

**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 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~~their LOE payments toward the LRI benefit. Workers are entitled to receive LRI benefits on or after age 65.

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 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.

Account balance - 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 refer to 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 refer to 18-01-13, Calculating CPP/QPP Offsets from FEL/LOE Benefits)~~.

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

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

For a definition of “spouse,” “dependent child,” “other dependants,” or “survivor,” [see refer to 20-01-02, Definitions and Application Dates.](#)

Contributions toward LRI benefits**Mandatory WSIB ~~G~~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 ~~W~~worker ~~G~~contributions

When a worker approaches 12 continuous months of LOE payments, the WSIB notifies the worker that [he/she/they](#) may choose to voluntarily contribute 5% of [his/her/their](#) 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/their](#) LRI benefits by completing a WSIB election form. Once the worker completes the election form, the decision is irrevocable.

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

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 refer to 18-03-04, LOE Benefits for Workers 55 [Years](#) 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.)~~

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

**Loss of Retirement Income Benefits (Accidents on or after
January 1, 1998)****Types of LRI payments**

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.

Lump sum

If the worker's account balance will generate 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, [refer to see 18-01-02, Benefit Dollar Amounts - Accidents from 1998](#).

Monthly annuity

If the worker's account balance will generate 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:

1. Joint and survivor annuity
2. Life annuity with return of worker account balance, [or](#)
3. Life annuity with guarantee to age 70.

For more information on the annuity payment schemes, [see refer to Ontario Regulation 562/99](#), as amended.

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 [as follows: below](#).

- If the worker has a spouse (as defined in 20-01-02, Definitions and Application Dates) with whom [he/she/the worker](#) 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.

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

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

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 and the supplementary pre-retirement death benefit, if any.

These LRI benefits are paid under the first applicable category in the order listed [as follows](#) 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~~[the worker's](#) death,
2. living dependent children (in equal shares)
3. other living dependants (in equal shares)
4. designated beneficiary (as selected by the worker), or
5. worker's estate.

Work-related death

If the worker dies before age 65 of a work-related injury or disease, the WSIB pays survivors' benefits. ~~(see~~[refer to](#) 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). ~~The~~ supplementary pre-retirement death benefit is paid under the first applicable category in the order listed [as follows](#) 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~~[the worker's](#) death
2. living dependent children (in equal shares), or
3. other living dependants (in equal shares).

If there are no survivors, the pre-retirement death benefit and the supplementary pre-retirement death benefit, if any, are paid under the first applicable category in the order listed ~~below~~[as follows](#):

1. designated beneficiary, or
2. worker's estate.

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

**Loss of Retirement Income Benefits (Accidents on or after
January 1, 1998)****Types of LRI payments (death before age 65)**

The WSIB normally pays the pre-retirement death benefit and the supplementary pre-retirement death benefit, if any, as a lump sum.

If there is a surviving spouse, and the worker's account balance will generate an annual LRI benefit of at least \$1,333.45* 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.

[*2018 amount. This amount may vary due to annual indexing.](#)

Note

If the worker's account balance at the time of ~~his/her~~ [the worker's](#) 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).

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 refer to 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 the worker's estate, unless the recipient provides written authorization. ~~(see refer to 18-01-04, Recovery of Benefit-Related Debts).~~

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**LOE increases**

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

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

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.

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.)~~

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. ~~(refer to 18-01-04, Recovery of Benefit-Related Debts).~~

LOE commutations

If a worker's LOE benefit is commuted to a lump sum **before** the worker receives LOE payments for 12 continuous months, ~~(see refer to 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 [the](#) 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.

If the worker's LOE benefit is commuted to a lump sum **after** the worker receives LOE payments for 12 continuous months, ~~;~~

- the WSIB makes a one-time mandatory contribution based on 5% of the lump sum LOE payment, ~~;~~

**Operational
Policy**

Section

Loss of Earnings (LOE) (Accidents from 1998)

Subject

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

- the worker can make a one-time voluntary contribution based on 5% of the lump sum LOE payment, ~~(if the 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.

Application date

This policy applies to all decisions made on or after ~~December 1, 2018~~ [December 5, 2024](#), 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~~ [6, 2018](#).

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[18-03-07 dated December 1, 2011](#)

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)

~~Ontario~~- [Regulation](#)- 562/99, ~~as amended~~

[Minute Approval](#)

~~Administrative~~

~~#2, December 4, 2018, Page 564~~