

# Calculating incapacity payments

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## Introduction to calculating incapacity payments

The SRC Act provides a formula for calculating incapacity payments, based on an employee's normal weekly earnings (NWE) and ability to earn (AE). Pracsys will usually complete the necessary incapacity calculations, however, there may be circumstances where incapacity payments need to be calculated manually.

The following factors can affect the calculation of an employee's incapacity payments:

- changes in an employee's NWE
- whether the employee has an ability to earn
- whether or not the employee has been incapacitated for 45 weeks
- where their payments fall below the minimum earnings allowable
- where their payments fall above the maximum amount payable (AWOTEFA)
- leave, other than compensation leave, that an employee may be utilising
- whether the employee is in receipt of a superannuation pension, lump sum or both.

For information on employees residing or planning to move overseas please see: [Employees residing or moving overseas](#)

### Pre and post 45 weeks

When incapacity periods are determined, Pracsys keeps a running total of the amount of time off work the employee has had.

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### First 45 weeks of incapacity

During the first 45 weeks of incapacity, an employee is eligible for up to 100% of their NWE.

In situations where an employee has an incapacity to engage in work at the same level as prior to their injury that involves working at a lower classification at their full time normal weekly hours (NWH) they are considered to be partially incapacitated for each hour of the week and therefore a full week will count towards the 45 week total.

**Example 1:** An employee's NWH are 40 hours per week. The employee is on a graduated return to work (GRTW) working 30 hours per week. Therefore, 10 hours per week will count towards the 45 week balance as this is the period which compensation is payable under the SRC Act.

**Example 2:** An employee's NWH are 40 hours per week at the APS 4 level. Due to their compensable condition the employee is able to work 40 hours per week and perform duties at the APS 2 level. Comcare pays top up incapacity payments to the employer to cover the difference in the employee's NWE. The employee receives their NWE at the APS 4 level. Because Comcare is paying top up incapacity payments, each week 40 hours will count towards the 45 week balance.

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## After 45 weeks of incapacity

After an employee has reached 45 weeks of incapacity their incapacity payments are calculated based on the percentage of NWH the employee works each week - this is known as the 'adjustment percentage'.

The letter informing of the upcoming change is sent to both the employee and the payroll team at 40 weeks and then again 45 weeks.

The following table outlines the percent of NWE payable to an employee after they have reached 45 weeks.

**Note:** NWH includes any hours of overtime that are included in the employee's NWE.

% Of NWH worked	Incapacity payable	SRC Act reference
0%	75% NWE	19(3)(a)

% Of NWH worked	Incapacity payable	SRC Act reference
1% - 25%	80% NWE - AE	19(3)(b)
26% - 50%	85% NWE - AE	19(3)(c)
51% - 75%	90% NWE - AE	19(3)(d)
76% - 99%	95% NWE - AE	19(3)(e)
100%	100% NWE - AE	19(3)(f)

**Example:** An employee's NWH are 40 hours per week. The employee is on a graduated return to work (GRTW) working 30 hours per week. The adjustment percentage that applies as part of the incapacity payment calculation is based on the number of hours the employee actually works in a week (30 hours or 75% of NWH). The section 19(3)(d) adjustment percentage therefore applies, and the employee is entitled to 90% of their NWE minus their gross actual earnings.

## Adjustment percentage and unpaid work

For the purposes of adjustment percentages, an employee is considered to be undertaking work if they are in paid employment. Employees may be considered *'in employment'* for the hours spent in formal study, an unpaid work trial or volunteer work for the purpose of applying the formula under subsection 19(3) of the SRC Act. However, the formal study, unpaid work trial or volunteer work must be part of an approved rehabilitation program under section 37 of the SRC Act.

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## Incapacity payments upon reaching pension age

Once an employee reaches pension age, incapacity benefits are no longer payable in accordance with section 23 of the SRC Act. However, if an employee is injured after the age that is two years before pension age, they are entitled to incapacity payments for a maximum of 104 weeks (section 23(1A) of the SRC Act).

**Example:** An employee is injured while working at the age of 70 and is incapacitated for work as a result. The pension age is 66 years and 6 months. The employee is entitled to a maximum of 104 weeks of incapacity payments as they have sustained

an injury resulting in incapacity after the age that is two years before pension age.

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