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# Remuneration Guidelines for Workers Compensation Insurance Policies

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**WORKERS  
COMPENSATION**

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# Introduction

Employers are required to provide a declaration of remuneration to their insurer when effecting or renewing a workers compensation insurance policy.

A declaration of 'estimated' remuneration payable to workers is made for the relevant forthcoming period for new or renewed policies (usually annually). A declaration of 'actual' remuneration must also be provided at the end of a period of insurance.

These guidelines provide further details on the various payments to workers that are included or excluded from remuneration for the purpose of making a declaration to insurers when effecting or renewing policies.

These guidelines are structured as follows:

- Section 1: provides a **quick guide** to the various allowances and leave payments included as remuneration.
- Section 2: provides **detailed information** on remuneration inclusions and exclusions.

These guidelines were developed by WorkCover WA in collaboration with representatives of the Insurance Council of Australia (WA), the Self-Insurer's Association of Western Australia and the National Insurance Brokers Association (WA).

# Section 1: Quick Guide to Remuneration Inclusions and Exclusions

## General Information

Unless specified otherwise in these guidelines, remuneration **includes**:

- Wages
- Salaries
- Commissions
- Bonuses
- Overtime
- Allowances
- Superannuation contributions (except those made by force of law)
- The gross value of fringe benefits (exemptions under tax legislation may apply for charities and not-for-profit organisations)
- Payments in lieu of leave entitlements
- All other cash or non-cash benefits paid to, or in relation to a worker (including working directors declared as such to the insurer) or to contractors before the deduction of income tax.

Remuneration **does not include**:

- Termination payments (excluding accrued leave entitlements)
- Retirement pay
- Retrenchment pay in lieu of notice
- Pensions
- 'Golden handshakes'
- Weekly workers compensation payments.

## Quick Guide

The following types of payments are **included** as remuneration. However, certain exceptions may apply. Please refer to Section 2 for further details.

Back pay	Insurances
Board and lodging	Loan and Lease payments
Bonuses and incentive schemes	Payments to contractors
Car parking	Payments in lieu of leave entitlements
Commission	Piece work payments
Company Car (private use)	Penalty rates and overtime payments
Club or association subscriptions	Profit sharing schemes
Debt forgiveness	Public and annual holiday payments (+ loadings)
Dividends	Salary
Dry cleaning	Salary package/sacrifice
Employee share schemes	Staff discounts and benefits
Fares and travelling time	Superannuation (except by force of law)
Fringe benefits	Tips and gratuities
Height money	Working directors – fees and payments
Housing	

The following types of payments are usually **excluded** as remuneration.

Benefits paid by superannuation funds	Redundancy payments
Early retirement benefits	Royalties
Ex-gratia payments	Severance payments
Gifts	Superannuation contributions required by law
Honorariums	Termination payments (excluding accrued leave entitlements)
Payments in lieu of notice	Workers compensation payments
Payroll tax	

The following types of **allowances** are **included** as remuneration:

Accommodation allowance	Motor vehicle allowance
Call out or call back allowance	Overtime allowance
Car allowance	Qualifications allowance
Clothing allowance / expenses	Remote allowance
Construction allowance	Relocation allowance
Dirt money	Rental allowance
Disability allowance	Representation allowance
Entertainment allowance	Shift allowance
First aid allowance	Site or height allowance
Footwear allowance	Skill allowance
Higher duties allowance	Stand by or on call allowance
Industry allowance	Study allowance
Instructor's allowance	Telephone allowance
Laundry allowance	Tool allowance
Living away from home allowance	Travel allowance
Locality allowance	Uniform allowance
Meal allowance	

The following types of **leave** are **included** as remuneration.

Adoption	Lump sum payments in lieu of holiday, sick leave etc.
Annual	Military service
Bereavement	Parental (Federal scheme excepted)
Carers	Public Holidays
Jury Duty	Sick
Leave Loadings	Study
Long service	

**Please refer to Section 2 for further details.**

# Section 2: Detailed Guide to Remuneration Inclusions and Exclusions

## Back Pay

Any payment in arrears, which is made to workers or ex-workers for work previously carried out. This includes retrospective payments due as a result of award rate increases or natural wage increases.

## Board and Lodging

Where the remuneration of a worker consists of wages with board or board and lodging, the wages or the earnings of the worker shall be deemed to be the amount of the wages with the addition of the value of such board or lodging.

Temporary accommodation associated with relocation of employees is not included.

## Bonuses and Incentive Schemes

Gratuities or rewards paid or provided by the employer over and above a fixed salary or wage are included. This includes non-business related travel, such as the cost of fares, accommodation, meals and incidentals paid by the employer for the benefit of a worker.

Excludes payments as rewards or prizes provided by any organisation such as a distributor or trade association (e.g. sales targets met, apprenticeship awards) paid by but not originating from the employer and travel undertaken by a worker relating to the employer's trade or business (e.g. conference or trade fair).

Payments or awards relating to company incentive schemes are counted as remuneration.

## Car Parking

The value of car parking, if a fringe benefit, is included as remuneration.

## Club or Association Subscriptions

Amounts paid to or on behalf of a worker, for membership of any club or association are included (as they are fringe benefits).

Any club subscription where it can be reasonably demonstrated that the payment is a business-related expense or where the worker's membership is in the interests of the employer's trade or business is excluded.

## Commission

Payments, usually to sales or marketing personnel, made in addition to any salary retainer, for units sold or sales targets achieved are included. Includes bonuses or 'spotter's fees' paid to non-marketing employees.

## Company Car (private use)

If an employer provides a worker with a car (including a worker's private use of a car or through any type of leasing arrangements for private use), the benefit is counted as remuneration.

## Contractors

The labour component of payments to contractors which meet the definition of 'worker' are declarable (s.12(2)(b) or (c)).

Insurers will ordinarily require full details of each payment made to the contractor, for example: labour only; labour and materials; labour materials and plant; or labour and plant. Each insurer will specify the details they require on their wage declaration forms.

For further information on the elements of remuneration that need to be declared, please contact your insurer or broker.

Please note records of payments to all contractors, including the dates of payment and the amounts should be accurately maintained and available for inspection by insurers upon request.

## Debt Forgiveness

Included: 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 they are not required to pay the amount invoiced to them.

Not included: A debt owed by a worker that is written off as a genuine bad debt.

## Dividends

See 'Profit-sharing schemes'.

## Dry Cleaning

Payments made by the employer to the workers to cover cleaning of uniforms or other clothing are included. Payments made as a reimbursement to the worker for specific expenditure are excluded.

## Early Retirement Benefits

Not included. See Termination Payments.

## Employee share schemes

Employee share schemes that form part of an employee's salary package (e.g. options, shares and dividends) are included as remuneration.

## Ex-Gratia Payments

Ex-gratia payments are not included as remuneration.



## Fares and Travelling Time

Included if subject to fringe benefits tax. Any payments to workers that directly reimburse work-related travel costs (e.g. where the costs relate to duties performed away from their usual place of work) that are not subject to fringe benefits tax and are not identified on the worker's group certificate, are not included as remuneration.

If the employer pays the travel expense for another reason (e.g. as a form of additional remuneration or bonus for 'services' rendered under a contract of employment) then the payment is included as remuneration.

## Fringe Benefits

Fringe benefits are items paid by an employer on behalf of or for the benefit of employees or their families and include motor vehicles, loan benefits, debt waivers, housing, expense payments, school fees, car parking, payment of health benefits etc.

Generally, if a non-cash component of a worker's wages is considered taxable under the *Fringe Benefits Tax Assessment Act 1986* then, for the purpose of making a declaration of remuneration, it is counted as remuneration.

For any fringe benefit, the amount that is to be included as remuneration is the value of the benefits calculated using the 'taxable value of fringe benefits' ending 31 March in the particular premium policy year, as specified in the *Fringe Benefits Tax Assessment Act 1986*. It is the actual value of the benefit provided (as determined by the Fringe Benefits Tax Assessment Act 1986) i.e. **the grossed-up amount**.

For example, for a benefit valued at \$2,000 then the employer would declare the grossed-up taxable amount which is \$2,000 multiplied by the relevant FBT gross-up formula amount (available from the Australian Tax Office website).

When a policy is cancelled mid-term the benefit declared should be calculated on a pro rata basis having regard to the period elapsed. When a business ceases to operate the employer should declare the value of the benefit up to the date of ceasing the business as per the employer's FBT return.

Any fringe benefits that are available to workers as an incidental benefit of employment are counted as remuneration.

Non-profit organisations, public benevolent institutions and charities should declare worker benefits that are not subject to fringe benefits tax at the **net value**.

Once the worker benefits exceed the Australian Tax Office fringe benefit threshold, the employer must declare the benefit at the grossed-up value.

## Gifts

Gifts are not included as remuneration.

## Health Insurance

An amount paid by the employer to a health insurance fund for the benefit of workers is included as remuneration. This includes any 'top up' payments by the employer to cover the difference between the amount billed by a medical provider and that paid by a health insurance fund.

The gross amount of premiums paid by the employer is included as remuneration. The proceeds of an insurance claim are excluded.

## Height Money

Height money is counted as remuneration.

## Honorariums

Honorariums to volunteers or non-workers are not counted as remuneration.

## Housing (incl. housing loans)

In general, housing payments, including company housing, free housing and housing loans are counted as remuneration. For example:

- The current market rental value of a company house (less any amount the worker pays for the right to occupy the premises)
- The amount of temporary accommodation (associated with relocation) that is assessable for fringe benefits tax
- The taxable value of a housing loan that is offered to a particular worker as part of their salary package and is subject to fringe benefit tax.

Accommodation provided to an employee in a remote area may be exempt. Insurances (Life, Health, Personal Accident, Salary Continuance etc.) Included:

- Any premium or lump sum paid on behalf of a worker to an insurance company for a policy for an employee.
- Premiums paid on any investment-type policy such as an Insurance Bond or Capital Guaranteed Investment Bond
- Purchase by the employer of an annuity on behalf of the worker Excluded:
- The proceeds of any insurance policy.
- Purchases paid on a worker's policy where the company is the ultimate beneficiary.

## Jury Duty/Service Leave

An employer is required by law to continue to pay their workers their usual wage while they are on leave attending jury duty. These payments are to be declared as remuneration.

## Lease Payments

Payment of lease/rent (in whatever form or name) for the provision of premises, equipment etc to working directors/working beneficiaries/workers which are commercially based, legally documented and subject to taxation are not counted as remuneration. Otherwise payment of rent to working directors/working beneficiaries/workers is counted as remuneration.

## Loan Payments

Repayment of loans to working directors/working beneficiaries/workers which are commercially based, legally documented and subject to taxation are not counted as remuneration. Otherwise payment of loan amounts to working directors/working beneficiaries/workers is counted as remuneration.

## Lump Sum Payments of Accrued Entitlements

The lump sum payment of accrued entitlements such as Annual Leave, Sick Leave or Long Service Leave are to be counted as remuneration. These payments are often made upon termination of employment.

## Operating car leases

Included where the vehicle is regarded as a fringe benefit.

## Over Award Payment

A payment that relates to an amount paid, which is above the basic rate set down by an industrial award applicable to that worker is included as remuneration.

## Overtime Payments

Overtime payments are counted as remuneration.

## Motor Vehicle Allowance

Motor Vehicle Allowances are included as remuneration. The amount is determined by multiplying the number of business kilometres by the applicable ATO cents per kilometre rate.

## Novated Leases

Included if subject to fringe benefit tax.

## Payments in Lieu of Notice

Payments in lieu of notice are not counted as remuneration.

## Piece Work Payments

Productivity-based payments made to a worker at an agreed rate per item produced, assembled or fabricated by that worker are counted as remuneration.

## Payroll Tax

Payroll tax is not counted as remuneration.

## Penalty Rates

Penalty rates are counted as remuneration.

## Profit Sharing Schemes

A profit-sharing scheme describes an arrangement whereby the people who work for a business receive payments as a direct share of profits. If the payments made under this

scheme are connected to the performance of work, (i.e. are compensatory or remuneration in nature in return for employment services rendered), those payments are to be declared as remuneration. This could include dividends, trust distributions and bonus payments, depending on the circumstances.

## Public and Annual Holiday Payments (Including Loadings)

Public and annual holiday payments (including loadings) are counted as remuneration.

Redundancy Payments See termination payments.

### Representation Allowance

An amount paid to cover time and expense which has been or may be incurred by the worker in the capacity of having to represent, deputise or act as proxy for the employer in any conference, meeting, negotiation or business-related discussion for that employer is counted as remuneration.

## Royalties

Royalty payments are not counted as remuneration.

## Salary

Salary is counted as remuneration.

## Salary Continuance

See 'Insurances'.

## Salary Package/Sacrifice

Generally, any wages, salary and the value of fringe benefits and other consideration in money or money's worth the employer provides to workers as part of a 'salary package' or 'salary sacrifice arrangement', are counted as remuneration.

In the case of fringe benefits, the amount counted is the taxable value of the benefits according to the *Fringe Benefits Tax Assessment Act 1986*.

If the employer contributes to the worker's superannuation fund or pays any amounts of fringe benefits and those contributions or payments are debited to the worker's salary package, then they are counted as remuneration.

## Severance payments

See 'Termination Payments'.

## Staff Discounts and Benefits

Any fringe benefits that are available to workers as an incidental benefit of employment are counted as remuneration.

See 'Fringe Benefits.'

## Superannuation payments

Included:

- Employer superannuation contributions which are made by way of salary sacrifice from a worker's salary package.
- 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).
- In addition, if the employer makes contributions to a worker's superannuation scheme or fund but does not pay the worker any other wages for the work the worker performed, the contribution is counted as remuneration.

Not included:

- Employer superannuation contributions required by law, e.g. *Superannuation Guarantee (Administration) Act 1992 (Commonwealth)*.
- Superannuation benefits paid to workers from superannuation funds.

## Termination Payments

When a worker's employment is terminated, made redundant, or the worker retires they may receive various payments. Some types of payments are guaranteed entitlements under industrial awards and agreements and underpinned by legal obligations. For example, accrued leave entitlements. These Guidelines require all legally enforceable accrued entitlements whether paid on termination or not to be declared as remuneration (but they are not called 'termination' payments).

The term 'termination payments' as used in these guidelines refers to redundancy, severance, retrenchment, ex gratia, and early retirement payments or any payments made in lieu of notice on termination that are voluntary. (that are voluntary not mandatory, legally enforceable payments). Termination payments are not counted as remuneration.

## Tips and Gratuities

Tips and gratuities that employers pass on to their workers and are included on the worker's payment summary are counted as remuneration.

## Trust Distributions

See 'Profit Sharing Schemes'.

## Workers Compensation Payments

Any workers compensation benefits an employer pays to a worker are not counted as remuneration.

Payments by an employer to an injured worker over and above the workers compensation benefits paid to workers by the workers compensation insurer or reimbursement of workers compensation benefits by the workers compensation insurer to the employer are counted as remuneration.

## Working Directors Fees and Payments

Remuneration of a working director includes fees, wages, salary, allowances, fringe benefits, trust distributions etc. that are paid in return for manual labour or service.

### Coverage

In WA it is optional to cover working directors for workers compensation.

Working directors are only covered by the workers compensation scheme if each director is named on the insurance policy and the remuneration of each director is declared to insurers at policy inception and renewal.

To be covered for workers compensation a working director must:

- be a director under the *Corporations Act 2001*
- undertake work for the company and receive remuneration as a director that are in substance for personal manual labour or services
- be named on the workers compensation policy
- declare estimated remuneration at inception of the policy
- declare actual remuneration at the end of each policy period (renewal)

### Definition

To be considered a 'working director', a company director must work in the business and do more than undertake director duties. A working director is a person:

- who executes work for or on behalf of the company, and
- whose remuneration as a director of the company, by whatever means, are in substance for their personal labour or services

### Exclusions

The following are excluded from coverage as a 'working director':

- Non-working directors
- Sole traders and partnerships
- Unincorporated business owners

## Declaring remuneration

A statement of each working director's remuneration is used by the insurer to determine an appropriate insurance premium and calculate income compensation payments for a working director with an incapacity for work.

The following steps must be taken by the working director's company:

1. The company applies to one of the approved insurers and names **each** working director to be covered by the policy.
2. A statement is provided to the insurer specifying each working
3. director's **estimated** remuneration payable over the insurance policy period.
4. At the end of the policy period a statement is provided to the insurer specifying each working director's **actual** remuneration as a director paid over the previous insurance policy period.

## Calculating weekly compensation for working directors based on remuneration declarations – examples:

The following examples illustrate how income compensation is calculated for working directors in different circumstances.

Scenario 1	Company statement of estimated earnings of working director is \$80,000. At the end of the policy period the company declares the amount of the working director's earnings is \$100,000. Three months after the last statement of actual earnings the working director is incapacitated for work. Income compensation is based on the annual amount of \$100,000 last declared as the actual earnings of the working director.
Scenario 2	Company provides statement of estimated or actual earnings to insurer with nil remuneration declared for working director. No income compensation is payable as the company has declared the working director receives no earnings.
Scenario 3	Working director working for company less than one year. Statement of working director's estimated earnings of \$80,000 provided to insurer but no statement of actual earnings. At time of injury no remuneration received. Income compensation based on the estimated earnings of \$80,000 p/a declared by the company to the insurer at beginning of policy period.
Scenario 4	Working director working for company less than one year. Statement of working director's estimated earnings of \$80,000 provided to insurer but no statement of actual earnings. At time of injury working director's weekly earnings averaged \$1,000 p/w over 3-month period. Income compensation based on average earnings of \$1,000 pw.

# Contact us

- Phone **13 10 10**
- Find us on the web at **[gio.com.au](http://gio.com.au)**
- Email **[giopolicy@gio.com.au](mailto:giopolicy@gio.com.au)**
- Post **WA Policies, GPO Box B50 Perth WA 6838**

## Who we are

This insurance issued by  
AAI Limited ABN 48 005 297 807 AFSL 230859  
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