



Weekly benefits calculation table: NSW

Overview

The fact sheet provides a brief overview of pre-injury average weekly earnings (PIAWE) and the formulas that applies when calculating weekly benefits.

| Work Capacity | Entitlement period | Weekly compensation formula |
|---------------------------|---|--|
| No Capacity | First entitlement period 0 – 13 weeks | The lesser of: PIAWE x 95% or maximum weekly compensation amount |
| | Second entitlement period 14 – 130 weeks | The lesser of: PIAWE x 80% or maximum weekly compensation amount |
| | Third entitlement period 131-260 weeks (2.5 years – 5 years) | If no work capacity indefinitely, the lesser of: PIAWE x 80% or maximum weekly compensation amount |
| | Post third entitlement period 261+ weeks (Greater than 5 years) | If permanently impaired greater than 20% and has no work capacity indefinitely will receive the lesser of: PIAWE x 80% or maximum weekly compensation amount |
| Partial Incapacity | First entitlement period 0 – 13 weeks | The lesser of: PIAWE x 95% minus current weekly earnings or maximum weekly compensation amount minus current weekly earnings |
| | Second entitlement period 14 – 130 weeks | If working 15 hours or more per week, the lesser of: PIAWE x 95% minus current weekly earnings or maximum weekly compensation amount minus current weekly earnings If working less than 15 hours per week, the lesser of: PIAWE x 80% minus current weekly earnings or maximum weekly compensation amount minus current weekly earnings |
| | Third entitlement period 131-260 weeks (2.5 years – 5 years) | If working 15 hours or more hours per week, the lesser of: PIAWE x 80% minus current weekly earnings or maximum weekly compensation amount minus current weekly earnings If working less than 15 hours per week, the worker is likely to be sent for a work capacity assessment. |
| | Post third entitlement period 261+ weeks (5 years) | Benefits will cease unless: The worker is seriously injured (<30% permanent impairment) Workers with a permanent impairment of 20% who have no capacity or are working 15 hours or more and earning a specific sum per week will receive the lesser of: PIAWE x 80% minus current weekly earnings or maximum weekly compensation amount minus current weekly earnings |

Explanatory notes

- Monetary amounts are generally indexed in April and October each year. All references to monetary amounts need to be checked for currency, against latest indexation.
- The statutory rate is indexed twice a year in April and October.
- The statutory rate for a single worker is indexed twice a year in April and October.
- CWWR = current weekly wage rate
- AWE = average weekly earnings
- PIAWE = pre-injury average weekly earnings
- Retirement age = age you are eligible for the aged pension under the Social Security Act 1991
- Medical payments continue for up to 12 months after weekly payments cease.
- Superannuation is not included as earnings, and is therefore not paid on any workers compensation claim (refer to WC Act 1987 Schedule 3, 6 (2)).

Definitions

PIAWE

Simply means the weekly average of the gross pre-injury earnings received by the worker in all employment at the time of injury. PIAWE is calculated as gross earnings divided by the relevant earning period which is the 52 weeks before injury unless an adjustment applies.

Gross earnings include income from all employment at time of injury and the cash value of non-monetary benefits that have been withdrawn after injury but excludes compulsory superannuation, workers compensation and or other compensation payments.

Relevant earnings period – Section 44D

- If continuously employed by the employer for more than 52 weeks – use the 52 weeks prior to the injury.
- If employed less than 52 weeks – use that continuous period.
- If employed less than four weeks – the prospective amount of what that worker would have earned.
- If the worker has voluntarily altered their hours or nature of work which reduces the ordinary earnings across the last 52 weeks – the period before the reduction should not be used in the average.

Schedule 3 lists specific PIAWE calculations for some types of workers, these include:

- an apprentice or worker under 21 years of age
- workers employed by two or more employers
- a worker who had been advised of a promotion of other appointment but had not yet taken up the role.

Non-pecuniary benefits

For the purposes of calculating workers compensation benefits non-pecuniary benefits include any amount that, in accordance with the worker's instructions under the worker's terms of employment, the employer is required to apply or deal with on behalf of the worker such as residential accommodation, use of a motor vehicle, health insurance and education fees. Any amount that is excluded from base rate of pay as a base rate of pay exclusion is not a non-pecuniary benefit e.g., incentive payments, loadings, piece rates, overtime or shift allowances.

Time limits on weekly payments

Up to five years, unless assessed for permanent impairment more than 20% or receives an injury just prior to reaching retiring age - weekly payment of compensation will continue until the first anniversary of the date on which that person reaches the retiring age or receives an injury on or after reaching retiring age - weekly payment of compensation will continue until 12 months after the first occasion of incapacity for work resulting from the injury.

Total cap on weekly payments

The maximum weekly compensation amount is capped and indexed in April and October each year.