

Practice Directive #C9-11

Composition Of Earnings

General principles

A worker's average earnings are normally composed of wages or salary. However, a worker may receive other types of payments as part of employment remuneration. WorkSafeBC determines whether a specific type of payment is included as part of a worker's average earnings.

Merits and justice

WorkSafeBC must make its decision based on the merits and justice of the case, but in so doing WorkSafeBC must apply policy that is applicable.

In making decisions, WorkSafeBC must take into account all relevant facts and circumstances relating to the case before it, including the worker's individual circumstances. In doing so, WorkSafeBC must consider the relevant provisions of the *Workers Compensation Act* (the "Act") and the relevant policies.

If there are specific directions in the *Act* or policy that are relevant to those facts and circumstances, WorkSafeBC applies them.

Where the *Act* and policy provide for discretion, the officer is also required to exercise that discretion based upon the merits and justice of the case, in accordance with the *Act* and applicable policy.

Adjudicative Guidelines

Given the different types of employment-related payments that may be provided to a worker, it is important to ensure that only the labour component of a worker's remuneration is included in the calculation of average earnings.

For more information about the composition of average earnings for workers and fishers who deduct business and/or equipment expenses, refer to Practice Directive #C9-10, *Workers Deducting Business and/or Equipment Expenses*.

The following is a list of payments that have been identified in policy as appropriate for inclusion in the calculation of average earnings:

- commission, piecework, bonuses, tips and gratuities, where the information provided can be verified, including through independent sources,
- statutory holiday payments and vacation allowances,¹
- regular overtime payments,²
- subsequent salary increases that are effective retroactively to before the date of injury - unless more than 75 days have passed since the rate was established,³
- monies in respect of room and board that is provided by an employer as part of a worker's remuneration,⁴
- Employment Insurance payments received by a worker employed in an occupation or industry that results in recurring seasonal or recurring temporary interruptions of employment,⁵ and
- monies in respect of government sponsored work programs.⁶

The following is a list of payments that have been identified in policy as not appropriate for inclusion in the calculation of average earnings:

- severance or termination pay,⁷
- prospective salary increases or promotions that a worker might have received if the injury had not occurred,⁸
- special expenses or allowances,⁹
- strike pay,¹⁰
- monies in respect of the supply of rental equipment,¹¹
- monies in respect of operating and/or equipment expenses,¹² and
- the following types of payments made by the employer on behalf of the worker¹³:
 - contributions payable under the *Canada Pension Plan*,
 - premiums payable under the *Employment Insurance Act*, and

¹ See policy Item C9-68.00, Section A, *Extraordinary Or Irregular Wage Payments*.

² See policy Item C9-68.00, Section A i, *Overtime*.

³ See policy Item C9-68.00, Section A iii, *Salary Increases*.

⁴ See policy Item C9-68.00, Section B ii, *Room and Board*.

⁵ See policy Item C9-68.00, Section D, *Employment Insurance Payments* and Practice Directive #C9-8, *Employment Insurance Payments*.

⁶ See policy Item C9-68.00, Section G, *Government Sponsored Work Programs*.

⁷ See policy Item C9-68.00, Section A ii, *Severance or Termination Pay*.

⁸ See policy Item C9-68.00, Section A iii, *Salary Increases*.

⁹ See policy Item C9-68.00, Section B iii, *Special Expenses or Allowances*.

¹⁰ See policy Item C9-68.00, Section C, *Strike Pay*.

¹¹ See policy Item C9-68.10, Section D, *Composition of Average Earnings – Deducting Business or Equipment Expenses*.

¹² See policy Item C9-68.10, Section A, *Workers Deducting Business And/Or Equipment Expenses* and Practice Directive #C9-10, *Workers Deducting Business and/or Equipment Expenses*).

¹³ See policy Item C9-68.00, Section B i, *Benefit Plans*.

- contributions to a retirement, pension, health and welfare, life insurance or another benefit plan for the worker or the worker's dependants, including contributions made to a cashable Registered Retirement Savings Plan (RRSP).

Once a decision is made regarding the worker's average earnings and a wage-rate is established, the 'composition' of the worker's average earnings can only be reconsidered if less than 75 days have elapsed since the decision was made. As a result, it may be necessary to establish provisional earnings (provisional rate) where there is an expectation that further proof of earnings may be required (e.g., a time lag for commission earnings to be determined and paid by the employer; or payments in respect of room and board that may be terminated by the employer).

Statutory holiday and vacation payments

Statutory holiday pay and vacation pay are considered earnings and should be included when setting a worker's wage rate.¹⁴

This is applicable to both short-term average earnings and long-term average earnings.

Only vacation and/or holiday entitlement that is earned in the period under consideration and paid to a worker is included in the composition of average earnings (e.g., a worker is paid 4.5% of their annual salary in respect of vacation entitlement).¹⁵ Compensation is not provided in respect of a worker's inability to accrue additional vacation time during the period of disability.

Vacation pay earned during a period when the worker is receiving wage-loss benefits, is deducted from section 192 benefits when it is paid.¹⁶

Compensation under section 192 is calculated as the difference between the worker's pre-injury earnings and what the worker earns, or is deemed capable of earning, after the injury. Any statutory holiday pay and/or vacation allowance paid while the worker is receiving wage-loss benefits is deducted from the section 192 benefit amount because it is considered to be 'earnings'. This deduction is necessary because the statutory holiday and/or vacation pay was included in calculating the worker's average earnings.

Vacation pay that was accrued prior to the injury and paid out during the time the worker is receiving section 192 benefits is not deducted.

¹⁴ See policy Item C9-68.00, Section Ai, *Extraordinary Or Irregular Wage Payments*.

¹⁵ For inclusion in average earnings, vacation and/or holiday entitlement must represent an additional amount that supplements the worker's wages.

¹⁶ Policy Item C5-34.10, Section 3.1, *No Reimbursement of Vacation Pay or Termination Pay*, requires WorkSafeBC to continue payment of wage-loss benefits during a vacation period or statutory holiday. However, this policy is intended to ensure that there is no interruption in the payment schedule (i.e., entitlement). It is not intended to address how much compensation is appropriate with respect to the section 192 calculation.

Overtime

Only “regular overtime” is included in the calculation of a worker’s average earnings.¹⁷ Policy does not make a distinction between the calculation of short-term average earnings and long-term average earnings.

For the purposes of identifying “regular” overtime, the worker should be able to demonstrate a relatively predictable and repetitive pattern of earning overtime payments.

With respect to calculating short-term average earnings, the frequency in which the worker earns overtime is an important consideration. Since the objective is to accurately capture time-of-the injury earnings, the worker would generally have to demonstrate a regular pattern of earning overtime within the three-month period immediately preceding the date of injury.¹⁸

For example, a worker who received at least one overtime payment in each of the three months under review would be able to demonstrate a regular pattern of earning overtime, and therefore the payments would be included in the calculation of short-term average earnings. In this example, it would be appropriate to set the wage rate based on the worker’s monthly earnings (rather than a weekly or daily rate of pay).¹⁹

With respect to calculating long-term average earnings, the period of review for determining if the worker had a regular pattern of earning overtime will generally be the 12-month period immediately preceding the date of injury. However, a longer period of review may be undertaken where necessary.

For example, the worker may have a pattern of working overtime on an annual basis, but only during a specific time of year (e.g., over a holiday season). The nature of the overtime in this case would still be viewed as regular and should be included when calculating the long-term average earnings.

Where banked overtime is earned and paid out in the period for which average earnings are being considered, it is included in the worker’s average earnings. Where banked overtime is earned in the period for which average earnings are being considered, but the payment is deferred to a later time (whether it is paid as additional earnings or paid time off), it will be treated as if it had been immediately paid out, and included in the worker’s average earnings. The only reason why the worker had not been paid the earnings from the overtime was because the worker had opted (or was required) to defer the payment to a later point in time. This does not change the fact that the overtime that was earned reflects the worker’s increased earnings and earning capacity at the time of injury.

This means, however, that payments that were made to the worker during the period in which average earnings are being considered, but that were earned outside of the relevant period, should not be included

¹⁷ See policy Item C9-68.00, Section A i, *Overtime*.

¹⁸ An exception may be made, for example, where a worker received ‘regular’ overtime and was off on holidays for two months just prior to the date of injury.

¹⁹ A shorter period of time for establishing ‘time of injury earnings’ (e.g., weekly earnings) may be appropriate where the worker is able to demonstrate a more frequent pattern of receiving overtime payments.

in the worker's average earnings. Doing so would result in inflating the worker's average earnings by including payments for earnings from outside the period being considered.

Bonuses

Policy confirms that items such as commission, piecework, bonus, tips and gratuities must be included in a worker's average earnings where WorkSafeBC can verify the information provided to WorkSafeBC, including through independent sources.²⁰ This policy applies to the composition of both short-term average earnings and long-term average earnings.

There are two important questions when considering whether a bonus should be included in the calculation of average earnings:

1. Does the bonus represent remuneration for work?
2. When was the bonus payment earned?

Where a worker receives an employment bonus during the time period under review, the amount is included in average earnings where it is determined that the bonus is related to actual work done.

In some cases, workers receive bonus amounts on top of their regular pay each pay period or on a weekly or monthly basis. Calculating short-term average earnings in those circumstances is straight-forward. The officer would simply add the bonus amount to the worker's regular pay.

More often, a worker will receive an employment bonus on a quarterly or annual basis. Such a bonus may be included in short-term average earnings to the extent that it represents time of the injury earnings. In other words, the bonus may be included in short-term average earnings if it relates to the time period used to calculate those earnings. It is necessary for the WorkSafeBC officer to confirm the value of the bonus for work done during the period of time under review. For short-term average earnings, where the precise amount is not available, it may be necessary to prorate the bonus amount so that it reflects time of the injury earnings.

For example, if a worker was injured the same week they received their annual bonus, obviously the entire bonus amount would not be considered time of the injury earnings. Instead, the bonus amount would be prorated to match the time period used to calculate the short-term wage rate. If the short-term wage rate is calculated based on the worker's daily wages, the annual bonus amount would be divided by 365 to determine a daily value that would be added to the daily amount of wages. If the short-term wage rate is calculated using three-month earnings, the bonus would be prorated accordingly.

There is often some delay between the worker earning a bonus and the payment of the bonus, which can complicate the decision regarding whether to include the bonus in average earnings, and if so, how much to include. If the bonus represents time of the injury earnings, the payment of which has simply been deferred to some later date (for example, paid after the date of injury), it is appropriate to include the

²⁰ See policy Item C9-68.00, Section A, *Extraordinary Or Irregular Wage Payments*.

bonus in the short-term average earnings. Bonuses that do not represent time of the injury earnings, but instead relate to an earlier time period, are not included in short-term average earnings.

For example, where the worker received an annual bonus five months prior to the date of injury, the bonus does not represent time of the injury earnings and would not be included in short-term average earnings.

Employment bonuses, including those paid on an annual basis, are routinely captured in long-term average earnings. Long-term wage rates for workers who fall under the 'general rule' are calculated based on earnings from the 12 months immediately preceding the date of injury. If the worker received a bonus for work done in that 12-month period, it is included in long-term average earnings. Similar to the process for considering inclusion of bonuses in short-term average earnings, WorkSafeBC officers should confirm the value of the bonus for work done during the 12-month period.

An "attendance bonus" may also be included in the calculation of average earnings. This type of bonus is typically paid to a worker if they have fewer absences from work than the number of days specified by the employer. The bonus is linked to work performance since the worker does not receive the funds if they do not attend work. As such, attendance bonuses are closely related to actual work done and represent remuneration for that work.

Where the worker might have received a bonus but did not because the worker was off work at the time the bonus was paid, there is no bonus to include in the calculation of earnings. Bonuses that have not yet been paid cannot be included in average earnings unless the bonus amount can be quantified and there is a guarantee it will be paid in the future. In these cases, it may be appropriate to set a provisional rate pending the finalization of the worker's bonus payment.

Signing Bonuses

A union and employer may negotiate a collective agreement where a 'signing bonus' forms part of the agreement. Signing bonuses are not included when calculating a worker's average earnings or deducted when calculating section 192 payments. The bonus is not representative of the worker's normal earning pattern and is not remuneration for work or services provided. Workers have received the payments as a result of a collective bargaining process and in particular, as an inducement to entering into an agreement.

Although policy references bonuses as part of the worker's average earnings, it is in the context of an "extraordinary" or "irregular" wage payment.²¹ In other words, the policy is speaking of bonuses that are connected to the production or performance of the individual worker or the employer. This interpretation is reinforced by consideration of the other items mentioned in the policy. Commission, piecework, tips and gratuities are all directly linked to a worker's direct employment efforts. The signing bonus is a one-time

²¹ See policy Item C9-68.00, Section A, *Extraordinary Or Irregular Wage Payments*.

lump-sum payment paid to a worker as an incentive to sign a collective agreement. Exclusion of these bonuses from the composition of average earnings is consistent with policy.²²

Since signing bonuses are not included in average earnings, they are also not deducted from temporary disability benefits under section 192. A signing bonus payment is treated in a manner similar to termination pay²³ in that the payment is in respect of a contractual agreement and not for work completed.

Out-of-Country Earnings

Out-of-country earnings may be included in the calculation of average earnings. This situation may present, for example, where the worker is a recent immigrant or a temporary foreign worker.

If the out-of-country earnings are from the time period used to calculate the worker's wage rate, the earnings are included in average earnings. There is nothing in the legislation or policy that limits average earnings to monies earned in Canada. The same principles that apply to the inclusion of Canadian earnings would apply to out-of-country earnings. The out-of-country earnings would have to be verified, such as the equivalent to a Canadian T4 tax form or documentation from the employer.

The exchange rate to be applied to the out-of-country earnings can be obtained from the Finance Department. The WorkSafeBC officer should use the average exchange rate for the earnings period being used or, if unavailable, the current exchange rate.

Dividends

Where a worker is a principal of a limited company, it is appropriate to consider income derived from dividends if the amount received by the principal represents payment for productive services, activities or work performed for the company. If the evidence indicates that only a portion of the principal's dividend income represents payment for work, then it is appropriate to include only that amount in the calculation of average earnings.

This approach is also consistent with the *Assessment Manual*, AP5-245-2, Section 3.2(d), *Dividends*, which states that dividends are considered part of the company's payroll if they are paid as remuneration for activity in the company.

Shareholder (Principal) Repayment Loans

In a 'shareholder repayment loan,' the active principal puts their own 'seed' money into starting up the business venture (corporation). The principal is deemed to have loaned their money to the company (the employer). If the principal later withdraws that money from the corporation, it may be in the form of a

²² See policy Item C9-68.00, Section A, *Extraordinary Or Irregular Wage Payments*.

²³ See policy Items C5-34.10, Section 3.1, *No Reimbursement of Vacation Pay or Termination Pay* and C9-68.00, Section A ii, *Severance or Termination Pay*.

shareholder repayment loan. In essence, the employer is returning the money that the principal originally loaned to the business.

If the shareholder repayment loan represents payment to the principal for productive labour provided to the company, those amounts are properly included in the principal's average earnings. This is an evidentiary issue based on the facts of each individual case. The following factors should be considered:

- The principal has a clearly established pattern of receiving income from the employer of a certain amount (e.g., \$5,000 per month). Subsequently, the income paid by the employer is reduced (e.g., \$3,000). The principal begins receiving shareholder loan repayments from the employer (e.g., the employer repays the principal \$2,000 each month to pay down the shareholder loan). If the pattern of income paid to the principal changes because the repayment of shareholder loans supplements or replaces the reduction in "earned income," there is evidence to support that the loan repayment should be included in average earnings.
- If the pattern of shareholder loan repayments is sporadic, or was taken for reasons other than to provide the principal with income, it may be harder to show that the shareholder repayment loan should be included in average earnings. For example, if the shareholder repayment loans appear to be taken on an "as needed" basis, and does not establish a pattern of reliance on those payments as earned income, or if they are taken to finance a personal purchase (taking a vacation), they may not be eligible for inclusion in average earnings.
- In some cases, the principal may have been advised by an accountant, tax lawyer or other financial advisor to instigate a change in business practices for income tax reporting purposes. If the principal was advised to structure "earned income" as a shareholder repayment loan rather than as T4 income to confer a tax advantage, it may explain a shift in payment received by the principal from income to shareholder repayment loans. If the principal restructured payments from the employer as shareholder repayment loans on advice from a financial professional, but the evidence supports that the principal intended to rely on those shareholder loan repayments either to top up or replace earned income, they would likely be included in average earnings.

Principals of Incorporated Entities

Since principals of incorporated independent firms are a separate entity from their company, their remuneration is often structured as T4 income. Income and expenses declared on the company's tax return are not transferred to a principal's individual tax return. In some cases, both the principal's personal tax return and the company's corporate tax return may be required to determine the principal's average earnings.

Proprietors of Unincorporated Business

Proprietors of an unincorporated business and their spouses are not considered workers unless they have been granted optional coverage (i.e., Personal Optional Protection). A child of a proprietor who is paid by, and has an employment relationship with the proprietor, is a worker, regardless of age.

The average earnings of a proprietor who has purchased Personal Optional Protection are the earnings for which coverage has been purchased.²⁴ However, spouses with voluntary coverage and children of proprietors, paid by the business and who have an employment relationship are considered workers for the business. Their average earnings are determined in accordance with average earnings policies set out in Chapter 9.

Partners of Unincorporated Business

Partners of an unincorporated business in a partnership are not considered workers unless they have been granted optional coverage (i.e., Personal Optional Protection). The average earnings of a partner who has purchased Personal Optional Protection are the earnings for which coverage has been purchased.²⁵

A spouse of a partner who is employed under a contract of service is a worker. A child of a partner who is paid by the partnership and has an employment relationship is also considered a worker, regardless of age. The partner's spouse and child's average earnings are determined in accordance with average earnings policies set out in Chapter 9.

Cross references

RSCM Policy	C5-34.10, <i>Payment of Wage-Loss Benefits</i>
	C9-67.00, <i>Exceptions to General Rules – Short-Term and Long-Term Average Earnings</i>
	C9-68.00, <i>Composition of Average Earnings</i>
	C9-68.10, <i>Composition of Average Earnings – Deducting Business or Equipment Expenses</i>
Practice Directive	#C9-8, <i>Employment Insurance Payments</i>
	#C9-10, <i>Workers Deducting Business and/or Equipment Expenses</i>

History: This Practice Directive was first issued on January 14, 2008. On February 4, 2008, minor amendments were made to further clarify practice with respect to vacation pay, overtime pay, and bonuses. On March 12, 2014, a minor amendment was made to clarify practice with respect to room and board. On March 24, 2016, a minor amendment was made to clarify practice with respect to overtime pay. On February 28, 2020, the Practice Directive was amended to align with policy changes that came into effect on February 1, 2020. The policy amendments provide guidance on legal issues of standard of proof, evidence and

²⁴ See policy Item C9-67.00, Section C, *Personal Optional Protection*.

²⁵ See policy Item C9-67.00, Section C, *Personal Optional Protection*.

causation. This Practice Directive was amended to reflect changes made to the *Workers Compensation Act* made effective on April 6, 2020 as part of a standard statute revision process. This Practice Directive was updated on December 30, 2021 to reflect changes in WorkSafeBC's organizational structure. This Practice Directive was amended on September 16, 2024 to update policy reference numbers and other housekeeping changes resulting from amendments to the *Workers Compensation Act* made effective on January 1, 2024. This Practice Directive was amended to update policy reference numbers and policy wording, reinforce the need for officers to consider the merits and justice of the case, make minor wording changes that to not affect the adjudicative guidance, and other housekeeping changes resulting from revisions to Chapter 9 of the *RSCM*, made effective on July 4, 2025. It also incorporates wording taken from retired Practice Directive #C9-1, *Coverage and Compensation for Self-Employed Persons*, sections 3.3.2, 3.4.2, 3.4.3, 3.5.1 and 3.5.2, which has been updated to align with *Assessment Manual*, AP1-1-1, Section C, *Employers and Workers in Specific Situations*, pp. 10-11. This wording addresses earnings of principals of incorporated entities, and proprietors and partners of an incorporated business.

Application: This item is intended to provide guidance to WorkSafeBC officers in determining whether a specific type of payment is included as part of a worker's average earnings. It applies to all decisions made on or after July 4, 2025.