



CIRCULAR

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Circular Title: **EARNINGS REPORTING FOR COMPENSATION AND ASSESSMENT PURPOSES**

1. BACKGROUND

The manner of calculating earnings for purposes of compensation purposes is governed by sections 51 and 63 of the Compensation for Occupational Injuries and Diseases Act (COIDA), 130 of 1993, as amended. These sections of the Act require that employers accurately report earnings of the employee to ensure that benefits payable under the Act are fair and equitable.

This circular seeks to provide guidance on the reporting of employee earnings following an insured event under the COID Act.

2. AIM

The aim of this Circular is to ensure that employers report employee earnings correctly for compensation purposes in the same manner as they would have declared earnings for assessment purposes.

3. SECTION 63: MANNER OF CALCULATING EARNINGS FOR COMPENSATION PURPOSES

Section 63 (1) - *In order to determine compensation, the Director General shall calculate the earnings of an employee in such manner as in his opinion is best to determine the monthly rate at which the employee was being remunerated by his employer at the time of the accident, including:*

- (a) *The value of any food or quarters supplied by the employer at the time of the accident; or,*
- (b) *Any overtime payment or other special renumeration in cash or in kind of a regular nature or for work ordinarily performed, excluding*
 - I. *Payment for intermittent overtime;*
 - II. *Payment for non-recurrent occasional services;*
 - III. *Amounts paid by an employer to an employee to cover any special expenses;*
 - IV. *Ex-gratia payments whether by the employer or any other person.*

Section 63 (2) - If an employee's renumeration is determined in accordance with a rate calculated upon work performed, his earnings shall be determined to be his remuneration for similar work upon the same conditions of remuneration for as long a period as possible prior to the accident but not exceeding 12 months.

In this case RMA will use a period of 6 months prior to the accident since this is favourable to the employee.

Section 63 (4) -If an employee has entered into contracts of service with two or more employers and has in terms of those contracts worked at one time for one employer and at another time for another employer, his earnings shall be calculated as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

Section 63 (6) - This section shall not be construed as prohibiting the calculation of earnings on a weekly basis, but where earnings are so calculated the monthly earnings shall be calculated as equal to four and one-third times the amount of such weekly earnings.

If an accident occurs prior to pay day, then the 6-month period used for the calculation of earnings for compensation purposes starts from the date of the last pay received in the previous month and ends on the sixth month when pay was received.

If an accident occurs post pay day, then the 6-month period used for the calculation of earnings for compensation purposes starts from the same month of the accident and ends on the sixth month when pay was received.

4. NON-VARIABLE EARNINGS:

Non-variable earnings are the employee's basic rate of pay, i.e. Basic Salary, Housing Allowance, and Annual Bonus/Incentive Bonus. Where applicable, the Annual Bonus and/or Incentive Bonus must be divided by the number of months for which it is payable. For example, if it is paid annually then it must be divided by 12 (twelve), and in instances where it is paid every six months then it must be divided by 6 (six) and similarly if it is paid quarterly, then it must be divided by 3 (three).

Where an employee's basic salary has increased, or any other non-variable allowance has increased in the 6 months prior to the date of the accident or disease diagnosis then the new basic rate of pay must be reported.

5. VARIABLE EARNINGS:

Variable Earnings are made up of the cumulative amounts the employee has received in the form of allowances during the past 6 (six) months prior to the date of an accident and/or date of diagnosis of the disease. An example of variable earnings includes overtime or production bonus, as such, should be included as part of gross earnings in the premium return. For the purposes of calculating compensation benefits, the average variable earnings for the employee during the previous 6 months should be reported.

If an employee has for the past 6 months received an allowance for some or all the months that specific allowance must be included in the earnings reported.

6. SECTION 51: COMPENSATION FOR PERMANENT DISABLEMENT OF EMPLOYEES IN TRAINING OR UNDER 26 YEARS OF AGE

Section 51(1) - *If as a result of an accident an employee sustains permanent disablement and at the time of the accident-*

- (a) *was an apprentice or in the process of being trained in any trade, occupation or profession; or*
- (b) *was under 26 years of age, the commissioner shall determine the earnings of such employee in accordance with sub-section (2) for the purpose of the calculation of compensation in terms of section 49.*

Section 51(2) –

(a) *In the case of an employee referred to in sub-section (1) (a), his earnings shall be calculated on the basis of the earnings to which a recently qualified person or a person in the same occupation, trade, or profession with five years more experience than the employee would have been at the time of the accident, whichever calculation is more favourable to the employee.*

(b) *In the case of an employee referred to in sub-section (1) (b), his earnings shall be calculated on the basis of the earnings to which a person of 26 years of age would normally have been entitled if at the time of the accident he had been performing the same work as the employee or a person in the same occupation, trade or profession with five years more experience than the employee, whichever, calculation is more favourable to the employee.*

If the injured employee is a trainee and/or apprentice, the employer must submit the earnings of a recently qualified person and also the earnings of another employee in the same occupation, trade or profession with five years more experience.

If the injured employee is under the age of 26 years at the time of the accident, the employer must submit the earnings of another employee who is older than 26 who performs the same work as the injured employee and also submit the earnings of another employee in the same occupation, trade or profession with five years more experience.

In effect two (2) sets of earnings are required **in addition** to the earnings submitted for the injured employee. The compensation payable will be calculated on the more favourable earnings, be it the earnings of:

- (a) A recently qualified person;
- (b) A person 26 years of age performing the same work as the injured employee; or
- (c) An employee in the same occupation, trade or profession with five years more experience.

To ensure compliance with this circular, RMA has developed section 51 templates for trainee apprentices and for employees under the age of 26 years respectively. These templates are attached to this circular.

7. ACCURATE REPORTING OF EARNINGS FOR COMPENSATION PURPOSES

RMA recognizes that allowances that form part of the employee's remuneration vary from one company to the next, but for the purposes of this Circular, the types of allowances will not be specified as the list is not exhaustive. Employers are therefore urged to declare accurately and in full the employee's earnings as contemplated in section 63 of COIDA.

The onus lies with the employer to ensure that the information declared to RMA does not prejudice the employee in any form. To achieve this Employers must ensure that earnings declared in accordance with Section 82 of COIDA, that is, for assessment purposes in the form of Return of Earnings (ROE) are the same earnings that are reported for compensation purposes when the insured event (a claim) under the COID Act is reported to RMA.

Thus, if overtime and any other allowances have been reported for compensation purposes following submission of a claim, the same allowances should have been declared for ROE purposes in accordance with Section 82 of COIDA.

To ensure that Employers accurately declare earnings in accordance with Section 82 of COIDA, RMA conducts from time to time employer payroll audits amongst others to ensure that earnings reported for claims purposes align with earnings declared by Employers in their annual returns of earnings.

To ensure that employees and/or their beneficiaries are not prejudiced by incorrect reporting of earnings when claims are submitted by Employers, RMA has put disclaimers on both the Claim and Statement of Earnings (SOE) forms. The disclaimer reads "*Declaration by Employer: I hereby declare that the employee's earnings and banking details, at the time of the accident, are as stated above, and that I am authorised to make this declaration. Should the employee suffer any financial loss due to the incorrect declaration of earnings and/or banking details, such loss(es) will be recoverable from the employer.*"

Where an employer is found to have under declared earnings in terms of Section 82, and based on our analysis, such an employer will be subjected to a full payroll Audit by the Membership Department. Where there is a need for adjustment of declared earnings, this will be done to the current declarations and where necessary retrospectively.

8. ONLINE STATEMENT OF EARNINGS

With effect from 1st May 2020, claims will be adjudicated based on the earnings submitted via

- a) C-Filing wherein employers complete and sign off the earnings declaration online
- b) Earnings submitted via Payslips, Salary Advices or Payroll printouts for a claim submitted via C-Filing will not be accepted unless under exceptional cases: Submission of payslips will only be accepted if requested by RMA.

- (i) For example, the Employer is no longer in existence and/or the Employee is the one reporting the injury on duty incident
- (ii) Likewise, this applies when the Employer is refusing to report the incident on behalf of the Employee.

9. EFFECTIVE DATE

This Circular take effect from the 1st May 2020. Therefore, all accident and disease claims must, from that date onwards, be reported in the manner described above, be it earnings in terms of the provisions of Section 63 (Manner of Calculating Earnings) or in terms of the provision of Section 51 (Compensation for Permanent Disablement of Employees in Training or Under 26 years of age).

10. GENERAL

This Circular replaces the previous circulars on Declaration of Earnings. The provisions of this circular are applicable to RMA's other non-statutory products, namely; the Commuting Journey's Policy and the Augmentation policies.



Ernest Hadzhi

Chairperson: Technical Committee

This circular replaces any previous instructions/circulars to the extent that it introduces amendments.