

Operational
Policy

Section

Future Economic Loss (FEL) (Accidents from 1990-1997)

Subject

Loss of Retirement Income Benefits (Accidents from January 2, 1990 to December 31, 1997)

Policy

If a worker receives future economic loss (FEL) payments, the WSIB ~~will set~~ aside an additional amount equal to 10% of every FEL payment for the loss of retirement income (LRI) benefit. [Workers are entitled to receive LRI benefits at age 65.](#)

~~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 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

Account balance - ~~the sum of the funds set aside by the WSIB for a worker (10% of all FEL payments), and the investment income it has earned.~~ [the amount of LRI contributions made by the WSIB 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.](#)

FEL 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 90% 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.~~

Pre-retirement death benefit – [the amount of LRI contributions made by the WSIB and the accumulated investment income that may be paid if the worker dies before age 65.](#)

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

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Contributions toward LRI benefits

Workers must experience a loss of earnings for 12 continuous months to be entitled to a FEL benefit (see 18-04-04, Breaking Continuity of Temporary Disability).

If workers receive FEL payments, the WSIB sets aside an additional amount equal to 10% of every FEL payment for the LRI benefit. This 10% LRI contribution is based on the total of FEL benefits, supplementary FEL benefits and FEL benefits equivalent to Old Age Security benefits (see 18-04-09, Electing the OAS Equivalent, 18-04-11, Supplements for Programs and Work Reintegration Activities Before and After 24 Months, and 18-04-12, Supplement Following Significant Deterioration).

Entitlement to LRI benefits

Workers are not eligible to receive payment of the funds in their LRI account prior to age 65. At that time, workers become entitled to the LRI benefit based on the amount of contributions made by the WSIB and the accumulated investment income.

Types of LRI payments for LRI benefit

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

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.

Lump sum

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 18-01-03, Benefit Dollar Amounts - Accident before 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~~

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1. Joint and survivor
2. Life
3. Life with return of account balance
4. Life with a fixed guarantee period
5. Life with a guarantee to age 90.

For more information on the annuity payment schemes, see *Ontario Regulation 715/94*.

The WSIB sends an 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.

- ~~• If a worker is entitled to an annuity payment scheme, the WSIB will send the worker a Loss of Retirement Income Benefit Election Form a few months before a worker's 65th birthday. Workers must complete this form, indicate their choice of annuity payment scheme, indexing factor, sign it, and send this form 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 spouse at age 65, the default option is the life annuity with a fixed guarantee period of 10 years.

~~Non-work-related death before age 65~~

LRI benefits (death before age 65)

If the worker dies before age 65, the WSIB determines the LRI benefit payable based on whether the worker's death was work-related or non-work-related.

Non-work-related death

If ~~the~~ a worker who is entitled to an LRI benefit dies before age 65 of a non-work-related injury or disease, the WSIB pays a pre-retirement death benefit ~~equal to the account balance, to the worker's~~ 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~~
3. other living ~~dependents~~ dependants (in equal shares); ~~if there is no spouse, and no dependent children, or~~
4. worker's estate; ~~if there is no spouse, no dependent children and no other living dependents.~~

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~~This benefit is normally paid as a lump sum. However, if the account balance will generate an annual payment of at least \$1,000.00*, it may be paid to a surviving spouse as a life annuity payment scheme. If the surviving spouse is eligible for an annuity, the WSIB will inform the spouse. To receive the annuity the spouse must send the WSIB a signed request within 90 days of learning of the option.~~

~~*This is the 1990 amount from Ontario Regulation 715/94. This amount may vary due to annual indexing~~

Work-related death

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

~~Individuals who receive anyone receiving WSIB survivors' benefits are is-not eligible to receive an LRI benefit or the LRI pre-retirement death benefit, in respect of the same worker. If there are no survivors, the WSIB pays the LRI pre-retirement death benefit to the worker's estate. For more information on survivors' benefits, see "Survivors" section in the Operational Policy manual.~~

Types of LRI payments (death before age 65)

~~The WSIB normally pays the pre-retirement death benefit~~ This benefit is normally paid as a lump sum.

~~However, if If there is a surviving spouse, and the worker's account balance will will generate an annual LRI benefit payment of at least \$1,333.45* 1,000.00*, the spouse may choose it may be paid to a surviving spouse to receive it as a life annuity. (*2018 amount. This amount may vary due to annual indexing.) payment scheme. If the surviving spouse is eligible for an annuity, the WSIB will inform the spouse. To receive the annuity, the spouse must send the WSIB a signed request within 90 days of being notified of learning of the annuity option.~~

~~*This is the 1990 amount from Ontario Regulation 715/94. 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.~~

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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 FEL 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. (see 18-01-06, Redirected Benefit Payments and 18-01-07, Automatic Deduction for Family Support)

Benefit-related debts

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 estate unless the recipient provides written authorization (see 18-01-04, Recovery of Benefit-Related Debts).

Multiple accounts

If workers have 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 FEL ~~payments~~**benefits**

FEL Increases

If the WSIB retroactively increases FEL payments, the WSIB determines the total amount of the retroactive FEL payments and any related interest.

- If the LRI benefit has not yet been paid, the WSIB sets aside additional LRI contributions equal to 10% of this total.
- ~~• If the WSIB retroactively increases the FEL benefit~~• If the LRI benefit has already been paid,
~~and has already~~
- ~~• paid an LRI benefit or a pre-retirement death benefit as a lump sum, or~~
- ~~• started making monthly annuity payments~~
- ~~the~~, the WSIB calculates the additional LRI contributions equal to 10% 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.

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Loss of Retirement Income Benefits (Accidents from January 2, 1990 to December 31, 1997)**FEL Decreases**

If the WSIB retroactively decreases FEL payments prior to the payment of the LRI benefit, 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.)

If the WSIB retroactively decreases FEL 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 a recoverable benefit-related debt (18-01-04, Recovery of Benefit-Related Debts).

FEL commutations

If the worker's FEL benefit is commuted to a lump sum (see 18-04-08, Commutation of Benefits), the WSIB makes a one-time LRI contribution based on 10% of the lump sum FEL payment. However, the LRI benefit is still not paid until the worker reaches age 65 or upon death if prior to age 65.

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 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.

Benefit-related debts

Benefit related debts are recoverable from an LRI benefit account only at the time the LRI benefit or pre-retirement death benefit is payable. If anyone other than the worker or estate is entitled to the LRI benefit 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 Benefit-Related Debts, applies in these circumstances.

Multiple accounts

If workers have more than one LRI benefit account at age 65, the WSIB combines these accounts before payment is made.

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 from January 2, 1990 to December 31, 1997.

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Loss of Retirement Income Benefits (Accidents from January 2, 1990 to December 31, 1997)**Policy review schedule**

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

Document history

This document replaces 18-04-17 dated ~~December 1, 2011~~ ~~October 14, 2009~~.

This document was previously published as:

[18-04-17 dated October 14, 2009](#)

18-04-17 dated April 7, 2008

18-04-17 dated January 3, 2007

18-04-17 dated October 12, 2004

05-07-02 dated August 1, 2003.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Section 54, 102, 103.1

Workers' Compensation Act, R.S.O. 1990, as amended
Section 44

O. Reg. 715/94, as amended

Minute

Board of Directors

#15, September 23, 1994, Page 5812

#4, April 5, 1991, Page 5439

Administrative

~~#5, September 6, 2011, Page 491~~