

Wages Definition Manual

Definition of 'Wages' for the purpose of premium calculation

Introduction:

This document has been produced to provide guidelines to determine assessable wages, for WorkCover Insurance Services people and employers completing wage declarations

It 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*.

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.

Any queries or problems arising from this dictionary should be directed to your local WorkCover office or phone 1300 362 128

Definitions Dictionary last updated 3 September 2003

Legislative References:

The following references should be used when identifying assessable wages, and have been included as attachments to this document.

- Schedule 6 –Definitions ; definition of 'wages' (*Workers' Compensation and Rehabilitation Act 2003*)
- Regulation 10 –Value of board and lodging (*Workers' Compensation and Rehabilitation Regulation 2003*)
- Section 66 –Employer's liability for excess period (*Workers' Compensation and Rehabilitation Act 2003*)

Wages are only assessable if paid to 'workers', as defined by the Act, by their 'employers', as defined by the Act. To establish this, reference needs to be made to:

- Section 11 Who is a 'worker' – (*Workers' Compensation and Rehabilitation Act 2003*)
- Section 30 Who is an 'employer' – *Workers' Compensation and Rehabilitation Act 2003*
- 'Worker Definition' Policy on the Internet.
- Schedule 2, Part 1 – Persons who are workers – Workers' Compensation and Rehabilitation Act 2003
- Schedule 2, Part 2 – Persons who are not workers – Workers' Compensation and Rehabilitation Act 2003
- Schedule 3, Part 1 – Persons who are employers – Workers' Compensation and Rehabilitation Act 2003
- Schedule 3, Part 2 – Persons who are not employers – Workers' Compensation and Rehabilitation Act 2003

Allowances:

There are a number of allowances which 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 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	

Airline tickets (discounted):

See incidental benefits

Board and lodging:

Assessable –

Where board & lodging is provided by an employer to a worker when they are lodging, as opposed to travelling, a value, as prescribed by Section 10 of the Regulations, must be including 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 (attached)

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.

Cars:

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

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.

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 (including any fringe benefits tax component) of the portion of the package applied towards provision of the vehicle is assessable.

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 (the pre gross up value) as determined by the FBT Assessment Act.

Car Allowances/ 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.

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

If private car expenses are paid as part of a salary package or salary sacrifice, the value of the salary sacrifice or package component is assessable.

Commission:

Assessable – see wages

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 *FBT Assessment Act* i.e. the pre gross-up amount).

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

Concessional lending:

See incidental benefits

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.

Director's fees:

Because directors are excluded as worker's 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 who performs work under a contract of service with-
(a) a company of which the person is a director.

Dry cleaning:

See laundry

Education Allowances

Assessable - unless in reimbursement of identifiable expense.

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

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.

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 would be declarable.

GST (Goods & Services Tax)

Not Assessable - is not a payment which is included as 'wages'

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.

HECS

Refer education allowance

Housing loans (discounted):

See incidental Benefits

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 &/or families of employees).

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.

Laundry:

Assessable - unless in reimbursement of identifiable expense.

Living in the country or away from home allowance/Isolation/Locality:

Assessable - unless in reimbursement of identifiable expense.

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 salary sacrifice component of salary package or taxable value according to the *FBT 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.

Purchase of shares:

Where 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.

Reimbursement of expenses:

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

Relocation allowance:

Assessable - unless in reimbursement of identifiable expense.

Salary sacrifice:

Components of a salary package 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.

Superannuation contributions

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 –

(b) contribution by an employer to a scheme for superannuation benefits for a worker, other than contribution made from money payable to the worker.

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 which 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.

Staff discounts:

Not Assessable - See Incidental benefits

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 –is assessable.

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 RDO's, accrued sick leave, and compensation for loss of job or for wrongful dismissal, are not assessable.

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 & commission.

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

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.

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
- 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
GPO Box 2459
Brisbane Qld 4001

Further information about the review and appeals process is available on the Q-COMP web site www.qcomp.com.au. Alternatively please call Q-COMP on 1300 362 235.

ATTACHMENTS

Workers' Compensation and Rehabilitation Act 2003

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) contribution by an employer to a scheme for superannuation benefits for a worker, other than contribution made from money payable to a worker; and
- (c) lump sum payments on termination of a worker's services for superannuation, accrued holidays, long service leave or any other purpose; and
- (d) 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
- (b) 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 14 days 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.

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.