

SAPS Injury Management Practice Note

Calculation of Average Weekly Earnings

Objectives, Targets & Performance Indicators

Objective	Target	Performance Indicator
SAPS agencies comply with the RTW Act 2014 for the calculation of average weekly earnings.	All agencies	SAPS agency has a procedure for the calculation of average weekly earnings in line with legislative provisions.

Purpose

To promote the consistent application of the Return to Work Act 2014 to the calculation of average weekly earnings.

Context

The Act provides:

Designated weekly earnings is the current weekly earnings of the worker in employment or self-employment (if any) but not so as to include a prescribed benefit.	Sections 4 and 39(2)
Notional weekly earnings is: (a) the worker’s average weekly earnings (AWE); and (b) is not to exceed twice State average earnings.	Section 4
Average weekly earnings is the average weekly amount that the worker earned during the period of 12 months preceding the relevant date and including, if the work was at the time of the injury in the employment of 2 or more employers, employment with each such employer, and including payments for annual, sick or other leave. If during the period of 12 months before the relevant date the worker had changed the circumstances of their employment from working casually or seasonally to working in ongoing employment (full or part-time) and the worker was in that ongoing employment on the relevant date, the worker’s AWE will relate to the average weekly amount earned during the ongoing period rather than the period of 12 months preceding the relevant date, unless this would disadvantage the worker.	Section 4 and 5 Section 5 (4)
If a worker voluntarily (other than workplace injury incapacity): (a) reduces the normal number of hours worked (b) alters the nature of the work performed resulting in reduced weekly	Section 5 (5)

earnings,
any period before the reduction or alteration takes effect will be disregarded for the purposes of determining AWE.

If by reason of being employed for a short time, the terms of employment or any other reason it is not possible to arrive at a fair average, then AWE may be determined by reference to the AWE of a worker in the same employment, with the same employer, the same classification/grade and performing similar work.

Section 5 (6)
Section 5 (9)

If the level of earnings of an injured worker is affected by the injury prior to the relevant date (eg gradual onset of injury) the AWE will be set at a rate that fairly represents the weekly amount that would have been earned if the worker had not been affected.

Section 5 (10)

If immediately before the relevant date the injured worker was not in full-time employment but had been seeking full-time employment and had predominantly during the preceding 18 months been full-time, AWE rate will be based on weekly earnings while employed full-time during the preceding 18 months.

Section 5 (11)

The AWE of an injured worker under 21 years of age who suffers a permanent incapacity (total or partial) will be paid as if they had been 21 years old If the worker is an apprentice the AWE rate payable will be as if they had completed the apprenticeship.

Section 5 (12)

For the purpose of determining AWE:

- (a) any component of the worker's earnings attributable to overtime will be disregarded if, at the relevant date, the worker had no reasonable expectation of overtime in the foreseeable future because of a change in employment practices or other relevant factors; otherwise, overtime will be taken into account
- (b) The overtime component to be taken into account will be calculated as follows
$$C = A/B$$
- (c)
- (d) where **A** is the total amount paid/payable for overtime during the period used to calculate AWE.
- (e) **B** is the number of weeks in the relevant period (including annual, sick or other paid leave).

Section 5 (13)

AWE will take into account:

- (a) voluntary salary sacrifice for superannuation purposes;
- (b) any non-cash benefit of a prescribed class provided to the worker by an employer if the worker does not retain the benefit.

Section 5 (14)

AWE will exclude:

- (a) any contribution paid/payable by an employer to a superannuation

Section 5 (15)

- scheme;
- (b) any prescribed allowances.

The Act provides the following parameters for calculating the amount of average weekly earnings:

(a) remuneration will not be less than the weekly wage a worker is entitled to under an award or industrial agreement, if the worker was covered by such award or industrial agreement at the relevant date;

(a) (b) AWE will not fall (on a pro-rata rate) below the Federal minimum wage;

(b) (c) AWE will be no more than twice State average weekly earnings.

Section 5 (16)

The relevant date is the date on which the injury occurs.

SAPS Practice

SAPS agencies will use a documented process for the calculation of AWE and retain a copy of the calculation for future reference.

This Practice Note should be read in conjunction with Injury Management Practice Note – Income Support.