

**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.

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

## 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.

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

**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 which include 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.

### Types of payment for LRI benefit

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.

#### Lump sum

If the worker's account balance will pay an annual 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.

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If the worker's account balance will pay an annual 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. The payment schemes are

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*.

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.

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

If 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

1. surviving spouse, if there is one
2. living dependent children (in equal shares), if there is no spouse
3. other living dependents (in equal shares), if there is no spouse, and no dependent children
4. estate, if there is no spouse, no dependent children and no other living dependents.

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.

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If a worker dies of a work-related injury or disease, anyone receiving WSIB survivors' benefits is not eligible to receive an LRI benefit or pre-retirement death benefit in respect of the same worker.

For more information on survivors' benefits, see "Survivors" section in the Operational Policy manual.

**Special circumstances****Retroactive increases to FEL benefits**

If the WSIB retroactively increases the FEL 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.

**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.

**Account maintenance**

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.

**Multiple accounts**

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

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

This policy applies to all LRI benefits payable on or after April 30, 2011, for 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 October 14, 2009.

This document was previously published as:

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**

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#15, September 23, 1994, Page 5812

#4, April 5, 1991, Page 5439

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