

Calculating pre-injury average weekly earnings (PIAWE)

For workers injured on or after 21 October 2019.

Does not apply to exempt workers.

What is PIAWE?

PIAWE is the weekly average of a worker's gross earnings over the 52-weeks prior to their date of injury, unless an adjustment applies.

$$\frac{\text{Gross earnings}}{\text{Relevant earning period (weeks)}} = \text{PIAWE}$$

PIAWE is subject to:

- The minimum PIAWE amount of \$155, and
- The statutory maximum amount.

What are gross earnings?

Included:

The worker's income for work performed in all employment, including:

- Wages, including any paid leave and loadings.
- Shift, overtime and other allowances paid.
- Commission and piece rates.

Where a worker has the use of a non-monetary benefit (for example, a motor vehicle) and after the injury they no longer have the use of that benefit, then the cash value of that benefit can also be included.

Excluded:

- Compulsory superannuation contributions.
- Workers compensation or other compensation payments for loss of earnings.
- The monetary value of any non-monetary benefit (while the worker continues to have access to the benefit following injury).
- Any payment made without obligation by the employer (e.g. discretionary bonuses).
- Any additional payment subsidised by the JobKeeper scheme.

What is the relevant earning period?

This is the period of 52 weeks immediately before the injury, unless adjusted in the circumstances below.

Step 1: When did the worker commence employment?

If they commenced <52 weeks before the injury, adjust the relevant earning period to the day the worker first commenced employment.

Step 2: Was there an ongoing financially-material change to earnings during the relevant earning period?

For example, if there was a change in role, a promotion, or a change from full-time to part-time work, the relevant earning period is adjusted so that it commences from the date the change took effect.

Step 3 (optional): Is it easier to align to the worker's pay cycle?

The relevant earning period may be aligned to the worker's pay cycle if doing so would not disadvantage the worker.

Step 4: Did the worker take a period of unpaid leave?

When the worker had a period of seven or more consecutive days of no earnings commencing with a day of unpaid leave, this period is to be excluded from the relevant earning period.

Step 5: Did the worker have a financially material reduction in earnings due to the COVID-19 pandemic during the prescribed periods?

There are two prescribed periods that may need to be considered. The first prescribed period, between 23 March and 14 June 2020, should be excluded if there was a financially material reduction in earnings due to the COVID-19 pandemic.

If after the first prescribed period, no earnings were paid or payable to the worker for at least 2 days, this period may be extended to the second prescribed period. This extension would end either on the day before earnings were paid or payable, or on 27 September 2020 - whichever is sooner. Note: excluded days may or may not be usual work days for the worker.

PIAWE for workers with multiple jobs

- For workers with more than one job at the time of injury, the average earnings for each job are included in their PIAWE. The average weekly earnings from each job are added together to determine the worker's PIAWE.

Apprentices, trainees and young people

- PIAWE is to be recalculated at each age or stage in accordance with what the worker would have been entitled to receive had they not been injured.

Short-term workers (<4 weeks)

- Workers who have been employed for less than four weeks before the injury may have their PIAWE calculated by having regard to the weekly earnings they could have expected to earn in the 52 weeks after the injury.

Determining PIAWE

If a worker is entitled to weekly payments, the agent must start provisional weekly payments within seven days of initial notification of injury, unless there is a reasonable excuse not to. See the Workers Compensation Guidelines for the reasonable excuses that may be applied.

The amount of weekly payments is based on the worker's PIAWE.

To ensure workers receive prompt payment of their entitlements, PIAWE should be determined as soon as possible.

The two main pathways for determining PIAWE include:

- PIAWE by agreement, where the worker and the employer agree on the amount to be used for PIAWE, or
- Agent work capacity decision, where the agent uses available relevant information to calculate PIAWE.

PIAWE agreements

What do the worker and employer need to do?

- If the worker and employer reach an agreement about PIAWE, they can apply to the agent for approval of the agreement within five calendar days of initial notification of injury.
- The Application for Approval of an Agreement Form must include the agreed amount, the date of the agreement and supporting information (for example, payslips) within five days of injury notification.

What does the agent need to do?

- The agent will need to either approve and apply the agreement, or refuse to approve and make a work capacity decision within seven calendar days of injury notification.
- In making this decision, the agent must consider whether the agreed PIAWE amount accurately reflects the worker's PIAWE and is fair and reasonable.
- An agent cannot approve an agreement for a person under legal incapacity; and applications for approval of an agreement must be refused if a work capacity decision about a worker's PIAWE has already been made.

Can the worker or employer withdraw from the agreement?

- Yes, a worker or employer may withdraw from the agreement at any time by providing written notice to the agent and the other party.
- If this happens, the agent will give notice of the withdrawal to both parties and determine PIAWE by making a work capacity decision within seven calendar days.

Agent work capacity decision

An agent may calculate PIAWE using earnings and leave information gathered from the employer and the worker. The calculation is communicated to the worker as a work capacity decision.

What if the agent does not have enough information to fully calculate PIAWE?

The agent will communicate to the worker an interim PIAWE rate as a work capacity decision using the best available information.

Can a worker request a review of a work capacity decision?

Yes, a worker can request an optional review by the agent or lodge a dispute with the Workers Compensation Commission.

PIAWE recalculations

Where PIAWE is recalculated via a work capacity decision, and the new PIAWE amount is higher than what was previously agreed or determined, the worker is entitled to an adjustment payment to make up the difference. This adjustment payment must be made to the worker within 14 calendar days.

Indexation

After PIAWE is calculated, it is to be indexed on:

- 1 April and
 - 1 October
- each year after the date of injury.