increase in claims costs looks inevitable. While the position for the UK from a financial perspective is considerably worse than Ireland it seems that issues facing insurers in both jurisdictions are the same - increasing claims costs leading to higher premiums.

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