

Covid-19 – Employment Law Intersect
Payroll Provider Q & A
9 April 2020

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Question	Answer
<p>Wage, salary, income, and pay</p> <p>1. Can you please make the language around wages and salary consistent?</p> <p>2. The ever changing COVID-19 Wage Subsidy Page now has (as at 28 March 2020) “usual wages”, previously there had numerous other variants. Please define “usual wages”?</p> <p>3. The pre - 4pm 27 March 2020 Declaration refers to “regular income”:</p> <p style="margin-left: 20px;">a. Is “regular income” the same as “usual wages”?</p> <p style="margin-left: 20px;">b. If not please define “regular income”?</p> <p>4. The on or after 4pm on 27 March 2020 Declaration has another new concept with different language again; “ordinary wages or salary”, which are said to be (unhelpfully) the ordinary wages or salary in an employee’s employment agreement as at 26 March 2020:</p> <p style="margin-left: 20px;">a. Is “ordinary wages or salary” the same as “usual wages”?</p> <p style="margin-left: 20px;">b. If not, is it the same as “regular income”?</p> <p style="margin-left: 20px;">c. If not, what is it and does it include any overtime, regular commissions, bonuses or other regular payment in an employment agreement or just base wages or base salary?</p>	<p>The terms “Normal pay”, “normal income”, “normal wage or salary” are not defined for the purposes of the wage subsidy [or the leave payment scheme].</p> <p>If the worker is working, they should be paid for their work in the usual way and according to the obligations that always apply.</p> <p>To work out what someone would have been paid who is not working or working less than usual, an employer should be clear how they are calculating what the employee would normally have received in an equivalent period.</p> <p>An employer could choose to use the Ordinary Weekly Pay calculation from the Holidays Act 2003 (s8), based on 'ordinary' weekly gross earnings before the lockdown.</p> <p>Those not working at all or working reduced hours should agree with their employer how that time will be treated/defined/considered for example, if any leave is being used for their time off work, as this will influence what pay is due to them as well as any impact on their leave entitlements.</p> <p>Note that Work and Income has recommended that average hours over the past year should be calculated to determine whether to apply for the full time or part time wage subsidy rate for casual employees.</p> <p>Whatever approach the employer uses should be principle-based and applied consistently to all employees. We also can't stress enough the need for and value of worker engagement and ensuring that good faith underpins these calculations.</p>