

Overview

The purpose of this fact sheet is to introduce employers and workers to the basic concepts related to ordinary earnings, and how it relates to the calculation of a worker's pre-injury average weekly earnings (PIAWE).

The scheme agent is responsible for the calculation of a worker's PIAWE. This fact sheet provides the employer and/or worker with instruction regarding the type and detail of information that should be supplied to a scheme agent as soon as possible to ensure that the worker's PIAWE is calculated correctly.

What information does the scheme agent require to calculate ordinary earnings?

To accurately assess the worker's ordinary earnings the following must first be established:

1. If there is an Enterprise Bargaining Agreement (EBA), Fair Work Instrument (FWI) Award or Contract of Employment governing the worker's ordinary hours of work and base rate of pay.
2. The relevant period - to establish this, please refer to the "PIAWE - Relevant Period" fact sheet.

What is a Fair Work Instrument?

Scheme agents need to establish whether a Fair Work Instrument applies as this will enable them to correctly establish the ordinary hours of work, which is needed to correctly determine ordinary earnings.

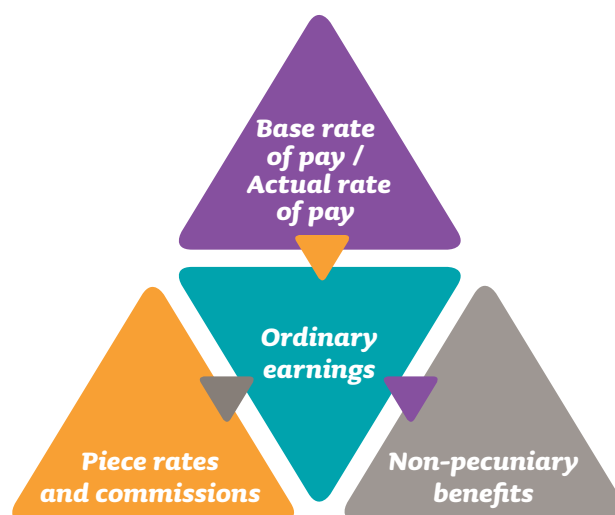
A Fair Work Instrument is defined by the *Fair Work Act 2009* to be:

- a) A modern award; or
- b) An enterprise agreement; or
- c) A workplace determination; or
- d) A Fair Work Australia order

What are the components of ordinary earnings?

There are three (3) key elements that make up ordinary earnings when determining PIAWE. These components are:

- Base rate of pay or actual rate of pay,
- Piece rates or commissions,
- The fringe benefit or monetary value of non-pecuniary benefits.



How is the base rate of pay calculated?

The base rate of pay for a worker is the hourly rate payable multiplied by the ordinary hours of work, expressed as a weekly sum, less any exclusions. If there has been a change in the hourly rate within the relevant period, the earnings for the full relevant period are considered for the calculation of PIAWE – those weeks at the lower hourly rate, and those weeks at the higher hourly rate.

For information regarding the relevant period and its impact on PIAWE please refer to “PIAWE - Relevant Period” fact sheet or talk with the case manager.

In the below examples the relevant period is assumed to be 5 weeks, and during those weeks there was no leave taken by the worker.

Example One:

John works 38 hours per week which are his ordinary hours of work. His employer confirms that he is paid \$30.00 per hour for his ordinary hours of work; however his employer is unable to provide the scheme agent with payroll records, but has provided a copy of John’s employment contract which confirms the above.

John’s base rate of pay is;
38 hours x \$30.00 = \$1,140.00 per week

Alternatively, John’s employer provided the case manager with his earnings as follows.

Week	Hours Worked	Ordinary Rate	Base Rate of Pay
01/02/15	38	\$30.00	\$1,140.00
08/02/15	38	\$30.00	\$1,140.00
15/02/15	38	\$30.00	\$1,140.00
22/02/15	38	\$30.00	\$1,140.00
01/03/15	38	\$30.00	\$1,140.00
Ordinary hours of work:	38	Average weekly base rate of pay:	\$1,140.00

The case manager determined that John’s weekly base rate of pay is \$1,140.00.

Example Two:

In the following scenario John’s employer has confirmed that John incurred a pay rise within the relevant period, with no change in his employment conditions. John works

the agreed hours of 38 hours per week and has provided the scheme agent his earnings.

Week	Hours Worked	Ordinary Rate	Base Rate of Pay
01/02/15	38	\$30.00	\$1,140.00
08/02/15	38	\$30.00	\$1,140.00
15/02/15	38	\$32.00	\$1,216.00
22/02/15	38	\$32.00	\$1,216.00
01/03/15	38	\$32.00	\$1,216.00
Ordinary hours of work:	38	Average weekly base rate of pay:	\$1,185.60

The case manager calculates John’s weekly base rate of pay to be \$1,185.60.

Example Three:

John’s employer has confirmed that John incurred a pay rise within the relevant period, with no change in his employment conditions.

There is no agreement as to the specific hours John works each week and his employer has provided the scheme agent John’s earnings.

Week	Hours Worked	Ordinary Rate	Base Rate of Pay
01/02/15	25	\$30.00	\$750.00
08/02/15	30	\$30.00	\$900.00
15/02/15	29	\$32.00	\$928.00
22/02/15	38	\$32.00	\$1,216.00
01/03/15	27	\$32.00	\$864.00
Ordinary hours of work:	29.8	Average weekly base rate of pay:	\$931.60

The case manager calculates John’s ordinary hours of work average 29.8 hours per week and his weekly base rate of pay to be \$931.60.

It is important to note that if a worker’s base rate of pay, as indicated in an applicable Fair Work Instrument, is less than the worker’s actual rate of pay for ordinary hours, the actual rate of pay should be used.

Actual rates of pay can be found on workers’ payslips, payroll records, tax returns, PAYG or group certificates. Consideration must be given to any arrangements between a worker and employer when an actual rate of pay is to be used.

What is a base rate of pay exclusion?

A base rate of pay refers to the rate of pay payable to a worker for his or her ordinary hours of work but does not include any of the following amounts:

- (a) incentive based payments or bonuses
- (b) loadings
- (c) monetary allowances
- (d) piece rates or commissions
- (e) overtime or shift allowances
- (f) any separately identifiable amount not referred to in paragraphs (a) to (e).

These above elements are base rate of pay exclusions.

Base rate of pay versus actual rate of pay?

For workers **who have** a Fair Work instrument or Employment Contract, who are paid at a higher rate, their actual rate of pay is used (not including any amount that is a base rate of pay exclusion).

For workers **who do not have** a Fair Work instrument or Employment Contract, their actual rate of pay is used (not including any amount that is a base rate of pay exclusion).

What should the employer provide to the scheme agent to assist in determining the worker’s base rate of pay?

In order to establish the worker’s base rate of pay component for ordinary earnings the following is required:

- Confirmation of the worker’s fixed or prescribed ordinary hours of work,
- The worker’s hourly rate of pay,
- Confirmation and dates relating to changes in the worker’s employment conditions, such as a promotion, appointment to a new position or voluntary reduction in hours or duties,
- Payroll information for the relevant period of the worker’s continuous employment,
- The week(s) and the associated base rate of pay exclusion amounts where this is applicable, within the relevant period,
- A copy of the applicable FWI or EBA Award or Contract of Employment,
- Payroll information for any weeks containing unpaid leave, including dates when this occurred, and
- For casual or seasonal workers, any weeks not worked including dates when this occurred.

How are piece rates or commissions and non-pecuniary benefits factored into the calculation of ordinary earnings?

Piece rates or commissions may be paid to the worker in addition to the base rate of pay, or in lieu of an hourly or weekly base rate.

Whilst piece rates or commissions are excluded from the base rate of pay they are included in the calculation of ordinary earnings.

Piece Rates

A worker who is paid by a piece rate gets paid by the piece produced which may be items picked, packed or made by the worker. Examples of this include, but are not limited to:

- Fruit pickers paid by the amount packed i.e. kilograms or boxes,
- Workers making garments who are paid by the number of garments produced, or
- Shearers paid by the number of sheep they shear in a day or a week.

Commissions

Commissions are payments made to workers normally based upon how much a worker sells. A commission payment can:

- Be paid as an extra incentive on top of a worker's pay, or
- Make up a workers entire payment (commission only payments).

Examples of roles that may involve commission payments include, but are not limited to:

- Real estate sales,
- Retail sales roles,
- Tele-marketing roles.

Non-Pecuniary Benefits

A non-pecuniary benefit is remuneration provided to the worker that is not paid in cash.

In accordance with *The Workers Compensation Act 1987*, non-pecuniary benefits include:

- Use of a motor vehicle supplied by the employer,
- Payment for residential accommodation by the employer,

- Provision of health insurance by the employer,
- Payment of education fees, or
- Any amount, under a workers terms of employment, that the worker has directed the employer to apply or deal with on the worker's behalf and in accordance with the worker's instructions.

If a worker has requested the employer to remove a portion of their salary to pay to another party, this is termed "salary sacrifice".

A salary sacrifice is determined to be a non-pecuniary benefit unless it is considered a base rate of pay exclusion. Where this is the case, the value of the salary sacrifice cannot be considered a component of ordinary earnings.

As a result, in some cases the salary sacrificed amount will form part of the base rate of pay such that it is unnecessary to include the salary sacrificed amount as a non pecuniary benefit.

Employer superannuation contributions are excluded from ordinary earnings and there is no provision to include them in the calculation of PIAWE.

Where the non-pecuniary benefit continues to be provided after the injury, the value of the benefit is to be used as the **deductible amount 'D'** in the calculation of the rate of weekly payments.

Minimum PIAWE

There is a minimum PIAWE that applies, which is currently \$155. If PIAWE is calculated to be below this amount then the PIAWE becomes \$155.

Maximum weekly payment

There is a statutory maximum weekly payment which is indexed on 1 April and 1 October each year.

Please refer to the current version of the Workers Compensation Benefits Guide for the published rates.

For higher income earners, consideration must be given to the statutory maximum weekly payment, because if 95% or 80% of their PIAWE exceeds the statutory maximum amount, then the statutory maximum value is to be paid.

What should the employer provide to the scheme agent to assist in determining the worker's ordinary earnings for the calculation of PIAWE?

In order to establish the worker's ordinary earnings the following is required:

- The week(s) and the associated amount pertaining to piece rates or commissions and non-pecuniary benefits, where this is applicable, within the relevant period,
- Copies of the worker's request to salary sacrifice and amounts,
- Confirmation of the arrangements relating to the non-pecuniary benefit,
- Confirmation as to whether or not the non-pecuniary benefit is subject to Fringe Benefit Tax (FBT), and
- Information about whether the non-pecuniary benefit will be provided post injury.

Can a PIAWE decision be disputed?

Ensuring that accurate information is provided early will enable PIAWE to be determined correctly and efficiently.

Scheme agents will provide written confirmation of the PIAWE determined for a worker. This is a work capacity decision and will include the process for a worker to request a review of the PIAWE decision if they disagree with the outcome.

Only a worker can request a review of a work capacity decision. If an employer has questions about the PIAWE decision they should discuss these with the scheme agent.



Other useful information

The “Calculating pre-injury average weekly earnings” form details the information that is required to assist the scheme agent to correctly calculate the worker's PIAWE. Please complete the “Calculating pre-injury average weekly earnings” form and submit to the relevant scheme agent managing the claim.

In addition to this fact sheet you can refer to the following fact sheets to also assist in the completion of the “Calculating pre-injury average weekly earnings” form:

- “PIAWE – Relevant Period” fact sheet
- “PIAWE – Overtime and Shift Allowance” fact sheet
- “PIAWE – Leave” fact sheet
- “PIAWE – Concurrent Employment” fact sheet
- “PIAWE – Indexation” fact sheet

Further assistance

Further assistance can be provided by contacting the scheme agent.