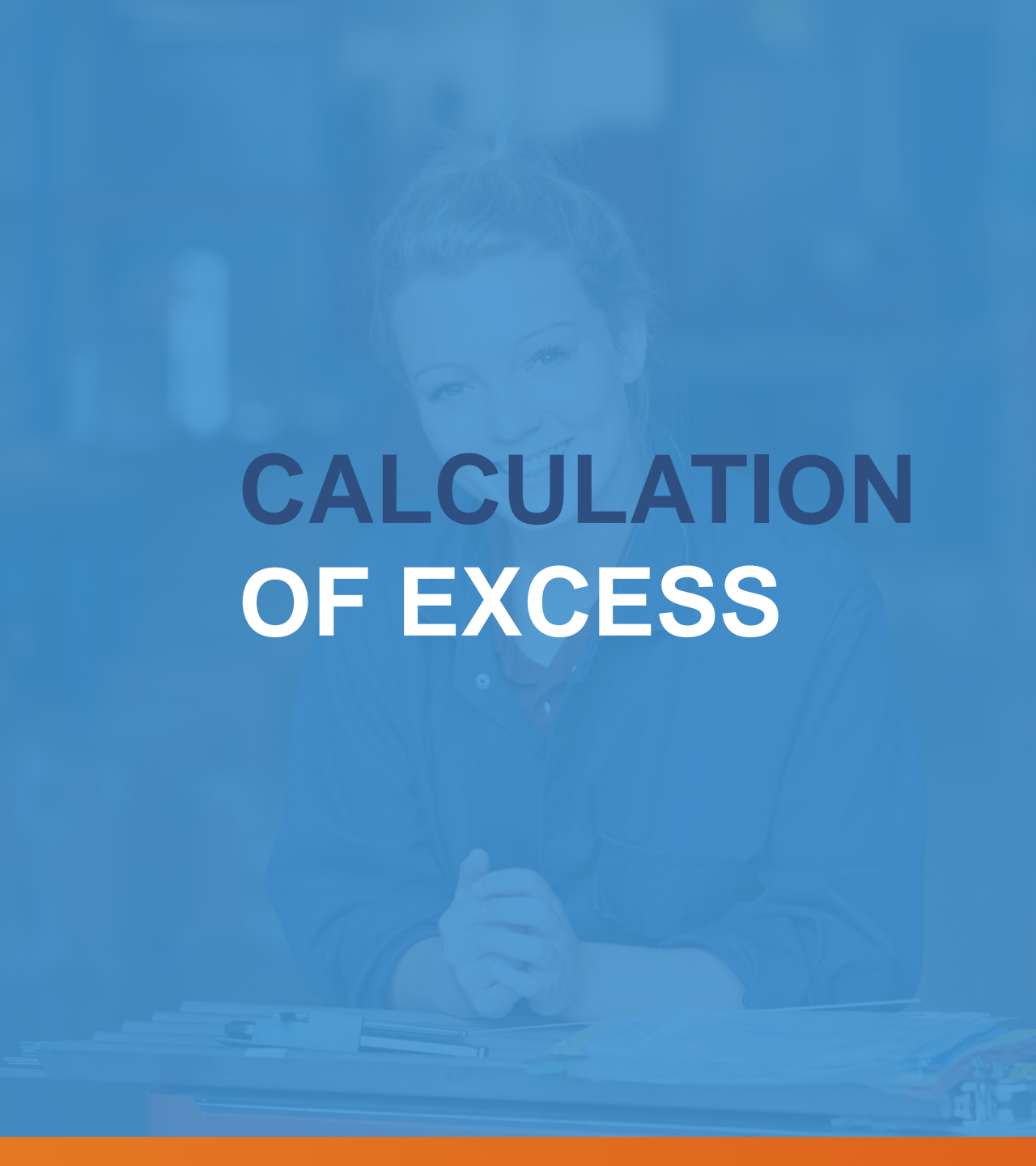


# Calculation of employer excess

Guidance for employers





# CALCULATION OF EXCESS

**This guide is designed to help you, as an employer, understand employer excess, how it's calculated, and your requirements as an employer.**

When a [worker](#) sustains an injury and a time lost claim for either total or partial incapacity is accepted, the employer excess is determined by WorkCover. This excess is paid by the employer to the injured worker.

This guide helps you understand how to apply relevant provisions of the [Workers' Compensation and Rehabilitation Act 2003](#) (the Act) and the [Workers' Compensation and Rehabilitation Regulation 2014](#) (the Regulation).

Let's look at where 'excess period' and employer responsibility to pay excess is stated in the legislation.

# EXCESS PERIOD AND AMOUNT OF EXCESS

## Section 65 of the [Act](#) outlines:

- The excess period for a worker who sustains compensable injury starts on the day the worker is entitled to compensation
- The excess period ends on the day the weekly compensation amount paid exceeds the amount as per the Regulation below.

## Section 15 of the Regulation states:

- For section 65(2) of the Act, the amount prescribed is the lesser of the following: —
  - (a) QOTE - Queensland full-time adult's ordinary time earnings (this changes every year, and figures are [reported on our website](#))
  - (b) the amount of weekly compensation payable to a worker under the Act.



# YOUR RESPONSIBILITY AS AN EMPLOYER

## Section 66 of the [Act](#) outlines:

- The employer must pay the worker an amount equal to the weekly payment of compensation as excess
- WorkCover is not required to pay the compensation to the worker for the excess period (*unless the employer fails to pay within 10 business days of being notified*)
- If the worker is employed by more than one employer when they sustain an injury, the excess amount must be paid by the employer where the injury occurred. The excess is limited to the amount payable under contract by that employer.

## Important note

If WorkCover pays the excess, due to the employer failing to pay, the amount paid will be recovered from the employer and an additional 50% penalty may also apply.





# THE KEY STEPS

**Now that you know the meaning of ‘excess’ and why you as an employer need to pay the excess, let’s go through the following steps:**

- Step 1 – Calculate weekly compensation rate / payment
- Step 2a – Total incapacity excess
- Step 2b – Partial incapacity excess
- Step 2c – Total incapacity and partial incapacity within one week

# STEP 1 CALCULATE WEEKLY COMPENSATION RATE

To calculate the weekly compensation rate / payment, we first need to calculate the injured worker's weekly wages.

We have developed a [wage payments calculator](#) to help you work out your injured worker's wage payments.

Once wages have been calculated, Chapter 3, Part 9 of the [Act](#) states how weekly compensation rates / payments need to be calculated by WorkCover.

For **total incapacity** claims, the weekly compensation rates are:

For the first 26 weeks of the incapacity, **the greater** of the following:

- (i) 85% of the worker's normal weekly earnings;
- (ii) the amount payable under the worker's industrial instrument / award. *(Please note, if not under an industrial instrument, then it will be 80% of QOTE).*

# STEP 1 CALCULATE WEEKLY COMPENSATION RATE

For **partial incapacity** claims, the partial weekly compensation rate will be calculated as per section 163 of the [Act](#):

The weekly payment is an amount calculated under the following formula —

$$PC = \frac{MC \times LE}{NWE}$$

Where **PC** means partial weekly compensation

**MC** means weekly maximum compensation if it was total incapacity claim

**LE** means normal weekly earnings (NWE) minus (-) amount paid by the employer on reduced hours

**NWE** means normal weekly earnings

## Important note

The partial weekly compensation (PC) amount must not be more than maximum compensation (MC).

## STEP 2A TOTAL INCAPACITY EXCESS

Let's go through an example of how excess will be calculated for an injured worker who is certified totally incapacitated, that is, the person is unable to work at all due to the injury.

Jamie is injured on 10 July 2020 and saw the doctor on the same day. He is certified as totally incapacitated for work for four weeks. His weekly compensation rate is calculated as \$1,200 using the WorkCover [wage payments calculator](#). The current QOTE figure as of 1 July 2020 is \$1,609.30 as listed on [our website](#).

Excess is calculated as **the lesser of** QOTE or the injured worker's weekly compensation rate – therefore the excess for this claim is \$1,200 because it is the lesser of the two rates. The employer needs to pay this amount directly to the injured worker.



## STEP 2B PARTIAL INCAPACITY EXCESS

**For injured workers who are certified to work on reduced hours, here is an example:**

Julie is injured on 12 July 2020 and saw the doctor on the same day. She is certified fit for suitable duties on reduced hours for two weeks. The information provided by the employer and calculations is as follows:

- Employer paid Julie \$600 on reduced hours
- Wage payments are calculated as \$1500, using the WorkCover [wage payments calculator](#)
- Award rate has been determined as \$1200

Based on this information, Julie's weekly compensation rate is calculated as \$1275, since 85% of NWE is **greater than** the Award.

## STEP 2B PARTIAL INCAPACITY EXCESS

Following the formula stated under section 163 of the [Act](#), the partial weekly compensation rate (*taking into account \$600 paid by the employer*) is calculated as \$765.

Let's go through the partial incapacity formula:

$$PC = \frac{MC \times LE}{NWE} \quad \text{In this example, it is: } PC = \frac{\$1275 \times (\$1500 - \$600)}{\$1500} = \$765$$

**PC** means partial weekly compensation

**MC** means weekly maximum compensation if was totally incapacitated

**LE** means normal weekly earnings (NWE) minus (-) amount paid by employer on reduced hours

**NWE** means normal weekly earnings

Therefore, **excess here** is \$765 as this is the lesser amount. QOTE is \$1,609.30.

## STEP 2C TOTAL AND PARTIAL INCAPACITY BOTH IN ONE WEEK

Here is an example of both total incapacity and partial incapacity within one week:

Grant is injured at work on 9 July 2020. He attends his local GP on the same day and is certified as totally incapacitated for work for one day being 10 July 2020. He is also certified as fit to return to suitable duties at four hours per day from 11 July to 18 July 2020. The calculated weekly compensation rate is as follows:

- weekly compensation rate for **total incapacity** is \$700
- weekly compensation rate for **partial incapacity** is \$350, using the **PC** formula.

For each day of incapacity in the first seven calendar days, a daily rate (as below) needs to be calculated. Taking into account the total and partial incapacity periods, the weekly amount of compensation for Grant is calculated at \$420.

Day	Fri 10 July	Sat 11 July	Sun 12 July	Mon 13 July	Tue 14 July	Wed 15 July	Thu 16 July
Daily compensation rate	\$140			\$70	\$70	\$70	\$70

As QOTE is \$1,609.30 and the weekly compensation rate is \$420 – **the excess** is \$420 as this is the **lesser** amount.

# EXCESS - TWO OR MORE EMPLOYERS

If a worker is working for two or more employers, as per section 66 of the [Act](#), excess is payable by the employer for whom the worker was working at the time of injury. WorkCover will pay the balance of the worker's entitlement to excess.

## Example:

- Worker works Monday to Friday for two employers
- Job A pays \$500 per week (*NWE and Award rate the same*)
- Job B pays \$300 per week (*NWE and Award rate the same*)
- Weekly compensation rate is \$800 as this is the greater of 85% of NWE (\$680) or award
- Worker is injured at Job A

Employer A is obliged to pay the excess applicable for Job A (that is, \$500). WorkCover will pay the balance (\$300) of the worker's entitlement to excess for Job B.

# MORE INFORMATION

For more guidance or information about calculating claims excess:



Visit [worksafe.qld.gov.au](https://www.worksafe.qld.gov.au)

Use the [wage payments calculator](#)



Contact your Relationship Manager or call 1300 362 128

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