

The Workers' Compensation Act, 2013

Legislation on compensation at 65 and Pension Annuity

Amount of compensation for loss of earnings

68(1) If an injury to a worker results in a loss of earnings beyond the day of the injury, the board shall determine the loss of earnings resulting from the injury and shall ensure compensation to the worker:

(a) in the case of a worker who sustained an injury before September 1, 1985, in an amount equal to 75% of that loss of earnings; or

(b) in the case of a worker who sustained an injury on or after September 1, 1985, in an amount equal to 90% of that loss of earnings.

(2) Compensation pursuant to subsection (1) is payable for as long as the loss of earnings continues, but the compensation is no longer payable when the worker reaches the age of 65.

Injured worker 63 years of age or more

71 Notwithstanding subsection 68(2), if a worker is 63 years of age or more at the commencement of the worker's loss of earnings resulting from the injury, the board may provide the compensation pursuant to subsection 68(1) for a period of not more than two years following the date of the commencement of the loss of earnings.

Recurrence of injury

72 If an injured worker returns to full employment and afterwards suffers a recurrence of the injury, the compensation payable to the worker must be based on the positive difference, if any, between:

1) the amount that is the greater of:

(i) the worker's weekly earnings at the time of the commencement of

the worker's loss of earnings resulting from the injury when the injury was initially sustained; and

(ii) the worker's weekly earnings at the time of the worker's loss of earnings resulting from the recurrence of the injury; and

(b) any compensation the worker is already receiving with respect to that injury.

Percentage of compensation set aside for annuity at age 65

73 (1) In this section, "**minimum annuity amount**" means \$25,000, adjusted annually by the percentage increase in the Consumer Price Index.

(2) For the purposes of subsection (1), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the minimum annuity amount for the year following the year in which the calculation is made.

(3) If compensation is paid to a worker for a period exceeding 24 consecutive months, the board shall set aside an amount equal to 10% of the compensation paid during the 24-month period and of the future compensation to be paid after the expiry of the 24-month period.

(4) The amount set aside pursuant to subsection (3), together with accrued interest, must be used to provide an annuity for the worker at age 65.

(5) The amount set aside pursuant to subsection (3) may be:

(a) set aside in the reserves of the board; or

(b) at the request of the worker, paid into an established superannuation plan.

(6) If the total of the accumulated capital set aside by the board pursuant to subsection (3) to provide an annuity for a worker and interest on that amount is less than the minimum annuity amount when the worker reaches the age of 65, the board may, in lieu of an annuity and at the request of the worker, pay to the worker the accumulated capital and interest.

Board may supplement annuity

74 If the board determines that the impact of the injury on the retirement income of the worker is greater than is recognized by the payments pursuant to subsection 73(3) and that it causes an undue hardship to the worker, the board may supplement the income of that worker on and after the day on which the worker reaches the age of 65 to increase the amount of the worker's income to the minimum amount of compensation then payable.

Policy	Annuities (POL 01/2024)
Effective Date	March 1, 2024
Application	Applies to workers injured on or after January 1, 1980 and dependent spouses of workers on or after January 1, 1989.
Purpose	To establish guidelines for providing annuities to compensate for the reduction of retirement income caused by a workplace injury.

DEFINITION

Eligible compensation is the amount paid to compensate for earnings loss, which includes benefit payments made to:

- The worker or dependent spouse.
- The employer on behalf of the worker (salary continuance), and
- A third party on behalf of the worker (e.g., Employment Insurance, Maintenance Enforcement or Canada Revenue Agency).

Life annuity is a financial product that provides an individual with a monthly payment for the rest of their life. The amount of this monthly payment is based on the amount invested and the interest rates at the time the life annuity is purchased.

Qualifying period means a period exceeding 24 consecutive months in which the worker or dependent spouse receives eligible compensation for any portion of the month prior to reaching age 65. A single qualifying period may result from eligible compensation paid on more than one injury claim.

BACKGROUND

1. *The Workers' Compensation Act, 2013* (the "Act") directs the Workers' Compensation Board (WCB) to set aside an amount equal to 10 per cent of the compensation paid to a worker who received earnings loss benefits for more than 24 consecutive months (Section 73(3)).
2. The amount set aside with accrued interest must be used to provide an annuity for the worker at age 65 (Section 73(4)). It is the WCB's intent to compensate for a reduction of retirement income caused by a workplace injury.
3. The minimum annuity amount is \$25,000, adjusted annually by the percentage increase in the Consumer Price Index (CPI) (Section 73(1)).
4. The annuity amount may be set aside in the reserves of the WCB or paid into an established superannuation plan (registered pension plan) at the request of the worker (Section 73(5)).
5. If the Board Appeal Tribunal (Tribunal) determines that the impact of the injury on the retirement income of the worker is inadequately compensated by the annuity payments and

causes an undue hardship to the worker, the WCB may provide an annuity supplement (Section 74).

6. A dependent spouse who has been in receipt of eligible compensation for a period exceeding 24 consecutive months will be provided an annuity at age 65. An amount equal to 10 per cent of eligible compensation paid is set aside to provide for the annuity (Sections 81(1), 81(3), and 81(6)).

POLICY

1. If a worker or dependent spouse receives eligible compensation for more than 24 consecutive months, the WCB will set aside an amount equal to 10 per cent of eligible compensation paid:
 - a. During the qualifying period, and
 - b. After the qualifying period up to the end of the month the worker or dependent spouse turns age 65.
2. An annuity amount will not be set aside on eligible compensation paid on any other work-related injury claim(s) that does not form part of the qualifying period (i.e., claims that are less than 24 months in duration).
3. The amount will be set aside until the last day of the month in which the worker reaches age 65, and together with accrued interest, will be used to provide an annuity for the worker or dependent spouse.
4. If the amount set aside in the worker's annuity program (including any interest it has earned) is less than the minimum, the worker can either buy an annuity or have the full amount paid out as cash. The minimum annuity amount is adjusted each year by the percentage increase as noted in the Consumer Price Index (CPI) – Annual Increase procedure, and rounded up to the nearest \$100.

Salary Continuance

5. Payments made by WCB to the employer on behalf of the worker (salary continuance) will be considered for the annuities qualifying period.
6. An amount will not be set aside on payments made to the employer while the worker is on salary continuance, unless the employer confirms that they are not contributing to the Canada Pension Plan (CPP) and/or an employer-sponsored pension plan on behalf of the worker.

Suspension of Benefits

7. If the suspension of benefits is a result of acceptable or unacceptable circumstances, or pregnancy, as outlined in the Suspension of Benefits policy, the qualifying period will:
 - a. Pause regardless of the duration of the suspension, and
 - c. Resume on the day of the first payment following the suspension.

8. Suspension of benefits as a result of incarceration as outlined in the Suspension of Benefits – While Incarcerated policy, will impact the qualifying period as follows:
 - a. If the suspension is less than a full calendar month and the worker still receives compensation in a month (even for a period of less than a day), that month still counts as part of the qualifying period, or
 - d. If the suspension is for a full calendar month, the qualifying period will restart on the day of the first payment following the suspension.

Interest

9. The annual interest rate for annuities is based on the internally calculated smoothed rate of return earned by the WCB's investment portfolio. Interest will annually accrue:
 - a. Beginning on the first day of the month following the qualifying period, and
 - e. On the amount (principal and interest accrued from previous years) set aside to provide an annuity.
10. Interest will accrue on the current year at an estimated rate equal to the interest rate used for the immediate preceding year. At the end of each year, the WCB will calculate the actual annual interest rate and adjust the estimated accrued interest to the actual amount for any balances still set aside.
11. Accrual of interest will cease:
 - a. Six months after the later of:
 - i. The worker or dependent spouse reaching age 65, or
 - ii. The worker or dependent spouse being contacted by the WCB to purchase an annuity.
 - b. Six months after the worker or dependent spouse turns 65, if the WCB has been unable to contact the worker or dependent spouse, or
 - c. Six months after the death of a worker or dependent spouse.
12. If a worker's earnings loss benefits are retroactively adjusted, interest on the annuity may be retroactively adjusted to the first of the month in which interest on the annuity would have accrued. The following criteria must be met before interest is adjusted:
 - a. The decision to adjust compensation is made on or after January 1, 2003 (adjustments of compensation prior to January 1, 2003 are not eligible for annuity interest adjustments).
 - b. The retroactive adjustment to compensation results in a net annuity change (increase or decrease) greater than \$100, and
 - c. The retroactive compensation adjustment period begins more than six months prior to the end of the month in which the adjustment is made.

Recurrence of a Work-Related Injury

13. If the worker has already qualified for an annuity, then returns to work and subsequently suffers a recurrence of the original injury, the WCB will continue to set aside annuity

amounts in the month the worker is off work again as a result the recurrence of the original injury as the qualifying period has already been met.

14. If the qualifying period was not met prior to a return to work and the worker returns to work and later suffers a recurrence of the original injury:
 - a. The initial months the worker was in receipt of compensation will not be used to establish entitlement to an annuity, and
 - b. The qualifying period restarts.

Death before Age 65

15. If the worker or dependent spouse passes away prior to reaching 65 years of age, the principal sum with accrued interest will be paid to the worker's or dependent spouse's estate upon receipt of the death certificate or other proof of death and verification of the executor of the estate.
16. If the worker's death was a result of the work-related injury for which they were receiving earnings loss benefits, annuity payouts will not reduce compensation payable to dependants.

Purchase of an Annuity

17. If the total amount set aside on all claims that have qualified for annuity contributions (even if those amounts relate to different injuries and different qualifying periods) as of the last day of the month in which the worker or dependent spouse reaches age 65 is equal to or greater than the minimum annuity amount, the worker or dependent spouse will be required to purchase a life annuity, which must be:
 - a. Non-registered.
 - b. Guaranteed to return the purchase price, and
 - c. Payable in equal installments.
18. If the total amount set aside on all claims that have qualified for annuity contributions (even if those amounts relate to different injuries and different qualifying periods) as of the last day of the month in which the worker or dependent spouse reaches age 65 is less than the minimum annuity amount, they may choose a lump sum payout of the accumulated principal and interest in lieu of an annuity.
19. The minimum annuity amount will be based on the year the worker or dependent spouse reaches age 65 outlined in the Consumer Price Index (CPI) – Annual Increase procedure.
20. Upon evidence that the worker or dependent spouse has entered into a contract to purchase an annuity, the amount set aside will be paid to the annuity provider/company on behalf of the worker or dependent spouse.

Qualifying for Annuities after Age 65

21. If an annuity is payable as a result of an adjustment to previous earnings loss benefits for a worker or a dependent spouse over the age of 65:

- a. The worker or dependent spouse will be required to purchase an annuity if the principal and any retroactive interest is over the minimum annuity amount, or
- b. The worker or dependent spouse will receive a lump sum payout, in lieu of an annuity, if the principal and any retroactive interest is under the minimum amount.

22. If a worker has been previously paid annuity funds and an additional annuity amount is awarded after age 65, there will be no cumulative effect when determining if the amount payable is below the minimum.

Special Considerations

Alternate Annuities

23. In recognition of unusual circumstances where a life annuity would not sufficiently meet the objective of replacing the worker's or dependent spouse's reduction of retirement income, the WCB will consider requests for an alternate form of annuity on or after the worker or dependent spouse reaches age 65. The alternate annuity must:

- a. Be for the purpose of providing retirement income.
- b. Detail the terms, conditions and carrier of the alternate annuity.
- c. Guarantee the alternate annuity will:
 - i. Return the principal portion of the annuity.
 - ii. Be payable from a non-registered fund, and
 - iii. Be payable for equal installments over a period of at least 10 years.

24. If the alternate annuity does not meet the criteria above, Finance will make a decision on a case-by-case basis. If the request is accepted, a Final Release form will be required.

Lump Sum Payouts

25. The WCB will consider requests for a lump sum payout due to terminal illness or foreign residency on a case-by-case basis.

Reconsideration of Decisions

26. Reconsideration of a decision regarding annuities will only be made by the Tribunal and is not subject to the regular appeal process.

Annuity Supplement

27. At the request of the worker, the WCB may supplement their income on and after age 65 to increase the amount of income to the minimum amount of compensation (Section 75) then payable if:

- a. The worker is receiving annuity payments or has received a lump sum payout.
- b. The Tribunal determines that the impact of the injury on the retirement income of the worker is greater than the annuity payment(s), and

- c. The impact of the injury on the retirement income causes undue financial hardship to the worker.

28. The annuity supplement will be paid on and after the day on which the worker reaches the age of 65 and will be paid monthly. The amount will be reviewed annually and adjusted based on the percentage increase in minimum compensation.

Overpayment

29. Claim overpayments may be recovered from any amounts payable to the worker or dependent spouse from the annuity account in accordance with the Overpayment Recovery – Compensation policy and procedure.

Enforcement Measures

30. Annuity funds will normally become payable at the time the worker or dependent spouse turns age 65 or passes away. Annuity funds will be subject to garnishment (Creditor or Judgment enforcement measures) if the notice or order is in effect at the time the annuity is payable or at any time any applicable legislation prescribes for the application of the enforcement measure, in accordance with the Attachment of Compensation policy and procedure.

Effective Date	March 1, 2024
Approved Date	February 20, 2024
Legislative Authority	<i>The Workers' Compensation Act, 2013</i> Sections 2(1)(h), 73, 74, 75, 81
Document History	<ol style="list-style-type: none"> (1) Effective March 1, 2024, individuals currently receiving an annuity supplement will receive retroactive adjustments based on the percentage increase in minimum compensation to the date their annuity supplement began. (2) POL and PRO 05/2020, Annuities (effective January 1, 2021 to February 29, 2024). (3) POL and PRO 13/2013, Annuities (effective January 1, 2014 to December 31, 2020). (4) Bill 58, an amendment to <i>The Workers' Compensation Act, 2013</i>, to set the minimum annuity amount at \$25,000 (effective January 1, 2014). (5) POL 10/2008, Annuities (effective January 1, 2003 to December 31, 2013). (6) PRO 04/2005, Annuities (effective January 1, 2003 to December 31, 2013). (7) POL 04/2005, Annuities (effective January 1, 2003; however superseded by POL 10/2008 which was approved August 5, 2008 and made effective January 1, 2003). (8) POL and PRO 04/2003, Annuities (effective January 1, 2003; however superseded by POL and PRO 04/2005 which was approved September 22, 2005 and made effective January 1, 2003).

- (9) Bill 72, an amendment to *The Worker's Compensation Act, 1979*, to state that if the amount set aside is less than \$20,000, the worker or dependent spouse may receive a lump sum, in lieu of an annuity, at age 65 (effective January 1, 2003).
- (10) POL and PRO 09/2002, Annuities (effective January 1, 2003; however superseded by POL and PRO 04/2003 which was approved May 13, 2003 and made effective as of January 1, 2003).
- (11) POL and PRO 08/2000, Annuities (effective November 14, 2000 to December 31, 2002).
- (12) POL 02/1999, Annuities (effective February 1, 1999 to November 13, 2000).
- (13) POL 11/95, Modifications to Existing Policies on Annuity Provisions (effective 1995 to January 31, 1999).

Complements

PRO 01/2024	Annuities
POL 04/2010	Attachment of Compensation
PRO 46/2025	Consumer Price Index (CPI) – Annual Increase
POL 07/2013	Consumer Price Index (CPI) – Annual Indexing
POL 03/2022	Injury Claims – Administrative Errors
PRO 40/2025	Minimum Compensation (Section 75)
POL 17/2016	Overpayment Recovery – Compensation
POL 10/2021	Suspension of Benefits
POL 10/2016	Suspension of Benefits – While Incarcerated
POL 09/2012	Termination – Age 63 and Over, Age 65, and Retirement

Policy	Termination – Age 63 and Over, Age 65, and Retirement (POL 09/2012)
Effective Date	October 1, 2012
Application	Applies to all claims with a commencement of earnings loss date on or after the effective date.
Purpose	To establish guidelines for payment of compensation benefits to workers age 63 and over.

DEFINITION

Not more than two years, as referenced in Section 71 of *The Workers' Compensation Act, 2013* (the "Act"), means the worker may be entitled to earnings loss compensation for a period of not more than two years following the commencement of earnings loss date.

BACKGROUND

1. Section 68(2) of the Act states that compensation "is payable for as long as the loss of earnings continues, but the compensation is no longer payable when the worker reaches the age of 65."
2. Section 71 of the Act provides special consideration to workers injured at 63 years of age or older by extending earnings loss compensation for a period of not more than two years after the commencement of earnings loss date. This provision may extend the date of termination beyond age 65.
3. Section 73(3) and (4) of the Act state:
If compensation is paid to a worker for a period exceeding 24 consecutive months, the board shall set aside an amount equal to 10% of the compensation paid during the 24-month period and of the future compensation to be paid after the expiry of the 24-month period. The amount set aside, together with accrued interest, must be used to provide an annuity for the worker at age 65.
4. Section 2(2) of *The Saskatchewan Human Rights Code* (the "Code") states that age distinctions "permitted or required by any Act or regulation in force in Saskatchewan" are not in contravention of the Code.

POLICY

Workers Under Age 63

1. Workers under age 63 at the commencement of earnings loss are entitled to earnings loss compensation from the commencement of earnings loss date until:
 - a. The loss of earnings cease, or
 - b. The end of the month in which the worker reaches age 65,

whichever occurs first.

2. Workers in receipt of benefits for a period exceeding 24 consecutive months are eligible for an annuity to be paid at the age of 65.

Workers Age 63 and Over

3. Workers 63 years of age or over at the commencement of earnings loss are entitled to earnings loss compensation from the commencement of earnings loss date until:
 - a. The loss of earnings cease, or
 - b. A period of two years has expired (i.e., compensation will be payable up to and including the day prior to the second anniversary of the commencement of earnings loss date),
 whichever occurs first.
4. Workers age 63 or over qualifying for compensation benefits under Section 71 are not entitled to annuity benefits under Section 73. To qualify for the annuity, a worker must be absent from the workforce in excess of 24 consecutive months before reaching age 65.

Effects of Retirement

5. Retirement benefits (e.g., employer sponsored pension plans, Canada Pension Plan Retirement benefits, Old Age Security Pension, etc.) will not be considered as earnings in the calculation of earnings loss compensation under the Act.

Termination of Compensation Benefits

6. When earnings loss compensation benefits are terminated, workers will be advised of the options for alternative support programs.

Other Entitlements

7. The limits outlined in Section 71 exclusively impact the provision of earnings loss compensation. Other entitlements (e.g., medical aid, personal care allowance, independence allowance, etc.) may be extended beyond the two year period.

Effective Date	October 1, 2012
Approved Date	September 19, 2012
Legislative Authority	<i>The Workers' Compensation Act, 2013</i> Sections 68(1), 68(2), 71, 73(3) and (4) <i>The Saskatchewan Human Rights Code</i> Sections 2(2)
Document History	(1) January 1, 2014. References updated in accordance with <i>The Workers' Compensation Act, 2013</i> . (2) September 30, 2013. Policy review completed.

- (3) POL 06/2001, Termination – Age 63 & Over, Age 65, and Retirement (effective August 1, 2001 to September 30, 2012).
- (4) POL 22/87, Injured Workers 63 or More (effective May 7, 1987 to July 31, 2001).
- (5) POL 29/85, Effect of Worker's Retirement (effective August 6, 1985 to July 31, 2001).
- (6) POL 03/80, Age 65 (effective January 7, 1980 to July 31, 2001).

Complements

[POL 11/2021](#) Terminating Benefits – Notice Period

[PRO 11/2021](#) Terminating Benefits – Notice Period

Policy	Deducting Commuted Permanent Disability Pensions (POL 12/2016)
Effective Date	August 1, 2016
Application	Applies to claims described by Sections 72 and 76 on and after the effective date.
Purpose	To establish guidelines for deducting commuted permanent disability pensions from current entitlements.

DEFINITION

Commutation means a lump sum payment that is made, either at the time when the permanent disability pension was first established or at a later date, in exchange for whole or part of the worker's permanent disability pension.

BACKGROUND

1. Section 72 of *The Workers' Compensation Act, 2013* (the "Act") states "if an injured worker returns to full employment and afterwards suffers a recurrence of the injury, the compensation payable to the worker must be based on the positive difference, if any, of:
 - (a) the amount that is the greater of:
 - ii. the worker's weekly earnings at the time of the commencement of the worker's loss of earnings resulting from the injury when the injury was initially sustained; and
 - iii. the worker's weekly earnings at the time of the worker's loss of earnings resulting from the recurrence of the injury; and
 - (b) any compensation the worker is already receiving in respect of that injury."
2. Section 76(3) of the Act states "this subsection and subsections (4) to (8) apply only to workers who:
 - (a) are receiving or are entitled to receive an award under any *Workers' Compensation Act* in force before to January 1, 1980; and
 - (b) on January 1, 1983, were under the age of 65."
3. Section 76(4) of the Act states "the board shall:
 - (a) review the compensation being paid to each worker mentioned in subsection (3) to determine the difference between the adjusted earnings at the time of injury and the amount that the board estimates that the worker is capable of earning in suitable employment; and
 - (b) pay 75% of that difference determine pursuant to clause (a) to the worker until the earlier of:
 - ii. the date of the next review; and
 - iii. the date that the worker attains the age of 65."

4. Section 76(7) of the Act states “in determining the amount of compensation payable to a worker mentioned in subsection (3), the board shall:
 - (a) deduct the amount of the permanent award for disability; and
 - (b) determine, in accordance with Section 95, the reduction for any *Canada Pension Plan* benefits payable for the same injury.”
5. The permanent award for disability noted in Section 76(7) of the Act is a monthly pension based on the worker’s disability rating.
6. To determine the amount of compensation payable to a worker receiving earnings loss benefits under Sections 72 and 76 of the Act, the WCB will deduct the worker’s disability pension benefits payable under legislation for injuries occurring prior to January 1, 1980.
7. Prior to 1985, where a worker’s disability pension was commuted, pension deductions occurring subsequent to the commutation were based on the current value of the pension as if it had not been commuted. This practice changed with the approval of Board Order 01/1985, *Deducting of the Amount of the Permanent Award for Disability*.

POLICY

1. In accordance with Sections 72 and 76 of the Act, the amount of disability pension benefits payable under legislation prior to January 1, 1980 will be deducted from earnings loss benefits paid to the worker.
2. In keeping with the practice initiated by Board Order 01/1985, where a worker’s disability pension is commuted, the amount deducted from earnings loss benefits will be the value of the disability pension at the time of commutation.

Effective Date	August 1, 2016
Approved Date	June 28, 2016
Legislative Authority	<i>The Workers’ Compensation Act, 2013</i> Sections 72, 76, 95
Document History	(1) POL 01/1985, <i>Permanent Disability Lump Sums, Deducting</i> (effective February 12, 1985 to July 31, 2016).
Complements	POL 07/2013 Consumer Price Index (CPI) – Annual Indexing POL 22/2016 Offset of Canada or Quebec Pension Plan Disability Benefits POL 13/2016 Pension Commutations (<i>The Workers’ Compensation Act, 1974</i>). PRO 13/2016 Pension Commutations (<i>The Workers’ Compensation Act, 1974</i>).

Policy	Pension Commutation (<i>The Workers' Compensation Act, 1974</i>) (POL 13/2016)
Effective Date	August 1, 2016
Application	Applies to all requests for pension commutations under the old Act.
Purpose	To establish guidelines for commuting pensions payable under <i>The Workers' Compensation Act, 1974</i> .

DEFINITION

Commutation means a lump sum payment that is made, either at the time when the permanent disability pension was first established or at a later date, in exchange for whole or part of the worker's permanent disability pension.

BACKGROUND

Section 76(1) of *The Workers' Compensation Act, 2013* (the "Act") authorizes the WCB to commute permanent disability pensions in accordance with Section 82 of *The Workers' Compensation Act, 1974*.

POLICY

1. Workers receiving periodic permanent disability pensions payable under *The Workers' Compensation Act, 1974* may request to have their benefits commuted to a lump sum (i.e., exchanged for a commutation).
2. The WCB will consider each pension commutation request on its own merits, while taking into account the following guiding principles:
 - a. Commutation is in the worker's or dependants' best interest.
 - b. Commutation is needed.
 - c. The worker has explored other sources of financial aid and counselling.
 - d. The pension accounts for less than 50 per cent of the worker's total income.
3. The WCB will not commute a worker's pension in the following situations:
 - a. The worker is currently in receipt of, or likely to receive, earnings loss benefits.
 - b. The pension accounts for 50 per cent or more of the worker's total income.
 - c. The dependent spouse is receiving the worker's pension.

Effective Date August 1, 2016

Approved Date June 28, 2016

Legislative Authority	<i>The Workers' Compensation Act, 2013</i> Sections 76 <i>The Workers' Compensation Act, 1974</i> Sections 82
Document History	(1) POL and PRO 11/2010, Pension Commutation (<i>The Workers' Compensation Act, 1974</i>) (effective May 1, 2010 to July 31, 2016). (2) POL and PRO 14/2007, Pension Commutations (Old Act) (effective January 1, 2008 to April 30, 2010).
Complements	PRO 13/2016 Pension Commutation (<i>The Workers' Compensation Act, 1974</i>) POL 13/2024 Appeals – Board Appeal Tribunal

Policy	Retroactive Pension (<i>The Workers' Compensation Act, 1974</i>) (POL 61/1974)
Effective Date	January 1, 1975
Application	Applies to all claims
Purpose	To establish guidelines for paying retroactive permanent disability under the 1974 Act.

BACKGROUND

A number of claims have been approved with awards for Permanent Disability and with retroactive effect. In some cases, awards have included many years of retrospective compensation despite the absence of medical evidence of continuing disability or reduction in earnings. In some instances it is doubtful if permanent disability benefits would have been payable for such periods under the then-current policy of the Board.

POLICY

Retroactive entitlement to permanent disability compensation shall be granted only where there is:

- a. A clearly identifiable disability that has been overlooked;
- b. Medical evidence of persisting disability; or
- c. Evidence of a reduction in earnings that can be reasonably be attributed to the disability claimed.

Effective Date	January 1, 1975
Approved Date	December 17, 1974
Legislative Authority	<i>The Workers' Compensation Act, 1974</i> Sections 70
Document History	(1) January 3, 2015. Policy review completed. (2) April 25, 2007. Policy review completed.
Complements	n/a

Procedure	Annuities (PRO 01/2024)
Effective Date	March 1, 2024
Application	Workers injured on or after January 1, 1980 Dependent spouses on or after January 1, 1989
Purpose	To provide guidelines for the administration of annuities.

BACKGROUND

POL 01/2024 provides guidelines for providing annuities. The following procedure details the steps for its ongoing operation.

PROCEDURE

Notice of Eligibility

1. How are workers or dependent spouses notified if they are eligible for an annuity?
 - a. The Annuity Management System (AMS) verifies that the qualifying period has been met and contributions are being set aside.
 - b. A letter will be sent by Finance to the worker or dependent spouse informing that they have qualified for annuity contributions.
 - c. In the first quarter of every year, Finance will forward an annual statement with the latest year-end annuity account balance, annual contributions and accrued interest earned during the year to the worker or dependent spouse.
 - d. The worker or dependent spouse must notify the WCB of any change in address and contact information.

Section 73(5) – Superannuation Plan

2. What if the worker or dependent spouse requests that the amount set aside be paid into an established superannuation plan (registered pension plan) instead of leaving it in the Board's reserves?
 - a. This request can be considered. However, the registered pension plan must:
 - i. Be an established superannuation plan (i.e., self-directed RRSP do not qualify), and
 - ii. Not allow the worker or dependent spouse to withdraw the funds before age 65.
 - b. Finance will verify with the annuity provider that the terms of the registered pension plan meet the requirements noted above.
 - c. The worker or dependent spouse must sign a final release form that states they have received financial advice and understand the possible negative tax consequences of transferring their annuity into a registered superannuation plan.

Salary Continuance

3. What if the worker is on salary continuance with their employer?
 - a. If the worker is on salary continuance, WCB will not set aside annuity contributions, unless the employer confirms that they are not contributing to the Canada Pension Plan (CPP) and/or an employer-sponsored pension plan on behalf of the worker.

Suspension of Benefits

4. Will annuities be set aside if the worker's or dependent spouse's WCB benefits are suspended?
 - a. Regardless of whether the suspension of benefits is a result of acceptable or unacceptable circumstances, or pregnancy, as outlined in POL 10/2021, Suspension of Benefits, the qualifying period will pause, for the duration of the suspension, and will resume on the day of the first payment following the suspension. For example:
 - i. If a suspension of three months occurs after 20 consecutive months of payment, the 21st month will be considered as the month where payment is first made following the suspension.
 - b. If the suspension of benefits is a result of incarceration as outlined in Suspension of Benefits – While Incarcerated policy:
 - i. If the suspension is less than a full calendar month and the worker still receives compensation in a month (even for a period of less than a day), that month still counts as part of the qualifying period, or
 - ii. If the suspension is for a full calendar month, the qualifying period will restart on the day of the first payment following the suspension. For example:
 - (a) If the worker was incarcerated for a year and then starts receiving eligible compensation again, the first payment after the suspension will count as the first month of the qualifying period (the count restarts).

Death before Age 65

5. What happens if the worker or dependent spouse passes away prior to reaching 65 years of age?
 - a. If the worker or dependent spouse passes away prior to reaching 65 years of age, Finance will request:
 - i. A copy of the death certificate or other proof of death, and
 - ii. Verification of the executor of the estate (e.g., lawyer letter, will, included in death certificate).
 - b. Upon receipt of the documentation noted above, Finance will process payment of the principal sum with accrued interest to the worker's or dependent spouse's estate.
 - c. If the worker's death was a result of the work-related injury for which they were receiving earnings loss benefits, annuity payouts will not reduce compensation payable to dependants.

Purchase of an Annuity

6. Will the worker or dependent spouse be notified prior to the date the annuity payment(s) can be released?
 - a. 60 days before an annuity first becomes payable at age 65, Finance will notify the worker or dependent spouse in writing of the annuity amount and their annuity payment options.
 - b. If Finance is unable to contact the worker or dependent spouse (e.g., no current address or phone number), Finance will hold the payment until the worker or dependent spouse is located or until they contact the WCB.
7. What if the worker or dependent spouse delayed purchasing an annuity?
 - a. The worker or dependent spouse will be advised by Finance that six months after they turn age 65:
 - i. The amounts set aside will no longer be earning any interest, and
 - ii. If no response is obtained, only annual reminders to purchase an annuity will be forwarded to workers or dependent spouses.
 - b. If Finance is unable to contact the worker or dependent spouse (e.g. no current address or phone number), accrual of interest will stop six months after the worker or dependent spouse turns age 65 without notification being sent.

Qualifying for an Annuity after age 65

8. What if an annuity is payable as a result of an adjustment to previous compensation benefits for workers or dependent spouses over the age of 65?
 - a. If the adjustment results in an additional annuity payable amount, Finance will notify the worker or dependent spouse:
 - i. The net amount payable, and
 - ii. That interest will accrue on the adjusted amount for a period of up to six months from the date the worker or dependent spouse is notified of the additional annuity amount payable.
 - b. If the adjustment results in a reduction of the annuity amount payable, it will be added to the total of any other annuity amounts still payable. The following outlines the possible scenarios:
 - i. If the net amount payable, after the adjustment is added, is positive and the total is above the minimum annuity amount, the worker or dependent spouse will be asked to purchase an annuity.
 - ii. If the net amount payable, after the adjustment is added, is positive and the total is below the minimum annuity amount, the worker or dependent spouse will be eligible for a lump sum payout, or
 - iii. If the net amount payable, after the adjustment is added, is negative, the worker or dependent spouse will not be required to repay the amount regardless of any annuity amounts previously paid out.

- c. If a worker or dependent spouse has been previously paid annuity funds and an additional annuity amount is awarded after age 65, there will be no cumulative effect when determining if the amount payable is below the minimum. For example:
 - i. A worker or dependent spouse who purchased a \$30,000 annuity in 2016 becomes entitled in 2020 to an additional annuity amount of \$5,000 (principal together with any retroactive interest). They may elect to receive a lump sum payout even though the total for the two annuity amounts (\$35,000) is greater than the minimum annuity amount.
 - ii. If the new annuity entitlement is greater than the minimum annuity amount, the worker or dependent spouse will be required to purchase an annuity.

Special Considerations – Lump Sum Payouts

Foreign Residents

9. If a worker or dependent spouse has foreign residency, are they able to request a lump sum payout rather than an annuity?
 - a. The worker or dependent spouse must determine if the banking system in their country of residence allows for the purchase of an annuity. Finance will confirm this information.
 - i. If yes, the worker or dependent spouse will be required to purchase an annuity.
 - ii. Otherwise, if efforts have been made to purchase an annuity and the worker or dependent spouse are still unable to do so, they may submit a written request for a lump sum payout to Finance.
 - b. To recognize the challenges for non-residents to search for an acceptable investment vehicle, Finance will review files for non-residents and submit a lump sum payout request for the Board Appeal Tribunal's (Tribunal) consideration on behalf of the worker or dependent spouse. Prior to submitting a request to the Tribunal, Finance will:
 - i. Provide the Tribunal with confirmation of the worker's non-resident status, and
 - ii. Confirm that the worker or dependent spouse has made a reasonable attempt to purchase an annuity or its equivalent (GIC or other registered/non-registered product) in Canada or in the worker's place of residence.
 - c. Where appropriate, the Tribunal will approve the lump sum payout request, conditional upon execution of the releases, indemnity agreement and/or other required legal documentation in a written decision to the worker or worker's dependent.

Terminal Illness

10. What if a worker or dependent spouse who is terminally ill submits a request for a lump sum payout?
 - a. Finance will ask the worker or dependent spouse to obtain a medical report from their physician, which provides information about their prognosis. If it has been determined that the terminal illness is imminent (i.e., weeks to months), the lump sum payout request will be submitted for review by the Tribunal. The Tribunal will provide a written decision to the worker or worker's dependent.

Annuity Supplement

11. How can workers request a monthly annuity supplement?

- a. Workers who have received a lump sum annuity payout or are receiving monthly annuity payments may request a monthly annuity supplement if the impact of the injury on the retirement income:
 - i. Is greater than the annuity payments, and
 - ii. Causes an undue hardship to the worker.
- b. To request a monthly annuity supplement, the worker must contact Finance, who will then verify if the worker is receiving annuity payments or has received a lump sum payout. Finance will require the worker to submit their financial information and Board Services will prepare the request for review by the Tribunal.

12. How does the WCB assess eligibility if the worker who is receiving annuity payments requests an annuity supplement?

- a. Finance will request income verification information from the worker including their most recent income tax returns and net worth statements. They will then use the following three-step analysis:
 - i. Confirm whether the amount of the total current monthly retirement income is below the statutory minimum compensation for the year the worker turns 65 by verifying the worker's:
 - (a) Canada Pension Plan (CPP).
 - (b) Old Age Security.
 - (c) Annuity payments that result from the purchase of an annuity with funds provided by the WCB annuity program.
 - (d) Other annuity payments, and
 - (e) Other employer-related pension.
 - ii. Confirm whether the worker's injury has caused a reduction in retirement income. To determine this, Finance will:
 - (a) Calculate what the worker's monthly CPP income would have been if the injury did not occur using the gross earnings reported on the claim, indexed yearly for the Consumer Price Index (CPI), and the CPP Statement of Contributions, and
 - (b) Compare the calculated figure to the amount the worker is currently receiving.
 - iii. Confirm whether the reduction of retirement income determined in the second step has not been adequately compensated by the annuity payments. If the monthly CPP and annuity payment is less than the estimate of what the CPP would have been had the injury not occurred, then there is a reduction in retirement income.
- b. Finance will send the worker's request for the supplement along with the supporting documentation and the results of the above analysis to Board Services. Board Services will prepare the package for review by the Tribunal and will communicate the Tribunal's

decision to Finance and the worker. Finance will process the annuity supplement accordingly.

13. How will the annuity supplement be paid?

- a. The monthly annuity supplement will be paid:
 - i. Retroactive to the date the annuity payments began (i.e., either the date that monthly annuity payments began or the date that a lump sum was paid to the worker), and
 - ii. Based on minimum compensation, as noted in the Minimum Compensation (Section 75) procedure.
- b. For lump sum annuity payouts, the annuity supplement will be based on the minimum compensation at the time of the Tribunal's decision to supplement.

14. Will the annuity supplement be reviewed annually?

- a. A Payment Specialist will review the annuity supplement annually and adjust the monthly amount based on the percentage increase in minimum compensation as of January 1st of each year. A letter advising of the supplement amount for each year will be sent by the Payment Specialist to the worker.
- b. In accordance with the Minimum Compensation (Section 75) procedure, if the minimum compensation for the current year is less than the previous year, there will be no adjustment.

Effective Date	March 1, 2024
Approved Date	February 20, 2024
Legislative Authority	<i>The Workers' Compensation Act, 2013</i> Sections 2(1)(h), 73, 74, 75, 81
Document History	<ol style="list-style-type: none"> (1) Effective March 1, 2024, individuals currently receiving an annuity supplement will receive retroactive adjustments based on the percentage increase in minimum compensation to the date their annuity supplement began. (2) POL and PRO 05/2020, Annuities (effective January 1, 2021 to February 29, 2024). (3) POL and PRO 13/2013, Annuities (effective January 1, 2014 to December 31, 2020). (4) Bill 58, an amendment to <i>The Workers' Compensation Act, 2013</i>, to set the minimum annuity amount at \$25,000 (effective January 1, 2014). (5) POL 10/2008, Annuities (effective January 1, 2003 to December 31, 2013). (6) PRO 04/2005, Annuities (effective January 1, 2003 to December 31, 2013). (7) POL 04/2005, Annuities (effective January 1, 2003; superseded by POL 10/2008 which was approved August 5, 2008 and made effective January 1, 2003).

- (8) POL and PRO 04/2003, Annuities (effective January 1, 2003; superseded by POL and PRO 04/2005 which was approved September 22, 2005 and made effective January 1, 2003).
- (9) Bill 72, an amendment to *The Worker's Compensation Act, 1979*, to state that if the amount set aside is less than \$20,000, the worker or dependent spouse may receive a lump sum, in lieu of an annuity, at age 65 (effective January 1, 2003).
- (10) POL and PRO 09/2002, Annuities (effective January 1, 2003; superseded by POL and PRO 04/2003 which was approved May 13, 2003 and made effective as of January 1, 2003).
- (11) POL and PRO 08/2000, Annuities (effective November 14, 2000 to December 31, 2002).
- (12) POL 02/1999, Annuities (effective February 1, 1999 to November 13, 2000).
- (13) POL 11/95, Modifications to Existing Policies on Annuity Provisions (effective 1995 to January 31, 1999).

Complements

POL 01/2024	Annuities
POL 04/2010	Attachment of Compensation
PRO 19/2021	Consumer Price Index (CPI) – Annual Increase
POL 03/2022	Injury Claims – Administrative Errors
PRO 09/2023	Minimum Compensation (Section 75)
POL 17/2016	Overpayment Recovery – Compensation
POL 10/2021	Suspension of Benefits
POL 10/2016	Suspension of Benefits – While Incarcerated
POL 09/2012	Termination – Age 63 and Over, Age 65, and Retirement