

Wages definition manual

Information for employers

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1.0 Introduction

This document has been produced to provide guidelines to determine assessable wages for WorkCover's customer advisors and employers completing *Declaration of Wages* forms.

This document should not be construed as limiting the generality of the expression "wages" or to modify any legal obligations under the *Workers' Compensation and Rehabilitation Act 2003*.

1.1 Reviews and queries

Parts of the manual may be varied or expanded by the application of Common Law or Statute Law, and it is the intention of WorkCover to issue appropriate amendments to the Dictionary as and when required.

1.2 Definitions dictionary

The following references should be used when identifying assessable wages and have been included in the Appendix of this document.

Wages are only assessable if paid to 'workers' by their 'employers', as defined by the Act. The legislative references below include where to reference these definitions.

Legislative references:

Workers' Compensation and Rehabilitation Act 2003:

Section 11—Who is a 'worker'

Section 30—Who is an 'employer'

Section 66—Employer's liability for excess period

Schedule 2, Part 1—Persons who are workers

Schedule 2, Part 2—Persons who are not workers

Schedule 3, Part 1—Persons who are employers

Schedule 6—Definitions—definition of 'wages'

Workers' Compensation and Rehabilitation Regulation 2003:

Regulation 10—Value of board and lodging

1.3 Estimated wages

When calculating premium, WorkCover requires details of the actual wages paid during the last financial year and the estimated wages you expect to pay in the next financial year. Estimated wages can be determined using the same guidelines set out in this document.

2.0 What amounts should be declared to WorkCover as wages?

The following information provides detail about whether amounts paid to workers should be declared to WorkCover or not.

2.1 Allowances

There are a number of allowances that are specifically excluded from the wages that have to be declared to WorkCover Queensland. These are travelling, car, removal, education, living in the country or away from home, entertainment, clothing, tools and vehicle expenses.

These allowances are only excluded when they represent an amount paid by an employer to reimburse the worker for work related expenses. The allowance does not have to match exactly with the expense incurred for it to be non assessable. For example an employer may pay a \$20 a week travel allowance to their workers who travel to various work sites each week. In this case it is reasonable to assume that the workers would incur an expense similar to this value in travelling between the various work sites without requesting supporting documentation.

The following lists of assessable and non-assessable allowances are not exhaustive and there may be other allowances, not listed, which may be assessable or non assessable.

Assessable	If the allowance represents a reimbursement of a work related expense—not assessable. Otherwise assessable.
First aid allowance	Living in the country or away from home allowance
Higher duties allowance	Locality allowance
Instructors allowance	Isolation allowance
Overtime allowance	Entertainment allowance
Penalty rates	Education allowance
Qualification allowance	Relocation allowance
Representation allowance	Travelling allowance
Site or height allowance	Clothing allowance
Skill allowance	Footwear allowance
Stand by or on call allowance	Motor vehicle allowance
Travelling time payment	Laundry allowance
Construction allowance	Meal allowance
Dirt money	Tool allowance
Strike breaking allowance	Dry cleaning
Shift allowance	

Allowances paid as part of an award or enterprise bargaining agreement are assessable unless the employee, for which the allowance was paid, incurs an expense.

2.2 Airline tickets (discounted)

See incidental benefits.

2.3 Annual leave and leave loading

All annual leave payments and leave loading is assessable as wages.

Unused annual leave and leave loading that is paid out as a lump sum upon an employee's termination of employment is not considered assessable as wages.

2.4 Building Employees Redundancy Trust payments (BERT) and Building Employees Welfare Trust (BEWT)

Payments made to BERT and BEWT on behalf of employees, are benefits for employees when they are no longer employee's of the organisation. As such these payments are considered not to be assessable as wages.

2.5 Board and lodging

Assessable.

Where an employer provides board and lodging to a worker when they are lodging, as opposed to travelling, a value, as prescribed by Section 10 of the Regulations, must be included in any amount declared as wages. Lodging can be defined as staying in premises provided by the employer such as, for example, single men's quarters or barracks. It is irrelevant whether the board & lodging is provided on a temporary or permanent basis.

See section 10 of the Regulation—Value of board and lodging (copy provided in section 4 of this document).

2.6 Bonuses and gifts

The value of any bonus or gift provided to a worker or the worker's family by an employer in return for work performed or as an incentive to work is assessable.

2.7 Camping

See living away from home allowance.

2.8 Carer's leave

Assessable as wages.

2.9 Car allowances and expenses

Under schedule 6 "wages" (a) of the *Workers' Compensation and Rehabilitation Act 2003* an allowance payable in respect to any car and vehicle expenses is excluded from the definition of wages.

(a) Reimbursements

Where the employer reimburses the worker for car related work costs incurred by the worker as part of his or her employment—not assessable.

(b) Salary sacrifice arrangements

Where a vehicle is provided in return for a salary sacrifice by the worker, the value of the salary sacrifice or package component (which includes fringe benefits tax component) is assessable.

(c) Leases

Where a vehicle is purchased or leased in the name of the worker but paid for by the employer, the cost of providing the vehicle is assessable.

(d) Fringe benefits

Where the vehicle is provided as part of a total remuneration package and a portion of the monetary value of the package is applied towards the cost of providing and/or maintaining the vehicle, the monetary value of the portion of the package (which includes fringe benefits tax component) applied towards provision of the vehicle is assessable.

(e) Private use

Where there is no specific salary sacrifice arrangement or remuneration package in place, but motor vehicles are provided for any private use by workers, such as home garaging, during the week, weekends and/or holidays, then the assessable value would be calculated on the same basis as the 'taxable value of fringe benefits'. That is the actual value of the benefit provided pre-FBT as determined by the *Fringe Benefits Tax Assessment Act 1996*.

2.10 Child care expense

If an employer pays this benefit on behalf of an employee, and this benefit is subject to declaration as a fringe benefit, then the taxable value of the benefit is assessable as wages.

2.11 CIPQ (Construction Income Protection Queensland)

Payments to CIPQ are a benefit to employees that has a monetary value. Therefore, payments made to CIPQ on behalf of workers are assessable as wages and need to be declared.

2.12 Clothing allowance

This allowance is only excluded where the employee actually incurs an expense and the allowance paid by the employer, is in essence a reimbursement of this expense.

A clothing allowance paid as a result of an enterprise bargaining arrangement, or award provision, whereby the employee receives this allowance, but is supplied with work clothing, would be considered assessable as wages.

2.13 Commission

Assessable—see wages and see schedule 2, section 11 in the appendix.

2.14 Company house

Current market rental value, less any rental paid by the worker, is assessable.

Current market value equals the rent paid if the property is rented by the company from a third party (e.g. real estate agent).

Otherwise, the value should be calculated on the same basis as the 'taxable value of fringe benefits'.

Note: This is the actual value of the benefit provided (as determined by the *Fringe Benefits Tax Assessment Act 1996*, i.e. the pre gross-up amount).

If the house is provided as temporary accommodation associated with re-location, it is not assessable.

2.15 Compensation payments

Payments made by an employer directly to an injured worker, and later reimbursed by WorkCover Queensland are assessable as wages.

Under Section 109 of the Act, WorkCover Queensland must pay the benefits to the injured worker.

When WorkCover Queensland pays the compensation benefits, the employer will not have paid the injured worker other than the excess, and would have no wages to declare for the period whilst the injured worker was receiving compensation.

If the employer pays the injured worker any monies above and beyond their entitlement paid by WorkCover Queensland, then this amount will be assessable as wages.

Pre 1 July 2005

A period of up to four days, commencing on the day that the worker becomes entitled to weekly payments of compensation. This amount is known as excess and is not declarable as wages (also see excess).

Post 1 July 2005

Excess is the first \$500 of weekly compensation where the worker earns more than \$500 per week or if the worker earns less than \$500 per week the excess is the worker's weekly earnings less \$1. This amount is not declarable as wages.

Post 1 July 2008

The excess is calculated at 65% of Queensland full-time adult's ordinary time earnings (QOTE) rounded up to the nearest \$10.

Post 1 July 2010

From 1 July 2010, the excess amount is calculated as the lesser of:

- 100% of QOTE or
- the injured worker's weekly compensation rate.

2.16 Concessional lending

See incidental benefits.

2.17 Contractor payments

'Wages' means the total amount paid, or provided by an employer to, or on account of, a worker as wages, salary or other earnings, by way of money or entitlements having monetary value.

Where the payment to the contractor (and the contractor is deemed to be a 'worker') is a total payment, inclusive of materials, plant and equipment, vehicle or other incidentals, the total amount is assessable as wages. Where the contract/invoice clearly identifies items as being reimbursement of specific costs, and itemises these separately, these costs would not be assessable.

2.18 Director's fees

Because directors are excluded as workers under the Act, payments made to a director of the insured Company are not assessable, whether as a fee for performing his or her duties as a director, or an amount paid as remuneration for performing employee services.

Schedule 2 Part 2—Persons who are not workers

1. A person is not a worker if the person performs work under a contract of service with—
 - (a) a corporation of which the person is a director.

2.19 Dry cleaning

See laundry.

2.20 Education allowances

Assessable—unless in reimbursement of identifiable expense.

2.21 Employee share schemes

These are benefits having a monetary value and are assessable as wages.

2.22 Excess period payments

Payments made to injured workers as part of the claims excess period are not assessable.

'Wages' does not include:

- (d) an amount paid under section 66 Employers liability for excess period.

Refer to compensation payments for further information.

2.23 Ex-gratia payments

Some ex-gratia payments may be assessable as wages. If the payment is made during employment and represents a payment similar to a bonus, then this payment would be considered as assessable. (see Bonuses)

Ex-gratia payments made upon the termination of an employees services, would not be considered to be assessable.

2.24 First Aid allowance

Assessable as wages.

2.25 Fares

Not assessable if paid as a reimbursement for the cost of travelling between home and work where the employee's work is itinerant e.g. where the employee's work destination varies regularly.

See Travel time allowances for further information.

2.26 Fringe benefits tax

Considerable confusion exists between fringe benefits tax (FBT) and fringe benefits. Fringe benefits are items paid by an employer on behalf of or for the benefit of employees or their families and include motor vehicles, loan benefits, debt waivers, housing, expense payments, school fees, payment of health benefits, etc.

The Taxation Office recognises these payments are a form of remuneration to the employee and the employer is therefore required to declare all items paid as fringe benefits and to pay FBT on them.

Generally, FBT is not a declarable wages item for WorkCover purposes. However, FBT which is paid by an employee as part of a salary sacrifice arrangement would be considered as remuneration, i.e. the total value of the salary package (which includes fringe benefits tax) would be declarable.

Refer to 2.9 and 2.57 for further details.

2.27 Gifts

Gifts given to all employees would be considered assessable as a benefit having a monetary value. If the gift were in recognition of work done or a service provided, then it would be assessable as wages. See incentive schemes and bonuses.

Gifts to employees, such as flowers etc for compassionate or welfare reasons would not be considered assessable as wages.

2.28 Goods and Services Tax (GST)

Not Assessable—is not a payment that is included as 'wages'.

Where the GST component is not broken down for you on deemed worker subcontractor payments, then the whole amount is assessable.

2.29 Government training subsidies

Wages paid by an employer to a worker, that are refundable under a government training scheme, are assessable.

These payments represent wages having a monetary value. The fact that an employer can claim a reimbursement does not change their nature.

2.30 Government funded Paid Parental Leave (PPL) – Effective from 1 January 2011

Not Assessable as wages

Whilst employers will be responsible for making PPL payment to their workers, PPL scheme will be fully funded by the Government and will be in-addition to the employer provided paid leave such as maternity leave. Maternity leave is assessable as wages

2.31 Group apprenticeship schemes

In some cases, apprentices are provided to your business via Group Training Organisations (GTO). Depending upon the contract undertaken with the GTO, as to who is responsible for covering the apprentice for Workers Compensation purposes.

As a general rule, if the employer pays the Apprentice, then they must hold a WorkCover policy and declare the wages they pay to the apprentice. The employer does not need to include the on-costs that they pay to the Group Training Organisation.

If the Group Training Organisation pays the apprentices wages, and then sends the employer a tax invoice for wages and on-costs, then the Group Training Organisation will need to have cover for that apprentice.

2.32 Higher Education Contribution Scheme (HECS)

Refer education allowance.

2.33 Honorariums

Not assessable as wages. No contract exists between the employer and the person receiving the honorarium payment. However, if the recipient would be deemed a worker, then the payment would be assessable.

2.34 Housing loans (discounted)

See incidental benefits.

2.35 Incentive schemes

The value of any benefit received by an employee as a result of an incentive scheme, would be considered as a benefit having a monetary value and would be assessable as wages.

2.36 Incidental benefits

Benefits, which are available to all staff as an incidental benefit of employment, are not assessable, unless included as part of a salary package in which the benefit has been given a monetary value. In that case, the monetary value would be assessable (e.g. discounted housing loans for bank employees or discounted airfares for employees and/or families of employees).

2.37 Interstate workers

“Wages” paid to a person who is deemed to be a worker and whose employment is connected to Queensland, are assessable. There is no reduction for the percentage of time spent in another state.

WorkCover will consider a worker’s employment is connected with the state in which:

Test (a) the worker usually works in that employment; or

Test (b) in cases where this is not clear, the worker is usually based for the purposes of that employment; or

Test (c) in cases where this is not clear, the employer’s principal place of business in Australia is located.

When applying the tests to determine the state the worker is connected to, if the worker’s employment situation satisfies the first test then there is no need to proceed to the next test.

2.38 Laundry

Assessable—unless in reimbursement of identifiable expense.

2.39 Living in the country or away from home allowance/isolation/locality/camping

Assessable—unless in reimbursement of identifiable expense.

2.40 Long service leave

Long service leave that is paid to an employee who is still under an ongoing employment arrangement would be assessable as wages.

Long service leave that is paid as a lump sum payment upon termination of an employee’s services is not assessable as wages.

2.41 Lump sum payments

Lump sum payments made upon termination for unused holiday pay and leave loading, long service leave, redundancy payments, and sick leave are not assessable as wages.

Lump Sum payments that are made at the end of a calendar or financial year for annual leave, sick leave or rostered days off are assessable as wages.

2.42 Maternity leave payments

Assessable as wages.

2.43 Over award payments

Assessable as wages.

2.44 Overtime or penalty payments

Assessable as wages.

2.45 Paternity leave payments

Assessable as wages.

2.46 Payments in lieu of notice

Not assessable.

2.47 Private expenses

Where an employer pays a worker's private expenses as part of the worker's remuneration, and those expenses are not expenses incurred by the worker in earning their income, the payments are assessable. This will generally be included as part of a salary sacrifice or package and are subject to FBT.

The assessable value will be the value of the salary sacrifice component of the salary package or taxable value according to the *Fringe Benefits Tax Assessment Act 1996*.

Examples of assessable expenses include:

children's school fees

holiday expenses including members of worker's family

medical insurance including members of worker's family

club or organisation membership fees, unless membership is a necessity of the worker's employment

childcare expenses

car registration/insurance for a private vehicle, unless the vehicle is used by the worker for employment purposes

payments of private telephone expenses, unless the telephone is partly used for employment purposes
income protection insurance.

2.48 Profit sharing schemes

Assessable as wages.

2.49 Purchase of shares

Where an employer issues shares or a discount under employee share schemes in the employer's company or related company, the value of the benefit is not assessable. (See incidental benefits) However, where shares are purchased for a worker by an employer, in the form of a bonus or as payment for work performed, the purchase cost of the shares is assessable.

2.50 Q-Leave payments

Payments made to Q-Leave on behalf of employees for their long service leave is deemed a benefit for employees that has a monetary value. These payments need to be declared on your *Declaration of Wages*.

When an employer pays an employee for long service leave, and claims reimbursement from Q-Leave, the amount reimbursed by Q-Leave can be deducted from gross wages paid.

2.51 Redundancy payments

Not assessable as wages. See lump sum payments

2.52 Reimbursement of expenses

Payments made to workers reimbursing costs incurred in earning their income are not assessable.

2.53 Relocation allowance

Assessable - unless in reimbursement of identifiable expense.

2.54 Retrenchment payment

Not assessable as wages. See lump sum payments.

2.55 Royalties

Not assessable as wages.

2.56 Salaries

Assessable as wages.

2.57 Salary sacrifice

A salary sacrifice arrangement is an arrangement between the employer and the employee, where the employee receives non-cash benefits in return for agreeing to forego part of their future entitlement to salary or wages of a similar value.

All components of a salary package (which includes any fringe benefits tax component) are assessable. These may include company car, car parking, payment of private expenses, and superannuation.

For assessable value please see individual headings for these items.

2.58 Severance payments

Not assessable as wages. See lump sum payments.

2.59 Share of catch

A share of the gross earning/share of the catch would not be assessable as wages.

Payments made to a crewmember on a per item basis or set dollar (\$) amount per kilo would be assessable as wages.

2.60 Superannuation contributions

Following the amendment to the *Workers' Compensation and Rehabilitation Act 2003* in December 2004, the definition regarding superannuation changed with effect from 1 July 2005 to include all superannuation payments. Further detail about this is provided below.

(a) Prior to 1 July 2005

Until 1 July 2005, Schedule 6 of the Act defines 'wages' as 'the total amount paid, or provided by, an employer to, or on account of, a worker as wages, salary or other earnings, by way of money or entitlements having monetary value, but does not include any contribution by an employer to a scheme for superannuation benefits for a worker, other than contribution made from money payable to the worker.

Until 1 July 2005, contributions made by an employer under the Compulsory Superannuation Guarantee Levy are not assessable.

Contributions made by an employer to a superannuation scheme over and above the Compulsory Superannuation Guarantee Levy, are not assessable, provided that those payments do not represent a sacrifice of salary by the worker and would not normally be accessible by the worker until normal criteria are met (e.g. retirement).

Contributions made by an employer to superannuation, of amounts that would be payable to the worker as wages or salary if the worker so elected (e.g. salary sacrifice), are assessable.

If the total value of superannuation within a salary package includes the Compulsory Guarantee Levy, this amount is not assessable.

(b) From 1 July 2005

From 1 July 2005, 'wages' included all superannuation contributions made by an employer on behalf of a worker. This includes payments made under the Compulsory Superannuation Guarantee Levy, any payments that an employer makes in addition to this and payments that are made as a salary sacrifice.

2.61 Shift allowance

Assessable as wages.

2.62 Sick leave

Assessable as wages except if paid as a lump sum payment on termination.

2.63 Stipends

Not assessable as wages.

2.64 Staff discounts

Not assessable—see incidental benefits.

2.65 Telephone expenses

Paid as an allowance to cover work-related telephone costs, it is not assessable.

Paid as reimbursement for telephone related expenses incurred as part of employment, it is not assessable.

Payment of private telephone expenses, it is assessable.

2.66 Termination payments

Schedule 6 of the Act defines 'wages' as 'the total amount paid, or provided by, an employer to, or on account of, a worker as wages, salary or other earnings, by way of money or entitlements having monetary value, but does not include:

(d) lump sum payments on termination of a worker's services for superannuation, accrued holidays, long service leave or any other purpose.

Termination payments, including redundancy or retrenchment benefits, severance pay, early retirement benefits, ex-gratia payments to workers on termination or payments made in lieu of notice upon termination, lump sum payment for long service leave, accrued holiday leave, unused Rostered Days Off (RDOs), accrued sick leave, and compensation for loss of job or for wrongful dismissal, are not assessable.

2.67 Travel time

Payments made to an employee for the time it takes to travel to a site for work are assessable as wages.

2.68 Wages

'Wages' means the total amount paid, or provided by an employer to, or on account of a worker as wages, salary or other earnings by way of money or entitlements having monetary value.

The following items would be included as wages:

salary

overtime

shift allowance

payments for public & annual holidays (including loadings)

sick leave and

commission.

The amount of wages to be declared is based on the actual amount paid—accruals or provisions are not assessable.

2.69 Workers compensation payments

Apart from the excess payments made under section 66 (which are excluded—see notes) any payments made directly by the employer, and subsequently reimbursed by WorkCover, are assessable as wages.

3.0 Summary

Chapter 13, Part 2 of the *Workers' Compensation and Rehabilitation Act 2003* provides a right of review against a decision made by WorkCover about a policyholder's premium. If an employer is aggrieved by the decision, the employer can ask for the decision to be reviewed. The right of review applies to decisions in relation to:

- the assessment or reassessment of premium or
- waiving or reducing a penalty or additional premium.

An employer must apply for a review within three months after the employer receives the notice of the decision. The application form should be completed and sent to:

Review Unit
Q-COMP
PO Box 13407
GEORGE STREET QLD 4003

Further information about the review and appeals process is available on the Q-COMP web site www.qcomp.com.au. Alternatively you can call Q-COMP on 1300 361 235.

4.0 Appendix 1: Excerpts of relevant legislation

The following excerpts are from the *Workers' Compensation and Rehabilitation Act 2003*.

Schedule 2

Persons who are workers:

(4) A salesperson, canvasser, collector or other person (salesperson) paid entirely or partly by commission is a worker, if the commission is not received for or in connection with work incident to a trade or business regularly carried on by the salesperson, individually or by way of a partnership.

Schedule 6:

'Wages' means the total amount paid, or provided by, an employer to, or on account of, a worker as wages, salary or other earnings by way of money or entitlements having monetary value, but does not include—

- (a) allowances payable in relation to any travelling, car, removal, meal, education, living in the country or away from home, entertainment, clothing, tools and vehicle expenses; and
- (b) superannuation contributions, for deciding the amount of compensation payable to a worker under chapter 3 or 4; and
- (c) lump sum payments on termination of a worker's services for superannuation, accrued holidays, long service leave or any other purpose; and an amount payable under section 66.

Section 66: Employer's liability for excess period

- (1) This section applies to—
 - (a) an employer who is not a self-insurer and who is, or is required to be, insured under a WorkCover policy; and
 - (b) a worker, other than a household worker employed by the employer, who sustains an injury for which compensation is payable.
- (2) The employer must pay the worker an amount equal to the compensation that, if this section did not apply, would be payable to the worker by WorkCover for the excess period.
- (3) WorkCover is not required to pay the compensation to the worker subject to subsection (5).
- (4) If the worker is employed by more than 1 employer when the worker sustains an injury, the amount under subsection (2)—
 - (a) must be paid by the employer in whose employment the injury was sustained; and is the amount that relates to the amount payable to the worker under the contract of service with that employer.
- (5) If the employer fails to pay the amount to the worker within 10 business after receiving notice from WorkCover that the worker's application for compensation has been allowed, WorkCover must make the payment to the worker on the employer's behalf.
- (6) WorkCover may recover from the employer the amount of the payment made by it together with a penalty equal to 50% of the payment—
 - (a) as a debt under section 580; or
 - (b) as an addition to a premium payable by the employer.
- (7) The employer may apply in writing to WorkCover to waive or reduce the penalty because of extenuating circumstances.
- (8) The application must specify the extenuating circumstances and the reasons the penalty should be waived or reduced in the particular case.
- (9) WorkCover must consider the application and may—
 - (a) waive or reduce the penalty; or
 - (b) refuse to waive or reduce the penalty.

(10) If the employer is dissatisfied with WorkCover's decision, the employer may ask that the decision be reviewed under chapter 13.

(11) This section does not limit section 50.

The following excerpt is from the Workers Compensation and Rehabilitation Regulation 2003.

Section 10: Value of board and lodging

(1) This section applies if an employer provides, or is to provide, board to a worker during a period of insurance.

(2) The value of board provided is taken to be wages paid, or to be paid, by the employer to the worker.

(3) For each week the employer provides, or is to provide board, the value of board is not less than—

(a) the weekly allowance for board provided for under the industrial instrument governing the calling in which the worker is engaged; or

(b) if paragraph (a) does not apply 6% of QOTE.

(4) In this section—

'board' means accommodation meals, laundry services or any other entitlement having a monetary value provided when lodging.

5.0 Who can I contact if I need further assistance?

If you have any concerns regarding the definition of wages, please call us on 1300 362 128.