

Operational
Policy

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

Loss of Retirement Income Benefits (Accidents on or after January 1, 1998)

Policy

If a worker receives loss of earnings (LOE) payments for 12 continuous months, the WSIB ~~will~~ sets aside an additional amount equal to 5% of every subsequent LOE payment for the loss of retirement income (LRI) benefit. [The worker may also voluntarily contribute 5% of his/her LOE payments toward the LRI benefit. Workers are entitled to receive LRI benefits on or after age 65.](#)

~~The worker may also voluntarily contribute 5% of every subsequent LOE payment toward the LRI benefit. The decision to make voluntary contributions is irrevocable.~~

~~At 65 years of age, a worker is entitled to the amount contributed and the investment income earned.~~

Note

A worker who is 64 years or older on the date of the injury is not eligible for the LRI benefit.

Purpose

[The purpose of this policy is to set out when contributions are made toward the LRI benefit, when the LRI benefit is payable, and the types of LRI payments.](#)

Guidelines

Definitions

~~12 continuous months – 12 months in which there is no single interruption for 31 days or more.~~

~~The 12 months of LOE are still considered continuous, even if the worker's earnings are fully restored for 30 days or less, or for multiple days or weeks that together add up to more than 30 days. The 12 months are not considered continuous if the worker's earnings are fully restored for 31 days or more. In these cases, if the worker again receives LOE benefits, 12 months must be counted from the most recent loss of earnings to be considered continuous.~~ [12 continuous months – 12 months in which there is no single interruption of 31 consecutive days or more during which the worker's earnings are fully restored \(i.e., no LOE payments for 31 consecutive days or more\).](#)

[If continuity is broken by such an interruption, the 12 months must be counted from the start of the most recent loss of earnings to be considered continuous.](#)

[Continuity is not broken if the worker's earnings are fully restored for sporadic periods over the 12 months, even if these periods total 31 days or more.](#)

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Account balance ~~the sum of the funds set aside by the WSIB for a worker and funds contributed by the worker, if any, and the investment income it has earned.~~ the amount of the mandatory LRI contributions made by the WSIB and the voluntary contributions made by the worker, if any, and the accumulated investment income.

Annuity payment scheme - a set of monthly payments that distributes the account balance, based on the payment option selected by the worker or surviving spouse.

LOE Payment - the actual amount of monies paid to the worker (prior to any redirection, (see 18-01-06, Redirected Benefit Payments). This amount is equal to 85% of the difference between the worker's pre-injury net average earnings and the post-injury net average earnings the worker earns or is able to earn in suitable and available employment, which includes any Canada/Quebec Pension Plan disability payments the worker may receive for the injury or disease. (See 18-01-13, Calculating CPP/QPP Offsets from FEL/LOE Benefits).

~~**Maximum amount of average earnings**—determined annually by calculating 175 percent of the average industrial wage for Ontario for the year.~~

For a definition of “spouse,” “dependent child,” “other dependants,” or “survivor,” see 20-01-02, Definitions and Application Dates.

Before 12 continuous months

~~Before the worker has received LOE benefits for 12 continuous months, the WSIB sends the worker an *Optional 5% Election Form* as well as a *Designation of Beneficiary Form*, and asks that both forms be completed, signed, and returned to the WSIB.~~

Contributions toward LRI benefits**Mandatory WSIB Contributions**

If a worker receives LOE payments for 12 continuous months, the WSIB sets aside an additional amount equal to 5% of every subsequent LOE payment for the LRI benefit.

Voluntary Worker Contributions

When a worker approaches 12 continuous months of LOE payments, the WSIB notifies the worker that he/she may choose to voluntarily contribute 5% of his/her LOE payments toward the LRI benefit. This amount is deducted from the worker's LOE payments.

A worker makes the decision whether or not to voluntarily contribute to his/her LRI benefits by completing a WSIB election form. Once the worker completes the election form, the decision is irrevocable.

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If the election form confirms the decision to make voluntary contributions, the WSIB deducts 5% of every subsequent LOE payment and set this amount aside toward the LRI benefit.

Entitlement to LRI benefits ~~Worker between 63 and 64 on day of injury~~

Workers are not eligible to receive payment of the funds in their LRI account until their entitlement date on or after age 65. At that time, workers are eligible to receive LRI benefits based on the amount of contributions and the accumulated investment income.

Workers are entitled to the LRI benefit at age 65 if they

- were under the age of 64 at the time of the injury,
- received 12 continuous months of LOE payments and
- stopped receiving LOE payments before or at age 65.

Workers are entitled to the LRI benefit after age 65 if they

- were between 63 and 64 years of age on the day of injury,
- received 12 continuous months of LOE payments and
- continued to receive LOE payments after age 65 (see 18-03-04, LOE Benefits for Workers 55 of Age or Older).

These workers are entitled to the LRI benefit when the LOE payments end. (For these claims, all policy references to age 65 refer to the date when the LOE benefits end.)

~~If a worker is between 63 and 64 years of age on the day of injury and continues to receive LOE benefits for up to two years, the worker may become eligible to receive the LRI benefit after his or her 65th birthday.~~

~~For these cases, all references to the worker's 65th birthday refer to the date the worker becomes eligible to receive the LRI benefit.~~

Types of LRI payments ~~for LRI benefit~~

The LRI benefit is paid as a lump sum or a monthly annuity depending on the amount of the annual benefit generated by the worker's account balance at age 65. Workers do not have the option of selecting the payment type.

Note

If the worker's account balance at age 65 is less than the actual amounts that were contributed due to investment losses, the WSIB will pay out an account balance equal to the contributions made.

~~At age 65, a worker will receive the LRI benefit as either a lump sum or an annuity payment scheme (monthly payment) depending on the worker's account balance at age 65. The worker does not have the option of selecting a lump sum or an annuity payment scheme.~~

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If the worker's account balance will ~~generate pay~~ an annual [LRI](#) benefit of **less than** the maximum amount of average earnings for the year in which the worker turns 65, it will be paid as a lump sum.

[The maximum amount of average earnings is determined annually by calculating 175% of the average industrial wage for Ontario for the year. For more details see 18-01-02, Benefit Dollar Amounts - Accidents from 1998.](#)

Monthly aAnnuity payment scheme

If the worker's account balance will ~~generate pay~~ an annual [LRI](#) benefit of **more than** the maximum amount of average earnings for the year in which the worker turns 65, it will be paid monthly, according to the annuity payment scheme the worker selects [from the following list](#). ~~The payment schemes are~~

1. Joint and survivor annuity
2. Life annuity with return of worker account balance
3. Life annuity with guarantee to age 70.

For more information on the annuity payment schemes, see *Ontario Regulation 562/99*, as amended.

~~If a worker is entitled to an annuity payment scheme, the WSIB will send the worker an [Loss of Retirement Income-LRI](#) information package to workers who are entitled to an annuity, which includes the annuity election form. Workers must sign and return the annuity election form before turning 65 or the LRI benefit is paid as the default annuity outlined below, a few months before a worker's 65th birthday. Workers must complete the forms, indicate their choice of annuity payment scheme, indexing factor, sign them, and send the forms to the WSIB on or before their 65th birthday.~~

- [If the worker has a spouse \(as defined in 20-01-02, Definitions and Application Dates\) with whom he/she was cohabiting at age 65, the LRI benefit is paid as a joint and survivor annuity, unless the worker and spouse make a joint election indicating otherwise.](#)
- [If the worker does not have a cohabiting spouse at age 65, the default option is a life annuity with a return of worker account balance.](#)

[LRI benefits \(death before age 65\)](#)

[If the worker dies before age 65, the WSIB may pay the following types of LRI benefits](#)

- [Pre-retirement death benefit - the amount of LRI contributions made by the WSIB and accumulated investment income, and/or](#)
- [Supplementary pre-retirement death benefit - the amount of voluntary LRI contributions made by the worker, if any, and the accumulated investment income.](#)

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The WSIB determines the type of LRI benefits payable based on whether the worker's death was work-related or non-work-related.

Non-work-related death

If ~~the~~ worker dies before age 65 of a non-work-related injury or disease, the WSIB pays the pre-retirement death benefit ~~(the amount of mandatory contributions plus investment income)~~

~~;~~ and the supplementary pre-retirement death benefit, if any. These LRI benefits are paid (the amount of voluntary contributions, if any, plus investment income), under the first applicable category in the order listed below: to the worker's

1. surviving spouse (as defined in 20-01-02, Definitions and Application Dates) who was cohabiting with the worker at the time of his/her death, if there is one
2. living dependent children (in equal shares), ~~if there is no spouse~~
3. other living dependants (in equal shares), ~~if there is no spouse and no dependent children~~
4. designated beneficiary (as selected by the worker), ~~if there is no spouse, no dependent children or any other living dependants, or,~~
5. worker's estate, if there is no spouse, no dependent children, no other living dependants or a designated beneficiary.

Work-related death

If ~~the~~ worker dies before age 65 of a work-related injury or disease, the WSIB pays survivors' benefits (see 20-01-02, Definitions and Application Dates).

Individuals who receive survivors' benefits are also entitled to the supplementary pre-retirement death benefit, if any (i.e., no entitlement to pre-retirement death benefit). ~~along with the supplementary pre-retirement death benefit (the amount of voluntary contributions plus investment income), and survivor benefits to the worker's~~ The supplementary pre-retirement death benefit is paid under the first applicable category in the order listed below:

1. surviving spouse, (as defined in 20-01-02, Definitions and Application Dates) who was cohabiting with the worker at the time of his/her death ~~if there is one~~
2. living dependent children (in equal shares), ~~if there is no spouse, or,~~
3. other living dependants (in equal shares), ~~if there is no spouse and no dependent children~~

~~However, these individuals are not entitled to receive the pre-retirement death benefit (the amount of mandatory contributions plus investment income).~~

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If there are no survivors, the ~~WSIB pays the~~ pre-retirement death benefit and the supplementary pre-retirement death benefit, if ~~any there is one.~~ These death benefits, are paid under the first applicable category in the order listed below:~~to~~

- ~~1. the~~ designated beneficiary, ~~or,~~
- ~~2. the~~ worker's estate, ~~if there is no designated beneficiary.~~

Types of LRI payments (death before age 65) for LRI death benefit(s)

The WSIB normally pays the pre-retirement death benefit ~~(and the supplementary~~ pre-retirement death benefit, if ~~any there is one)~~ as a lump sum.

If there is a surviving spouse, and the worker's account balance benefit will can generate an annual LRI ~~benefit payment~~ of at least \$1,333.45~~142.20~~* the spouse may choose to receive it as a life annuity with return of survivor account balance. ~~(~~(*2018 amount. This amount may vary due to annual indexing.) To receive the annuity, the spouse must send the WSIB a signed request within 90 days of being notified of the annuity option ~~If the worker's surviving spouse is eligible for an annuity, the WSIB will inform the spouse. To receive the annuity, the spouse must send a signed request to the WSIB within 90 days of learning of the option.~~

~~*This is the 1998 amount from Ontario Regulation 562/99. This amount may vary due to annual indexing.~~

Note

If the worker's account balance at the time of his/her death is less than the actual amounts that were contributed, due to investment losses, the WSIB will pay out an account balance equal to the contributions made.

Special circumstances**Account maintenance**

Prior to the payment of the LRI benefit, the WSIB may make corrective adjustments at any time in the maintenance of the LRI benefit account (e.g., account balance discrepancies).~~If mistakes are made in the maintenance of the LRI benefit account, i.e., incorrect entries or transfers, the WSIB may make corrective adjustments at any time. For example, the WSIB can correct an entry resulting from any LOE benefit adjustment at any time.~~

Assignments, garnishments, and support deduction orders

LRI benefits are subject to assignments, garnishments, and support deduction orders only when the LRI benefit is payable to the worker at age 65 or to the worker's estate.~~The policies on redirected benefit payments, (see 18-01-06, Redirected Benefit Payments, and automatic deduction for family support, see 18-01-07, Automatic Deduction for Family Support, apply in these circumstances).~~

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Benefit-related debts are recoverable from an LRI benefit account only [when the LRI benefit is payable](#). [A worker's benefit-related debt cannot be recovered by the WSIB from any recipient of LRI benefits other than the worker or the worker's estate, unless the recipient provides written authorization \(see 18-01-04, Recovery of Benefit-Related Debts\)](#). ~~If anyone other than the worker or estate is entitled to the LRI benefits or pre-retirement death benefit, the worker's benefit related debt cannot be recovered by the WSIB from any other recipient unless the recipient provides written authorization first. The policy on recovery of benefit-related debts, see 18-01-04, Recovery of benefits-Related Debts, applies in these circumstances.~~

Multiple accounts

If a worker has more than one LRI benefit account [upon death or](#) at age 65, the WSIB combines these accounts before payment is made.

Retroactive increases/~~decreases~~ to LOE ~~payments~~ ~~benefit~~**LOE increases**

[If the WSIB retroactively increases LOE payments, the WSIB determines the total amount of the retroactive LOE payments and related interest.](#)

- [• If the LRI benefit has not yet been paid, the WSIB makes additional mandatory contributions equal to 5% of this total, and sets aside 5% of the total payments for voluntary contributions, if any.](#)
- [• If the LRI benefit has been paid, the WSIB calculates the additional mandatory contributions equal to 5% of this total, and then pays the additional LRI benefit as a lump sum.](#)

Note

[No retroactive investment income is paid on the additional LRI contributions.](#)

~~If the WSIB retroactively increases the LOE benefit, and has already paid an LRI benefit or a pre-retirement death benefit as a lump sum, or started making monthly annuity payments the WSIB pays the additional LRI benefit or pre-retirement death benefit as a lump sum.~~

LOE decreases

[If the WSIB retroactively decreases LOE payments prior to the payment of the LRI benefit, mandatory LRI contributions previously made by the WSIB are adjusted to reflect the decrease. \(These changes are considered to be corrective adjustments in the maintenance of the LRI account as no LRI benefits have been paid.\)](#)

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Any overage in the worker's voluntary contributions remains in the worker's LRI account but future voluntary contributions are adjusted to align with the future decreased LOE payments.

If the WSIB retroactively decreases LOE payments after the LRI benefit is paid as a lump sum or annuity, no further action is taken unless the LRI benefit payment is determined to be benefit-related debt which is recoverable by the WSIB (18-01-04, Recovery of Benefit-Related Debts).

LOE commutations**NOTE**

If the LOE benefit is commuted before the worker is paid for 12 continuous months, the WSIB would make a one-time contribution based on 5% of the commuted value of the amount that would have been paid from the 13th month to the worker's 65th birthday.

If a worker's LOE benefit is commuted to a lump sum before the worker receives LOE payments for 12 continuous months (see 18-03-05, Commutations),

- the WSIB makes a one-time mandatory contribution based on 5% of the commuted value of the LOE payments that would have been paid from the 13th month to age 65,
- the worker can make a one-time voluntary contribution based on 5% of the commuted value of the LOE payments that would have been paid from the 13th month to age 65 (if worker has already elected to make voluntary contributions or has made no prior election), and
- the LRI benefit is paid when the worker reaches age 65, or upon death if prior to age 65.

~~Under certain conditions a worker may have his or her~~ If the worker's LOE benefit is commuted to a lump sum after the worker receives LOE payments for 12 continuous months, ~~see . When this occurs,~~

- the WSIB makes a one-time mandatory contribution based on 5% of the lump sum LOE payment~~benefit,~~
- . Similarly, the worker can make a one-time voluntary contribution based on 5% of the lump sum LOE payment, benefit~~(if worker has already elected to make voluntary contributions or has made no prior election), and~~
- . However, the LRI benefit is ~~still not~~ paid ~~until~~ when the worker reaches age 65, or upon death if prior to age 65.

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**Loss of Retirement Income Benefits (Accidents on or after
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~~If the LOE benefit is commuted before the worker is paid for 12 continuous months, the WSIB would make a one-time contribution based on 5% of the commuted value of the amount that would have been paid from the 13th month to the worker's 65th birthday.~~

Application date

This policy applies to all [decisions made on or after December 5, 2018, with respect to](#) LRI benefits payable on or after April 30, 2011, for all accidents on or after January 1, 1998.

Policy review schedule

This policy will be reviewed within five years of the application date.

Document history

This document replaces 18-03-07 dated [December 1, 2011](#) ~~October 14, 2009~~.

This document was previously published as:

[18-03-07 dated October 14, 2009](#)

18-03-07 dated April 7, 2008

18-03-07 dated October 3, 2007

18-03-07 dated July 3, 2007

18-03-06 dated January 3, 2007.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 45, 54, 62(2)

O. Reg. 562/99, as amended

Minute

Administrative

~~#6, September 6, 2011, Page 491~~