EML MUTUAL SINCE 1910

Understanding excess changes from 1 July 2026

From your next policy renewal, on or after 30 June 2026, changes to excess apply to new workers compensation claims, affecting when excess is payable and how much employers are required to pay when a claim is lodged. These updates are part of broader legislative reforms introduced by the NSW Government and are aimed at strengthening prevention and supporting early intervention and return to work

Understanding how excess applies under the new reforms will help employers and brokers plan ahead, manage claim costs, and put the right practices in place from day one. This flyer outlines what's changing, when it applies, and what it means in practice.

What NSW employers need to know about excess

- The excess amount is **the first week** of weekly benefit entitlements payable to a worker, and **the week immediately following.**
- **Excess applies to all claims with weekly benefit entitlements** made against a policy of insurance issued or renewed from 30 June 2026.
- Where a claim is reported after renewal but the date of injury is prior to renewal, existing excess legislation will apply.
- Notification only claims, or claims that require support for medical expenses only **will not have an excess** payable.
- You can reduce the excess payable by supporting early return to work following an injury.
- Excess will **no longer be waived** when notified within five calendar days of an employer becoming aware of the injury. There is no change in legislative requirements to lodge a claim with your insurer within 48 hours of becoming aware of an injury.
- icare has advised that the cost of claim used for premium calculation **may be reduced** by the employer paid excess amount.

What is changing from 1 July 2026

Application of excess	
Pre-reform	Excess applies unless the claim is lodged within five days of the employer being notified of the workplace injury.
Post-reform (1 July 2026)	**Excess applies on all claims where the workers has an entitlement to weekly benefits.**

Excess amount	
Pre-reform	Up to one week of weekly benefits.
Post-reform (1 July 2026)	**Up to two consecutive weeks of weekly benefits.** **First week where the worker is entitled to weekly benefits entitlements where the amount is >$0 plus the week immediately after.**

Waiving excess	
Pre-reform	If claim was lodged within five days of the employer becoming aware of the injury and other limited circumstances.
Post-reform (1 July 2026)	**Excess cannot be waived.**

Exempt from excess	
Pre-reform	Recess claims and journey claims.
Post-reform (1 July 2026)	**Recess claims and journey claims.**

Your questions answered

Why is excess changing?
The changes to excess are part of broader legislative reforms introduced by the NSW Government and are aimed at strengthening prevention and supporting earlier intervention and return to work.

How is excess calculated?
The excess amount is the first week of weekly benefit entitlements payable to a worker, and the week immediately following.

Excess is calculated based on the weekly benefit entitlement amounts payable in the first week where the payment is greater than $0 and the week immediately following that one, the excess period. This is calculated by taking the pre-injury average weekly earnings (PIAWE) multiplied by 95%, less any earnings the worker had in the week. Your Case Manager will communicate with you regarding the calculation of PIAWE.

If PIAWE increases for the excess period (e.g. initially an interim PIAWE is applied before a full calculation resulting in a higher PIAWE) then any adjustment made to the weekly benefits will also be withheld or charged as excess.

How can I minimise the amount of excess payable?
Employers will incur an excess on all claims with wage loss. There will be no exemptions for early notification. You can reduce the excess payable by supporting early return to work following an injury.

When will the new excess rules apply to my business?
Excess applies to all claims with weekly benefit entitlements payable made against a policy of insurance issued or renewed from 4pm on 30 June 2026. To understand when this applies to you, check your most recent policy renewal notice sent to you by icare.

Will excess be premium impacting?
The cost of claim used for premium calculation may be reduced by the employer paid excess amount.

Who is responsible for managing excess?
Claims Service Providers (CSPs) will calculate and apply excess on behalf of icare. EML will communicate where and how excess applies on every claim. If you are late in paying an invoice for excess, or unable to pay, icare will contact you to discuss a recovery plan.

What are my responsibilities as an employer?
You are responsible for supporting the worker following an injury and meeting your legislative obligations. This includes:

- notifying the claim to your insurer within 48 hours of becoming aware of the injury
- paying weekly benefits to the worker as required, including during any excess period
- providing suitable duties to support an early and safe return to work
- engaging early with the worker to support recovery and prevent extended time away from work
- implementing injury prevention practices within your workplace.

What happens if excess is unpaid?
Reminders and collection processes will be initiated by icare. Claims will remain open until excess matters are resolved.

How will excess be paid?
If weekly benefit entitlements are paid to the worker via the employer, EML will automatically deduct the excess amount from any wage reimbursements made to the employer. Your payroll team should be aware that you must still pay the worker's weekly benefits for the period covered by the excess.

If the weekly benefit entitlements are paid directly to the worker by EML, you will be invoiced for excess.

Important information required at claim lodgement

Your Case Manager will advise you within seven days of claim lodgement of the worker's PIAWE calculation, and their weekly benefit entitlement.

To ensure the most accurate and timely calculation of PIAWE, please be prepared to submit pay summary information for the 52 weeks prior to the injury date at the time the claim is lodged. Pay summary information submitted as a spreadsheet will ensure we can complete the most accurate and timely calculation.

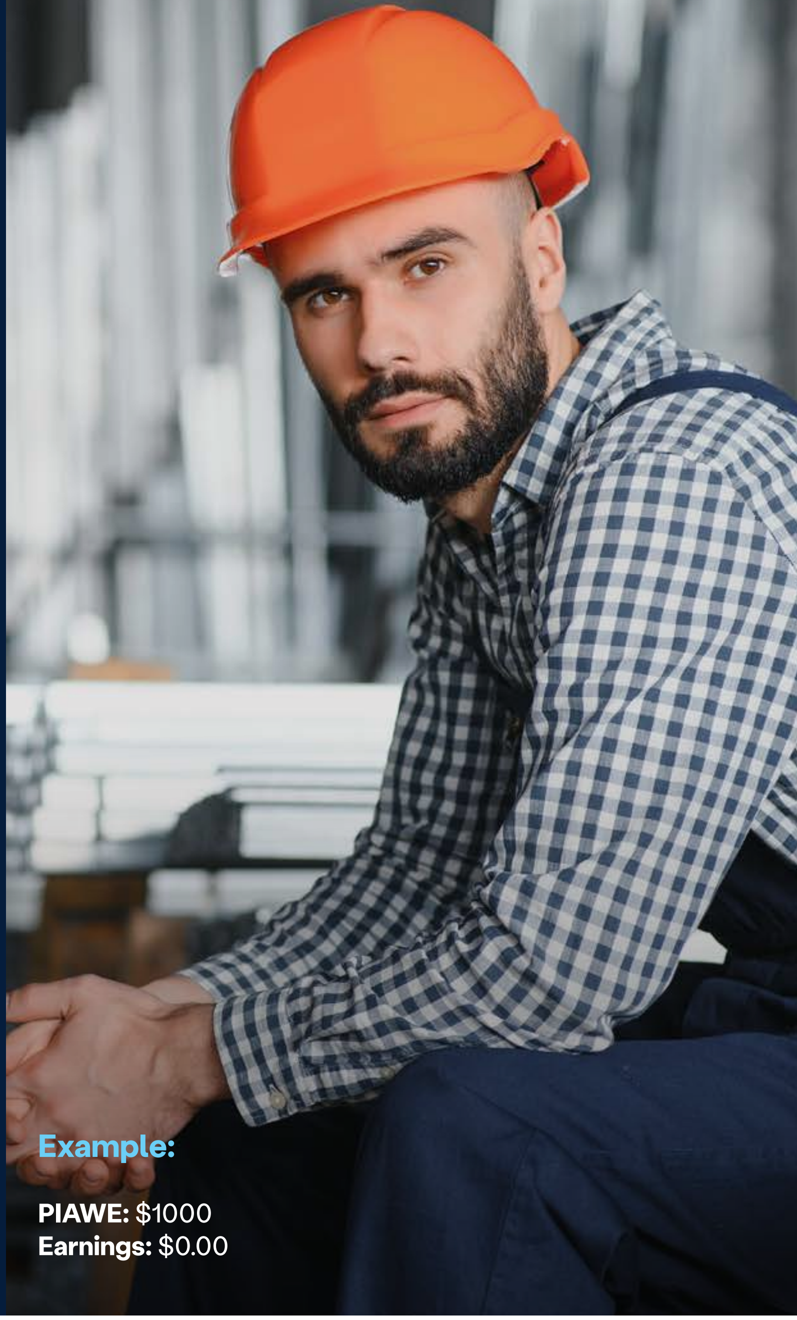
If you are unable to submit pay summary information at that time, EML will calculate an interim PIAWE amount, based on the best information available, usually the pay information discussed on initial contact.

At a later time, EML will confirm the correct PIAWE calculation, and will adjust the worker's weekly benefit entitlements. If the PIAWE calculation is higher than the interim amount this will require the employer to make an additional payment to the worker, and the excess amount will be adjusted accordingly.

Examples of excess application: scenario 1

Worker stops work straight away

- A worker is injured at work on 6 July 2026 and stops working on the same day. The worker attends their treating doctor and is certified as having no capacity for 3 weeks.
- Because they are unable to work immediately, they become entitled to weekly benefits from that point. The excess applies from the first week where the worker has an entitlement greater than $0, and the week immediately after.
- This means the employer is responsible for the cost of the worker's weekly benefit payments during those first two weeks. The employer will be reimbursed by the insurer for any additional reimbursements the worker is entitled to.



Example:

PIAWE: $1000
Earnings: $0.00

Dates	PIAWE x 95%	Earnings	Weekly Benefit (PIAWE x 95% - earnings)	Excess applicable	Excess amount
06/07/2026 - 12/07/2026*	$950	$0	$950	Yes	$950
13/07/2026 - 19/07/2026	$950	$0	$950	Yes	$950
20/07/2026 - 26/07/2026	$950	$0	$950	No	NA

Examples of excess application: scenario 2

Worker keeps working following injury, then later stops

- A worker is injured on 6 July 2026 but initially continues working and earning their normal wages. They attend their treating doctor and are cleared for suitable duties, full hours.
- On 27 July 2026, they downgrade, receiving a certificate for suitable duties, partial hours - 20 hours/week. The excess does not apply at the time of injury because there is no entitlement to weekly benefits at that time.
- Instead, it starts from the first week where the worker has an entitlement greater than $0, and the week immediately after. From that point, the employer is responsible for the cost of the worker's weekly benefit entitlements for two weeks, before they will be reimbursed by the insurer.

Example:

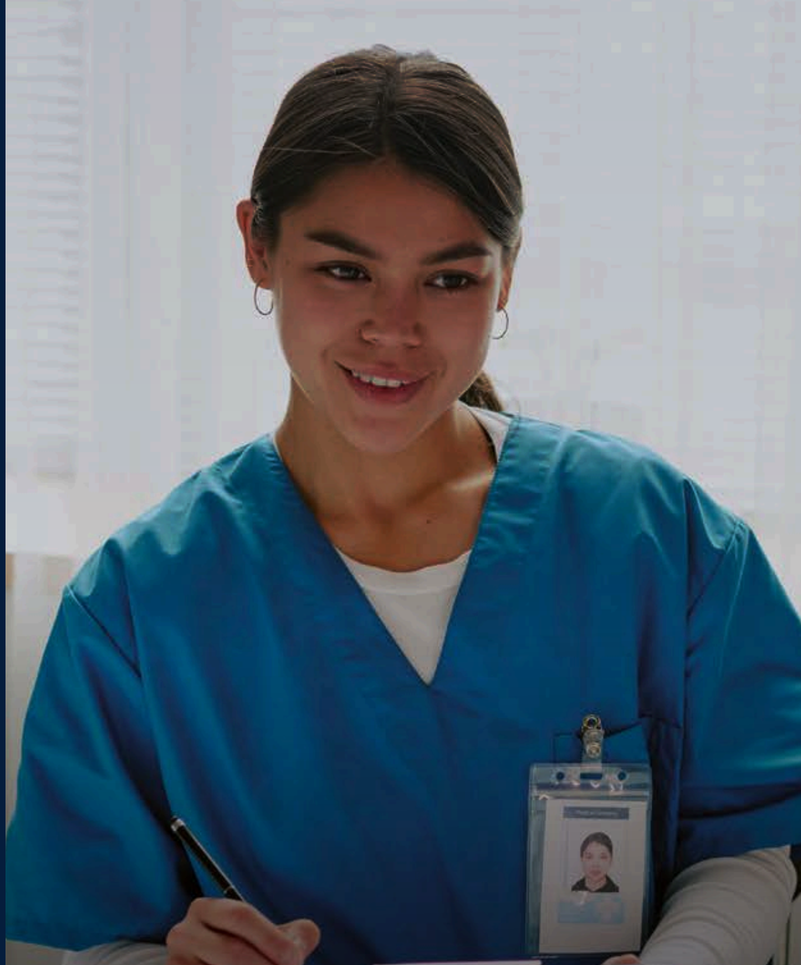
PIAWE: $1000
Earnings 06/07/2026 - 26/07/2026: $1000 per week
Earnings 27/07/2026 - 16/08/2026: $500 per week

Dates	PIAWE x 95%	Earnings	Weekly Benefit (PIAWE x 95% - earnings)	Excess applicable	Excess amount
06/07/2026 - 12/07/2026	$950	$1000	$0	No	NA
13/07/2026 - 19/07/2026	$950	$1000	$0	No	NA
20/07/2026 - 26/07/2026	$950	$1000	$0	No	NA
27/07/2026 - 02/08/2027	$950	$500	$450	Yes	$450
03/08/2026 - 09/08/2027	$950	$500	$450	Yes	$450
10/08/2026 - 16/08/2027	$950	$500	$450	No	NA

Examples of excess application: scenario 3

Worker stops work for a short time before returning

- A worker is injured at work on 6 July 2026 and stops working on the same day. The worker attends their treating doctor and is certified as having no capacity for three days. After this time, the worker returned to work fulltime on suitable duties, with no earnings loss.
- Because they are unable to work immediately, they become entitled to weekly benefits from that point. The excess applies from the first week where the worker has an entitlement greater than $0, and the week immediately after.
- As they returned to full hours within the excess period, the excess payable is only the amount of earnings lost.



Example:

Pay cycle: Monday - Sunday
Workdays: Monday - Sunday
95% PIAWE: $700
Earnings week 1 (06/07/26 - 12/07/26): $295
Earnings week 2: (13/07/26 - 19/07/26): $700
Excess period: 06/07 - 19/07 (14 days)
Total excess: $405

Dates	PIAWE x 95%	Earnings	Weekly Benefit (PIAWE x 95% - earnings)	Excess applicable	Excess amount
06/07/2026 - 12/07/2026*	$700	$295	$405	Yes	$405
13/07/2026 - 19/07/2026	$700	$700	$0	Yes	$0
20/07/2026 - 26/07/2026	$700	$700	$0	No	NA
27/07/2026 - 02/08/2026	$700	$400	$300	No	NA

More resources and information

Visit our **NSW legislative reforms page** for links to the relevant legislation and to access our employer readiness checklist, services, tools and support designed to you confidently prepare for change.

We help people get their lives back.