

GUIDELINE ON THE DEFINITION OF WAGES

FOR THE PURPOSE OF CALCULATING WORKERS COMPENSATION PREMIUMS

Amendments to the *Workers Rehabilitation and Compensation Act 1988* (the Act) effective from 1 July 2001 include a definition of wages for the first time. This guideline has been developed to assist parties who are involved in applying section 96A of the Act.

The objectives of this Guideline are:

1. to provide a comprehensive guideline on wages components for licensed insurers, self-insurers (for their notional premium calculations), auditors, accountants, brokers, employers and other interested parties
2. to provide a consistent basis of premium assessment
3. to provide a framework for review of contentious issues.

The basic principle adopted by WorkCover Tasmania in deciding whether specific payments or benefits made to workers are considered to be 'wages' is that, where they are made in return for the worker's labour, such payments in cash or in kind, constitute wages assessable for workers compensation premium calculation purposes.

Exceptions to this principle occur where there are specific exclusions under the Act, where there is a work-related reason for the expenditure being incurred by the worker, or where the benefit is incidental to the worker's employment.

It is important to note that the definition relates only to wages for the establishment of premiums and has no relationship to the payment of weekly entitlements to an injured worker covered by workers compensation.

This Guideline is intended to assist in the interpretation of section 96A of the Act, but should not be regarded as authoritative. It indicates the manner in which Workplace Standards Tasmania interprets this section, with a view to encouraging uniform application of the section. The Guideline is not intended as legal advice, and users of the Guideline should not rely upon it, but should rely on the advice of their own legal advisers. The proper interpretation of section 96A is ultimately a matter for the Courts.

Any enquiries regarding the application of the Definition of Wages should be forwarded to:

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DEFINITION OF WAGES

Section 96A of the *Workers Rehabilitation and Compensation Act 1988*

DESCRIPTION	ASSESSABLE	
	YES	NO
Accommodation Allowance		✓
Allowances (See under various specific headings) <ul style="list-style-type: none"> • Providing the allowance is paid to the worker to reimburse costs incurred in the course of employment • An allowance paid to a worker in particular circumstances or for a particular skill (not relating to a cost incurred by the worker) e.g., site and height allowances, supervision allowances, responsibility payments and productivity allowances 	✓	✓
Annual & Public Holiday payment including loadings	✓	
Board & Lodging <ul style="list-style-type: none"> • Where the employer provides free or subsidised board and lodging to a worker as part of his or her conditions of employment (whether express or implied) 	✓	
Bonuses	✓	
Car Allowance		✓
Car Expenses <ul style="list-style-type: none"> • Amount paid to worker as an allowance to cover work-related costs or as a reimbursement for car-related costs incurred by the worker as part of his or her employment 		✓
Car Parking <ul style="list-style-type: none"> • Where the employer provides car parking facilities to a worker at or near his or her place of employment and that benefit is subject to FBT 	✓	
Clothing Allowance/Expenses <ul style="list-style-type: none"> • Amount paid to worker as an allowance to cover work-related clothing costs or as a reimbursement for clothing related costs incurred by the worker as part of his or her employment • Where the employer provides free clothing (or otherwise directly funds clothing) as a benefit to a worker and that benefit is subject to FBT 	✓	✓
Commission	✓	

DESCRIPTION	ASSESSABLE	
	YES	NO
Company Car (private use of) <ul style="list-style-type: none"> Where the employer makes a car available for private use to a worker and that benefit is subject to FBT 	✓	
Company House or Other Accommodation Provided by Employer (rental value of) <ul style="list-style-type: none"> Assessable according to current market rental value less any amount paid by the worker for occupancy 	✓	
Construction Allowance	✓	
Debt Forgiveness <ul style="list-style-type: none"> Where the employer waives or forgives a worker's debt and that benefit is subject to FBT, e.g. if an employer who has sold goods to a worker later tells the worker that he or she is not required to pay the amount invoiced to them A debt owed by a worker that is written off as a genuine bad debt 	✓	✓
Directors Fees	✓	
Directors – Payment to Working Directors	✓	
Dirt Money	✓	
Dividends		✓
Early Retirement Benefits		✓
Entertainment Allowance/Expenses <ul style="list-style-type: none"> Amount paid to worker as an allowance to cover work-related meal or other entertainment costs or as a reimbursement for entertainment related costs incurred by the worker as part of his or her employment Where the employer provides a meal or other entertainment benefit to a worker and that benefit is subject to FBT 	✓	✓
Ex Gratia Payments		✓
Free Housing <ul style="list-style-type: none"> Where temporary accommodation is provided associated with re-location Otherwise, according to the extent of current market rental value	✓	✓

DESCRIPTION	ASSESSABLE	
	YES	NO
<p>Fringe Benefits</p> <ul style="list-style-type: none"> • Generally, fringe benefits provided to workers are assessable as wages. For more information relating to specific items, see relevant items • The value of the benefits should be calculated on the same basis as the "taxable value of fringe benefits". Note that this is the actual value of the benefit provided (as determined by the <i>Fringe Benefits Tax Assessment Act 1986(Commonwealth)</i>, i.e., the pre gross-up amount • Benefits of this kind provided to an employee of a religious institution who is a religious practitioner, are not fringe benefits within the meaning of the Commonwealth Act 	✓	✓
Height Money	✓	
Honorariums		✓
<p>Housing or Other Loans</p> <ul style="list-style-type: none"> • Where the employer provides a loan to a worker on which a low interest rate (or no interest) has been charged and that benefit is subject to FBT 	✓	
Industry Allowances	✓	
<p>Living-Away-From-Home Allowance</p> <ul style="list-style-type: none"> • Where an allowance is paid to a worker for being put to expense whilst away from their normal place of residence and that benefit is subject to FBT • Where the allowance is paid because of personal inconvenience and lack of amenities associated with working at an isolated location and that benefit is subject to FBT • Otherwise 	✓ ✓	✓
<p>Long Service Leave</p> <ul style="list-style-type: none"> • Payments made by an employer to or for the benefit of a worker in respect of long service leave are payments "in return for the worker's labour" and therefore assessable 	✓	
<p>Lump Sum Payment in lieu of Holiday, Sick Leave</p> <ul style="list-style-type: none"> • Accrued entitlements, having been earned by the worker through his or her labour are considered payments "in return for the worker's labour" and therefore assessable. 	✓	
Meal allowance	✓	

DESCRIPTION	ASSESSABLE	
	YES	NO
Over Award Payments	✓	
Overtime Payments	✓	
Payments in lieu of Notice		✓
Penalty Rates	✓	
Profit Sharing Schemes <ul style="list-style-type: none"> • Distribution in the form of a bonus, ie in respect of something extra in addition to a dividend or wages or subject to income tax or FBT • A benefit form a profit sharing agreement which is subject to income tax or FBT • Otherwise 	✓ ✓	 ✓
Private use of company car	✓	
Redundancy Payments <ul style="list-style-type: none"> • See Termination Payments 		✓
Retrenchment Payments <ul style="list-style-type: none"> • See Termination Payments 		✓
Royalties		✓
Salary	✓	
Salary Packaging <ul style="list-style-type: none"> • Wages, salary and the value of fringe benefits provided to workers as components of a "salary package" are generally assessable. In the case of fringe benefits, the assessable amount is the taxable value of the benefits according to the <i>Fringe Benefits Tax Assessment Act 1986 (Commonwealth)</i>. 	✓	
Severance Payments <ul style="list-style-type: none"> • See Termination Payments 		✓
Shift Allowance	✓	

DESCRIPTION	ASSESSABLE	
	YES	NO
Sick Leave	✓	
Site Allowance	✓	
Staff Discounts <ul style="list-style-type: none"> Where available to all workers as an incidental benefit of employment by that employer 		✓
Superannuation Contributions and Benefits <ul style="list-style-type: none"> Employer superannuation contributions which are made by way of salary sacrifice from a worker's salary package Employer superannuation contributions required by law, e.g., <i>Superannuation Guarantee (Administration) Act 1992</i> (Commonwealth) Workers superannuation contributions only if salary-sacrificed (these contributions form part of a worker's gross wages and are generally deducted from these wages. The gross wages figure should be declared in this situation) Superannuation benefits paid to workers from superannuation funds 	✓ ✓	✓ ✓
Telephone Expenses <ul style="list-style-type: none"> Amount paid to worker as an allowance to cover work-related telephone costs or as a reimbursement for telephone related expenses incurred by the worker as part of his or her employment Where the employer provides free telephone services to a worker and that benefit is subject to FBT 	✓	✓
Termination Payments <ul style="list-style-type: none"> Refers to monies paid in consideration or compensation for the termination of employment. Payments made on termination in satisfaction of accrued entitlements for annual leave, sick leave and long service leave are not considered to be termination payments. These are payments earned through the worker's labour and are therefore payments within the meaning of section 96A 	✓	✓
Third Party Remuneration (e.g., School Fees)	✓	
Tool Allowance		✓
Travel Allowance		✓

DESCRIPTION	ASSESSABLE	
	YES	NO
Travel Expenses <ul style="list-style-type: none"> • Payments to workers to reimburse work-related costs • Free or discounted travel available to workers, e.g., employees of airlines or travel agents • Where the expense is otherwise paid, e.g., as a form of additional remuneration or bonus 	 ✓	 ✓
Workers Compensation Payments and Reimbursements		✓