



# Workers' Safety and Compensation Commission Northwest Territories and Nunavut

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WSCCNTNU



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## Table of Contents

<b>Non-Economic Loss Payment (NELP)</b> .....	2
NELP-01: Eligibility .....	2
NELP-02: Payment Calculation .....	5
<b>Long-Term Economic-Loss Benefit (ELB)</b> .....	10
ELB-01: Eligibility .....	10
ELB-02: Benefit Calculation and Payment .....	14
ELB-03: Determination of Estimated Capable Earnings .....	22
ELB-04: Retirement Benefit .....	27
<b>Dependent Benefits (DBS)</b> .....	30
DBS-01: Dependents' Benefit .....	30

\*\*\* The following Policy Scoping Documents are provided to Stakeholders as information demonstrating how Policies regarding the WSCC's pension system proposal may be structured if established. The WSCC is not bound by these Policy Scoping Documents which are presented to stakeholders for the purpose of discussion and engagement. \*\*\*

## Non-Economic Loss Payment (NELP)

### → Eligibility

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#### **Purpose**

If a worker is left with a permanent medical impairment after having reached maximum medical recovery for a work-related injury or disease, they are eligible to receive compensation, which is provided as a Non-Economic Loss Payment.

This document outlines the criteria required for a claimant to be eligible to receive a Non-Economic Loss Payment.

#### **Scope**

This Policy is not retroactive and will only apply to claims for workplace injuries that occur on or after its effective date.

#### **Definition**

Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Disability:	The condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity.
Health Care Provider	a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or another class of persons whose qualifications to practice any of the healing professions are accepted by the Commission.
Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease.

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Maximum Medical Recovery (MMR):	The point at which further medical or surgical interventions will have negligible impact on restoration of function.
Non-Economic Loss Payment:	A one-time payment made to a worker if they are left with a Permanent Medial Impairment after reaching Maximum Medical Recovery for a work-related injury.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.

## Policy

### *General*

The Non-Economic Loss Payment (NELP) is a one-time lump sum payment to compensate a worker for a permanent medical impairment stemming from a work-related injury or disease and is not based on a worker's earning loss or return to work outcome.

A worker is eligible for a Non-Economic Loss Payment (NELP) if they are left with a permanent medical impairment after reaching maximum medical recovery for a work-related injury or disease. Also, an injured worker left with an impairment due to an aggravation of a pre-existing condition from a work-related injury is entitled to a Non-Economic Loss Payment.

## Eligibility

A worker is eligible for a Non-Economic Loss Payment if their injury is:

- work-related
- at maximum medical recovery, and
- results in a permanent medical impairment.

### *Work-Relatedness*

An injury is work-related if it is arising out of, and during the course, of the worker's employment. This means that the injury would not have occurred, or would not have been as severe, if it were not for the worker's employment (e.g., job duties, workplace, tasks, etc.). The decision of whether an injury is work-related is made by the WSCC in accordance with Policy 03.03, Arising out of and During the Course of Employment.

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### *Maximum Medical Recovery*

An injury is at maximum medical recovery if further medical treatment would have negligible positive impact on restoration of function. This means that all treatments are no longer effective at reducing the worker's impairment. The decision of whether a work-related injury is at maximum medical recovery is made a Health Care Provider. The WSCC may direct the worker to attend an examination by a Health Care Provider in order to determine if a work-related injury is at maximum medical recovery.

If the WSCC Medical Advisor disagrees with the medical opinion of a Health Care Provider about an injury being at maximum medical recovery, the conflict of medical opinion will be resolved in accordance with Policy 04.13, Conflicting Medical Opinions.

### *Permanent Medical Impairment*

A worker's injury or disease results in a permanent medical impairment when the worker has reached maximum medical recovery and loss of function or abnormal function continues to exist. This means that the impairment resulting from a workplace injury is deemed permanent. The decision of whether a work-related injury has resulted in a permanent medical impairment is made by a Health Care Provider, using the most recent addition of the *American Medical Association's (AMA) Guide to the Evaluation of Permanent Impairment*. The WSCC may direct the worker to attend an examination by a Health Care Provider in order to determine if a work-related injury has resulted in a permanent medical impairment.

If the WSCC Medical Advisor disagrees with the medical opinion of a physician about a workplace injury resulting in a permanent medical impairment, the conflict of medical opinion will be resolved in accordance with Policy 04.13, Conflicting Medical Opinions.

## **Other Considerations**

### *Aggravation of a Pre-Existing Condition*

An aggravation of a pre-existing condition is a permanent worsening of a pre-existing condition because of an injury or disease. A worker who sustains an aggravation of their pre-existing condition due to a work-related injury or disease is eligible for a Non-Economic Loss Payment if the work-related injury or disease meets the eligibility criteria listed above. This means that the work-related injury must have made a material contribute to the worker's overall level of impairment.

A worker is not eligible for a Non-Economic Loss Payment if the level of impairment resulting from the worsening of a pre-existing condition due to a work-related injury is temporary or is being restored through medical treatment.

## Non-Economic Loss Payment (NELP)

### → Payment Calculation

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#### **Purpose**

The Workers' Safety and Compensation Commission (WSSC) provides a one-time Non-Economic Loss Payment to workers with an impairment resulting from a work-related injury or disease. The Non-Economic Loss Payment for an eligible claimant is determined by their Permanent Medical Impairment (PMI) Rating and the Year's Maximum Insurable Remuneration (YMIR).

This document outlines how an eligible worker's Non-Economic Loss Payment is calculated.

#### **Scope**

This Policy is not retroactive and will only apply to claims for work-related injuries that occur on, or after, its effective date.

#### **Definitions**

Bilateral Injury:	A medical term meaning that both the right and the left side of the body or body structure, function or feature are affected. For example, a worker with bilateral hearing loss may have partial or total hearing loss in both ears.
Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this Act as a result of a worker's personal injury, disease or death.
Disability:	The condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity.
Health Care Provider	a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or another class of persons whose qualifications to practice any of the healing professions are accepted by the Commission."



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Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker’s personal injury or disease.
Maximum Medical Recovery (MMR):	The point at which further medical or surgical interventions will have negligible impact on restoration of function.
Non-Economic Loss Payment:	A one-time payment made to a worker if they are left with a Permanent Medial Impairment after reaching Maximum Medical Recovery for a work-related injury.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Permanent Medical Impairment (PMI) Rating:	A rating of a worker’s percentage of full body impairment as determined by the WSCC by using the most recent addition of the <i>American Medical Association’s (AMA) Guide to the Evaluation of Permanent Impairment</i> .
Year’s Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ul style="list-style-type: none"> <li>a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers’ Compensation Acts, and</li> <li>b) the assessable payroll of employers for the year.</li> </ul>
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.

## Policy

### *General*

A Non-Economic Loss Payment is paid to an eligible claimant by the WSCC once the claimant has reached maximum medical recovery for a workplace injury and a Permanent Medical Impairment is determined to be remaining. This payment is provided to the worker in order to compensate them for the permanent loss of functioning resulting from their workplace injury or disease.

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Any long-term economic loss (i.e., loss in the claimant's earnings from their pre-injury earnings) or deterioration in a claimant's earning capacity resulting from the workplace injury or disease is considered separately through a Long-Term Economic Loss Benefit.

Receiving a Non-Economic Loss Payment does not impact a worker's entitlement to other compensation (such as medical aid) or support services provided to a worker under WSCC Policies.

## **Non-Economic Loss Payment Calculation**

The Non-Economic Loss Payment is a one-time lump sum payment based on the claimant's PMI Rating and the Year's Maximum Insurable Earnings (YMIR).

### *PMI Rating Assessment*

When a worker reaches Maximum Medical Recovery for their workplace injury or disease and medical evidence indicates that an impairment may be present, the WSCC may direct the worker to be assessed for a Permanent Medical Impairment by a Physician. The Health Care Provider makes the determination of a Claimant's PMI Rating with medical evidence they collect or that is provided by a worker's Health Care Provider(s), or upon examination of the worker by the WSCC Medical Advisor, or by a Physician at the direction of the WSCC.

The PMI Rating is determined using the most recent addition of the *American Medical Association's (AMA) Guide to the Evaluation of Permanent Impairment*.

### *Year's Maximum Insurable Remuneration*

The Year's Maximum Insurable Remuneration used for the Non-Economic Loss Payment is the amount established as YMIR within the *Workers' Compensation Act General Regulations* in the Northwest Territories and Nunavut for the year of the injury, disease diagnosis, or disability, whichever results in a greater amount.

### *Calculation of Payment Amount*

The Non-Economic Loss Payment is calculated by multiplying the claimant's PMI Rating by the YMIR:

$$\text{Non-Economic Loss Payment (\$)} = \text{PMI Rating (\%)} \times \text{YMIR (\$)}$$

## **Payment Review**

If a worker experiences a deterioration in their level of impairment from an injury or disease for which they have already received a Non-Economic Loss Payment, they may request a review. A Non-Economic Loss Payment review will result in a re-assessment of the worker's degree of permanent medical impairment.

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### *PMI Rating Re-Assessment*

Upon examination of the worker, a Health Care Provider will re-assess the worker's PMI rating associated with their work-related injury. If an increase in impairment is confirmed, as determined by the claimant's initial PMI Rating and subsequent PMI Rating upon re-examination, the worker is eligible for an additional Non-Economic Loss Payment for the portion of the PMI Rating due to the deterioration.

The amount of the Non-Economic Loss Payment resulting from the re-assessment of a worker's level of impairment is equal to the difference between the Claimant's Current PMI rating and their re-assessed PMI Rating which is multiplied by the YMIR used for their initial Non-Economic Loss Payment Calculation:

$$\frac{\text{Re-Assessed Non-Economic Loss Payment (\$)}}{\text{Loss Payment (\$)}} = (\text{Current PMI Rating (\%)} - \text{Re-Assessed PMI Rating (\%)}) \times \text{YMIR (\$)}$$

If the worker continues to see a rapid deterioration in their level of impairment following their initial PMI Rating assessment, they may request a re-assessment within the 12 months following their initial assessment. Otherwise, a worker may only request a PMI Rating re-assessment once every two years after the initial 12-month period

### **Other Considerations**

#### *If PMI Rating is Impacted by a Pre-Existing Condition*

If a worker's pre-existing conditions is permanently worsened by their work-related injury, they are eligible for Non-Economic Loss Payment for the increased impairment to their pre-existing condition.

If the WSCC is unable to assess the PMI Rating of the pre-existing permanent medical impairment before the worker's workplace injury, it will base the assessment on the documentary medical evidence and the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

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### *Disability Compensation for Recurrence of Original Injury or Disease*

A worker who suffers the recurrence of a disability from a workplace injury for which they have already been provided a Non-Economic Loss Payment is entitled to disability compensation. The amount of disability compensation they receive for the injury recurrence is not impacted by the Non-Economic Loss Payment they were provided. The calculation of disability compensation is determined in accordance with WSCC Policy 03.07, Calculation of Disability Compensation.

### *Multiple Injuries or Diseases*

The WSCC considers impairment that results from each claim separately. If a worker has already received a Non-Economic Loss Payment for an impairment left by a workplace injury, and suffers another injury or disease, the WSCC will pay the worker full disability compensation, if they are entitled. If a worker is left with multiple impairments from the same injury, or even different injuries, the worker is entitled to a Non-Economic Loss Payment for each injury from which an Impairment has been identified.

### *Enhancement Factor*

In cases where a pre-existing condition and a work-related impairment, or multiple work-related impairments combined result in a bilateral injury, the WSCC considers an enhancement factor of up to 50 percent of the PMI Rating for the work-related impairment. An enhancement factor acknowledges that the combined effect of two or more impairments is greater than the sum of the separate impairments and is applied only when both impairments involve parts of the body with identical functioning (e.g., both eyes, hands, legs, etc.).

## Long-Term Earning Loss Benefit (ELB)

### → Eligibility

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#### **Purpose**

The Workers' Safety and Compensation Commission (WSCC) pays Long-Term Earning Loss Benefits (ELB) to eligible claimants that have permanent medical impairments after reaching maximum medical recovery for a work-related injury or disease, and continue to have an actual or estimated loss of earning capacity after all reasonable vocational rehabilitation efforts have been exhausted.

This document outlines the criteria required for a claimant to be eligible for a Long-term Earning Loss Benefit.

#### **Scope**

This Policy is not retroactive and will only apply to claims for work-related injuries that occur on, or after, its effective date.

#### **Definitions**

Aggravation:	A permanent worsening of a pre-existing condition, where a work-related injury results in an increase in symptoms, signs, and/or impairment that never returns to baseline, or what it would have been except for the aggravation.
Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Disability:	The condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity.
Health Care Provider	a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or another class of persons whose qualifications to practice any of the healing professions are accepted by the Commission.

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Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker’s personal injury or disease.
Long-Term Earnings Loss Benefit:	A benefit to compensate a worker for loss of earnings if a work-related injury results in a reduction in earning capacity due to permanent medical impairment and permanent workplace restrictions due to an impairment.
Maximum Medical Recovery (MMR):	The point at which further medical or surgical interventions will have negligible impact on restoration of function.
Partial Disability (PD):	A work-related injury or disease that temporarily prevents a worker from returning to regular employment. However, medical evidence supports the worker returning to modified or other employment with temporary work restrictions.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Total Disability (TD):	A work-related injury or disease results in temporary work restrictions. Restrictions prevent the worker from performing any pre-incident job duties or currently returning to any type of employment. The worker’s condition is not stable.
Year’s Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ul style="list-style-type: none"> <li>a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers’ Compensation Acts, and</li> <li>b) the assessable payroll of employers for the year.</li> </ul>
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.

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## **Policy**

### *General*

A Long-Term Earning Loss Benefit (ELB) compensates a worker for loss of earnings due to a permanent medical impairment resulting from work-related injury. Earnings loss must be due to a reduction in earning capacity because of a work-related impairment.

A claimant's eligibility for a Long-Term Earning Loss Benefit is determined when a Non-Economic Loss Payment is first authorized. Prior to a Non-Economic Loss Payment, loss of earnings is compensated through Total or Partial Disability Compensation as determined by Policy 03.07, Calculation of Disability Compensation.

### **Eligibility Criteria**

A worker is eligible for a Long-Term Earning Loss Benefit if all the following criteria are met:

- the worker has a permanent medical impairment resulting from a work-related injury;
- the worker has actual or estimated loss of earning capacity; and,
- the worker has exhausted all reasonable vocational rehabilitation.

### *Permanent Medical Impairment*

A worker's injury or disease results in a permanent medical impairment when the worker has reached maximum medical recovery and loss of functioning or abnormal functioning continues to exist. This means that the impairment resulting from a workplace injury is deemed permanent. The decision of whether a work-related injury has resulted in a permanent medical impairment is made by a Physician, using the most recent addition of the *American Medical Association's (AMA) Guide to the Evaluation of Permanent Impairment*. The WSCC may direct the worker to attend an examination by a Physician in order to determine if a work-related injury has resulted in a permanent medical impairment.

If the WSCC Medical Advisor disagrees with the medical opinion of a Health Care Provider about a workplace injury resulting in a permanent medical impairment, the conflict of medical opinion will be resolved in accordance with Policy 04.13, Conflicting Medical Opinions.

### *Actual or Estimated Earning Loss*

Actual loss of earnings occurs if a work-related impairment results in the worker's reduced earning capacity. This means that the worker's ability to perform their pre-injury job duties has been impacted by permanent restrictions on the worker's functional abilities resulting in the worker's reduced actual earnings. To be eligible for a Long-Term Earning Loss Benefit, a worker's actual or estimated earning loss must be demonstrated through the worker's proof of earnings and confirmed by the WSCC.

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The amount of a worker's actual earnings loss is calculated by the WSCC in accordance with the process outlined in Policy Document ELB-02, Long-Term Earning Loss Benefit, Calculation.

If applicable, the amount of a worker's estimated earnings loss is calculated in accordance with the process outlined in Policy Document ELB-03, Long-Term Earning Loss Benefit, Determination of Estimated Capable Earnings.

### *Vocational Rehabilitation*

When a worker is unable to return to work with their pre-injury employer due to a work-related impairment, they may be eligible for vocational rehabilitation programs in accordance with Policy 05.01, Vocational Rehabilitation Eligibility. Although the goal of vocational rehabilitation is to assist workers to regain employability, vocational rehabilitation does not guarantee employment, or employment at the same level of remuneration as their pre-injury job. In order to be eligible for a Long-Term Earning Loss Benefit, a worker must have successfully completed all reasonable vocation rehabilitation efforts to regain suitable work.

If a worker is determined to have a permanent medical impairment while participating in vocational rehabilitation, they will continue to receive benefits that have been entitled until their eligibility for Long-Term Earning Loss Benefits has been determined, and vocational rehabilitation is complete.

If a worker is not eligible for vocational rehabilitation, and is determined to have a permanent medical impairment, their eligibility for a Long-Term Earning Loss Benefit is determined when their eligibility for a Non-Economic Loss Payment is assessed.

## **Other Considerations**

### *Impact of Pre-Existing Conditions*

If a worker's earning loss is the result of an aggravation of a pre-existing condition by a work-related injury, the worker is still eligible for a Long-Term Earning Loss Benefit. Decisions by the WSCC regarding pre-existing conditions are made in accordance with Policy 03.12, Pre-Existing Conditions.



## Long-Term Earning Loss Benefit (ELB)

### → Benefit Calculation and Payment

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#### Purpose

An eligible worker receives a Long-Term Earning Loss Benefit as compensation for earnings loss due to a work-related impairment. This compensation payment is calculated based on the worker's pre-injury and post-injury actual or estimated earnings.

This document outlines the method for calculating the Long-Term Earnings Loss Benefit and how it is paid to eligible workers.

#### Scope

This Policy is not retroactive and will only apply to claims for work-related injuries that occur on, or after, its effective date.

#### Definitions

Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Consumer Price Index (CPI):	An indicator of changes in consumer prices experienced by Canadians. It is obtained by comparing, over time, the cost of a fixed basket of goods and services purchased by consumers.
Disability:	The condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity.
Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease.
Long-Term Earnings Loss Benefit:	A benefit to compensate a worker for loss of earnings if a work-related injury results in a reduction in earning capacity due to permanent medical impairment and permanent workplace restrictions due to an impairment.

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Net Annual Remuneration:	The amount of the workers’ annual remuneration minus the amount of the worker’s annual deductions, determined in accordance with the regulations
Net Earnings Loss:	The difference between a worker’s pre-injury Annual Remuneration up to YMIR and post-injury Annual Remuneration up to YMIR.
Partial Disability (PD):	A work-related injury or disease that temporarily prevents a worker from returning to regular employment. However, medical evidence supports the worker returning to modified or other employment with temporary work restrictions.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Remuneration:	A worker’s remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonus, tips and other benefits defined under the Workers’ Compensation Acts.
Supplementary Benefit Increase (SBI):	The annual percentage the WSCC uses to adjust Long-Term Earning Loss Benefits to keep their value even with the rate of inflation as determined by the Consumer Price Index.
Total Disability (TD):	A work-related injury or disease results in temporary work restrictions. Restrictions prevent the worker from performing any pre-incident job duties or currently returning to any type of employment. The worker’s condition is not stable.
Year’s Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ul style="list-style-type: none"> <li>c) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers’ Compensation Acts, and,</li> <li>d) the assessable payroll of employers for the year.</li> </ul>
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.

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## **Policy**

### *General*

A worker may be provided compensation through a Long-Term Earning Loss Benefit for any long-term earning loss that results from their work-related impairment. Prior to being determined eligible to a Long-Term Earnings Loss Benefit, a worker's loss of earnings would be compensated under Temporary Total or Temporary Partial Disability Compensation, as determined by Policy 03.07 Calculation of Disability Compensation

The Long-Term Earning Loss Benefit is based on 90% of the difference between the worker's earnings at the time of their injury, and the greater of their post-injury actual or estimated earnings. Both pre-injury Annual Remuneration and post-injury Annual Remuneration are calculated to the maximum amount established by the Year's Maximum Insurable Earnings (YMIR). The resulting amount is offset by 50% of any Canadian Pension Plan Disability benefit related to the work-related injury.

The Long-Term Earnings Loss Benefit is adjusted annually through Supplementary Pension Increases and will also be adjusted to reflect changes to the worker's earning capacity. Reviews of a worker's post-injury Annual Remuneration will be conducted to ensure that the amount used by the WSCC to reflect a worker's earnings are accurate. The benefit amount may also be reviewed upon direction by the WSCC or request by the worker.

The Long-Term Earning Loss Benefit ends if a worker's impairment no longer results in a loss of earnings or until the claimant is eligible for a Government of Canada Old Age Security (OAS) pension. If the worker is two years below the age eligible for OAS or older at the time of their work-related injury or disease diagnosis the worker is entitled to further Long-term Earning Loss Benefits for up to 24 months.

### **Long-Term Earnings Loss Benefit Calculation**

The Long-Term Earnings Loss Benefit is calculated as 90% of the difference between the claimant's pre-injury net average earnings and post-injury actual or net estimated capable earnings, whichever is greater, offset by 50% of any net Canadian Pension Plan Disability benefits received related to the compensable injury

The WSCC calculates a worker's impairment compensation using the following steps:

- determine the worker's pre-injury Annual Remuneration;
- determine or estimate the worker's current, post-injury, Annual Remuneration
- if the worker's pre-injury or post-injury Annual Remuneration is greater than the applicable Year's Maximum Insurable Remuneration (YMIR), limit their Annual Remuneration to the YMIR;
- determine the worker's pre-injury and post-injury Net Annual Remunerations;

- calculate the compensation payable as 90% of the difference between the worker's pre-injury Net Annual Remuneration, and the worker's post-injury Net Annual Remuneration.
- Reduce the amount by 50% of any Canadian Pension Plan Disability benefit the worker received related to the work-related injury

This results in:

Long-Term Earning Loss Benefit\* =

$$\frac{((\text{Pre-Injury Net Annual Remuneration}) - (\text{Post-Injury Actual Annual Remuneration})) \times 90\%}{1}$$

*\* Final amount to be reduced by 50% of any Canadian Pension Plan Disability benefit the worker received related to the work-related injury.*

### *Determining Pre-Injury Annual Remuneration*

The WSCC determines a worker's pre-injury Annual Remuneration as the amount the worker would earn in that calendar year if their work-related injury or disease did not occur. A worker's Annual Remuneration cannot exceed the YMIR for the calendar year in which the injury or disease occurred. A worker's pre-injury Net Annual Remuneration is their Annual Remuneration minus the deductions prescribed by the Workers' Compensation General Regulations for the applicable year.

The pre-injury Net Annual Remuneration used for the Long-Term Earnings Loss Benefit is calculated using the same method as the Net Annual Remuneration amount used for the worker's Partial Disability or Total Disability Compensation. If a worker's pre-injury Net Annual Remuneration has not been calculated when they are determined to be eligible for the Long-Term Earnings Loss Benefit, the WSCC will determine the worker's pre-injury Annual Remuneration in accordance with Policy 03.07, Calculation of Disability Compensation.

### *Determining Post-Injury Annual Remuneration*

When the WSCC determines a worker's post-injury Annual Remuneration, it includes all income the worker will earn in the next year through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips, and other benefits (including Employment Insurance benefits), defined under the Workers' Compensation Acts. A worker's post-injury annual remuneration cannot exceed the YMIR for the current calendar year.

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The WSCC takes into account any factors it considers appropriate when determining a worker's post-injury Annual Remuneration. When necessary, the WSCC may take into account factors including the workers' remuneration from a representative annual post-injury period.

### *Estimating Annual Remuneration*

If a worker's pre-injury Annual Remuneration does not accurately reflect the worker's full earning capacity at the time of injury, or the worker's full capable earnings post-injury, the WSCC will use an estimate for the purposes of calculating the Long-Term Earnings Loss Benefit. This process is outlined in Policy Document ELB-03, Estimating Capable Earning.

### *Calculating Pre-Injury and Post-Injury Net Annual Remuneration*

A worker's pre-injury Net Annual Remuneration is their Annual Remuneration minus the deductions prescribed by the Workers' Compensation General Regulations for the applicable year. The WSCC calculates a worker's post-injury Net Annual Remuneration by deducting the following from the worker's Annual Remuneration:

- the income tax payable by the worker for the year under the Territorial and Federal Income Tax Acts as calculated according to the Workers' Compensation General Regulations;
- the contributions payable by the worker for the year under the Canada Pension Plan; and,
- the premiums payable by the worker for the year under the Employment Insurance Act (Canada).

### *Applying the Year's Maximum Insurable Remuneration*

When calculating a worker's pre-injury and post-injury Annual Remuneration, their earnings cannot exceed the YMIR for the applicable year. In cases where the worker's remuneration exceeds the YMIR, their post-injury Annual Remuneration will equal the YMIR of the year for which the calculation is being conducted.

### *Determining Net Earnings Loss and Final Compensation Payable*

In order to determine the worker's level of earning loss, the difference between the worker's pre-injury Net Annual Remuneration and post-injury, actual or estimated, Net Annual Remuneration is calculated. This amount is the worker's Net Earning Loss.

The WSCC compensates an eligible worker based on 90% of their total Net Earning Loss. This amount is paid as compensation to a worker as a Long-Term Earning Loss Benefit.

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### *Old Age Security Benefit Offset*

Any compensation amount payable to a worker as a Long-Term Earning Loss Benefit is reduced by 50% of the amount received by the worker from any Canadian Pension Plan Disability Benefit related to the work-related injury.

### **Benefit Review**

The Long-Term Earnings Loss Benefit will be reviewed on the date set out in the schedule below, at the direction of the WSCC, or upon request by a worker.

#### *Scheduled Reviews*

The post-injury Annual Remuneration used to calculate a worker's Long-Term Earnings Loss Benefit is reviewed after two years of payment to ensure that the worker's post-injury Annual Remuneration accurately reflects the worker's current Net Earnings Loss. The worker's Net Earnings Loss is reviewed again after five years of payment. If the Net Earnings Loss calculated upon review differs from the Net Earnings Loss used in the worker's Long-Term Earnings Loss Benefit, it will be adjusted to reflect the worker's actual Net Earnings Loss going forward.

If a worker's Net Earning Loss reaches zero, or changes significantly (+/- 25%), they must notify the WSCC so that a earning loss review can be initiated.

#### *Requested and Directed Reviews*

The benefit amount may also be reviewed at the direction of the WSCC, or at the request of the worker if there has been a material change in their remuneration. Requests for review made by a worker must include proof of remuneration, such as a "Notice of Assessment" from the Canada Revenue Agency.

### **Benefit Payment**

An eligible worker receives the Long-Term Earning Loss Benefit annually. The worker is paid the total amount of their Long-Term Earning Loss Benefit in equal monthly installments.

### **Benefit Discontinuation**

The Long-Term Earning Loss Benefit compensates workers for their Net Earning Loss after following a work-related impairment and continues to be paid until the worker would have retired or the worker's earning loss ends.

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### *Discontinuation upon Retirement*

The Long-Term Earning Loss Benefit is paid until the worker is eligible for a Government of Canada Old Age Security (OAS) pension. If the worker is two years below the age eligible for OAS or older at the time of their work-related injury or disease diagnosis the worker is entitled to further Long-Term Earning Loss Benefits for two additional years.

If a worker who reaches the age of eligibility for a Government of Canada OAS pension was planning to continue working beyond the age of retirement, they may request a two-year extension during which time Long-Term Earning Loss Benefits may be paid. In order for the request to be approved, evidence confirming the worker's intention to continue working must be submitted by the worker.

In addition, workers are provided a Retirement Benefit intended to help mitigate the impact of the worker's loss of benefits upon reaching the age of eligibility for Government of Canada Old Age Security (OAS) pension. The Retirement Benefit is outlined in Policy Scoping Document EBS-04, Retirement Benefit.

### *Discontinuation upon Cessation of Earnings Loss*

The Long-Term Earning Loss Benefit is discontinued if the worker no longer has a Net Earning Loss resulting from their impairment. If a worker has their Long-Term Earning Loss Benefit discontinued because they no longer have earnings loss, and their employment circumstances change they may request the WSCC to review their eligibility for a Long-Term Earning Loss Benefit.

## **Other Considerations**

### *Yearly Supplementary Benefit Increase*

The amount paid in a Long-Term Economic Benefit is adjusted annually through the Supplementary Benefit Increase (SBI) in order to maintain its purchasing power. In the event of an increase in the cost of living as determined by the Consumer Price Index, the WSCC increases pension payments by a calculated percentage on January 1 of each year. The Supplementary Benefit Increase is calculated as follows:

$$\text{SBI for January of year X} = \left[ \left( \frac{\text{12 month average CPI [July of year (X - 2) to June of year (X - 1)]}}{\text{12 month average CPI [July of year (X - 3) to June of year (X - 2)]}} \right) - 1 \right] \times 100$$

Where: X=Year of the calculation

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The WSCC rounds a positive value SBI to the nearest hundredth of a percentage and it considers a negative value to be zero. When the SPI is zero, the benefit payment amount does not increase.

*Eligibility for On-Going Medical Aid and/or Support Services*

Having received or continuing to receive a Long-Term Earning Loss Benefit does not impact a worker's eligibility for medical aid or support services related to their work-related impairment approved under WSCC Policies.



## Long-Term Earning Loss Benefit (ELB)

### → Determination of Estimated Capable Earnings

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#### Purpose

If a worker is eligible for a Long-Term Earning Loss Benefit, but does not engage in employment despite their ability to do so, engages in employment which fails to maximize earning capacity, or is not able to secure suitable work, the Worker's Safety and Compensation Commission (WSCC) may estimate the worker's capable earnings. Further, if a worker's remuneration at the time of their injury does not reflect their full earning capacity because they are young, new, or a worker re-entering the workforce, the WSCC may estimate their capable earnings.

This document outlines the method that the WSCC uses to determine a worker's estimated capable earnings for the purpose of calculating a Long-Term Earning Loss Benefit.

#### Scope

This Policy is not retroactive and will only apply to claims for work-related injuries or disease diagnosis that occur on, or after, its effective date.

#### Definitions

Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease.
Long-Term Earnings Loss Benefit:	A benefit to compensate a worker for loss of earnings if a work-related injury results in a reduction in earning capacity due to permanent medical impairment and permanent workplace restrictions due to an impairment.
Net Annual Remuneration:	The amount of the worker's Annual Remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations.

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Net Earnings Loss:	The difference between a worker’s pre-injury Annual Remuneration up to YMIR and post-injury Annual Remuneration up to YMIR.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Remuneration:	A worker’s remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips and other benefits defined under the Workers’ Compensation Acts
Suitable Work:	Is work: <ul style="list-style-type: none"> <li>• within the worker’s functional abilities;</li> <li>• the worker already has the skills to do or can be safely trained to do;</li> <li>• that does not pose a health or safety risk to the worker, co-workers or the general public;</li> <li>• that restores pre-injury earnings, where possible, or provides reasonable earnings for an appropriate occupation based on existing regional socio-economic conditions; and,</li> <li>• that adds value to the employer’s business/organization and promotes the worker’s healthy recovery and return to work.</li> </ul>
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.
Year’s Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ol style="list-style-type: none"> <li>a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers’ Compensation Acts; and,</li> <li>b) the assessable payroll of employers for the year.</li> </ol>

## **Policy**

### *General*

The WSCC pays compensation to a worker for loss of earnings that result from a work-related permanent medical impairment. Accurately calculating a worker’s earning loss compensation requires that their Annual Remuneration, before and after their work-related injury, reflects

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their full capable earnings. The WSCC may determine a worker's estimated capable earnings if the worker's Net Earnings Loss is not reflective of the worker's full earning capacity.

A worker's post-injury capable earnings may be estimated by the WSCC if a worker has a permanent medical impairment, and vocational rehabilitation program, or reasonable re-employment efforts, do not return the worker to employment with suitable work that eliminates earning loss.

Additionally, the WSCC may estimate a worker's pre-injury earning capacity when their pre-injury employment does not represent their full earning capacity. This may occur if the worker is 24 years of age or younger, a new worker, a student, or is re-entering the workforce.

## **Determining Estimated Capable Earnings**

The WSCC will ensure that an eligible worker's Long-Term Earning Loss Benefit reflects the worker's actual earning potential. This may require the WSCC to estimate a worker's pre-injury capable earnings, or post-injury capable earnings.

### *Determining Pre-Injury Capable Earnings*

A worker's pre-injury Annual Remuneration may not reflect full earning capacity at the time of their injury resulting in their Net Capable Earnings not being accurate. If their pre-injury Annual Remuneration does not reflect their full earning capacity at the time of their work-related injury, the WSCC may determine the worker's pre-injury estimated capable earnings.

### *Determining Post-Injury Capable Earnings*

The WSCC will consider estimating a worker's post-injury capable earnings only when:

- a worker does not engage in employment despite being able to;
- does not secure employment in the form of suitable work; or
- engages in employment which fails to maximize earning capacity.

## **Determining Available Suitable Work**

When the WSCC estimates a worker's capable earnings, it will determine a range of jobs that would qualify as suitable work for a worker. If required to identify suitable work to determine a worker's estimated capable earnings, it will consider:

- the worker's functional abilities;
- the worker's employment-related aptitudes, abilities, and interests;
- the impact of labour market trends on the worker's ability to secure and maintain suitable work; and,
- any pre-existing and/or non-work-related conditions and accommodations.

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The WSCC will use regional, national, and employer information to identify available suitable work existing in the current labour market. Once it identifies available suitable work, the WSCC will utilize all available information to estimate the level of remuneration that a worker engaged in that work would receive given their education, skills, and experience.

When the WSCC estimates the remuneration associated with available suitable work it has identified, it considers available information, which includes but is not limited to regional job availability, actual job ads, existing labor agreements, as well as regional variations in wages within a worker's local region. Where the worker resides outside of Canada, or a wage scale is unavailable, a Canadian national wage scale is used.

When a worker's vocational rehabilitation plan includes existing or transferable skills, the capable earnings for associated suitable work are estimated according to the remuneration received by workers earning at the mid-point in the typical pay-scale for that job.

If an unemployed worker's permanent medical impairment has resulted in workplace restrictions, but they are functionally able to work at least three hours a day, for the purposes of estimating post-injury Annual Remuneration, they are considered capable of earning minimum wage in the jurisdiction in which they live.

## **Young, New and Workers Re-entering the Workforce**

For workers 24 years of age or younger, workers who are students, new workers, and workers re-entering the workforce, their pre-injury Annual Remuneration may not reflect their full capable earnings if their work-related impairment had not occurred. For the following, the WSCC conducts a review at the time of calculating the Long-Term Earning Loss Benefit in order to determine if the worker's pre-injury Annual Remuneration is reflective of the full capable earnings:

- under the age of 24;
- a student;
- a new worker; and/or
- workers re-entering the workforce.

### *Young Workers*

If a worker is 24 years of age or younger at the time of their work-related injury, and there is evidence that indicates that under normal conditions the worker's pre-injury Net Annual Remuneration would have increased, the WSCC will consider adjusting their pre-injury Annual Remuneration to reflect the average entry level wage in their occupation. Such evidence may include acceptance into an educational program at the time of injury, and/or existing job offers.

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## *Students*

If a worker is a student undertaking studies at an educational institution in pursuit of an established career plan, their pre-injury Annual Remuneration may be adjusted.

If the worker has a specific career plan in place at the time of their work-related injury, the worker's capable earnings are estimated as the average entry-level wage for the job for which they are training. When the entry-level wage for a student's intended job is less than 50% of the Year's Maximum Insurable Remuneration (YMIR), the worker's capable earnings are estimated at 50% of YMIR.

If the worker has no specific career plan in place at the time of their work-related injury, the worker's capable earnings are estimated at 50% of YMIR.

## *New Workers and Workers Re-Entering the Workforce*

If a worker entered a new occupation in which they have no previous experience within the past year, the worker's pre-injury Annual Remuneration may not be reflective of their full earning capacity. If a worker has been employed in a new occupation for a year or less at the time of their work-related injury, their estimated capable earnings at the time of their injury will be reviewed to ensure it is, at a minimum, reflective of an entry level earning capacity in that field.

## Long-Term Earning Loss Benefit (ELB)

### → Retirement Benefit

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#### **Purpose**

The Workers' Safety and Compensation Commission will provide a Retirement Benefit to a worker that receives a Long-Term Earning Loss Benefit upon reaching the age of eligibility for a Government of Canada Old Age Security Pension or their Long-Term Earnings Loss Benefits ending, whichever is later.

This document outlines who is eligible for a Retirement Benefit and how it is calculated.

#### **Scope**

This Policy is not retroactive and will only apply to claims for work-related injuries or disease diagnosis that occur on, or after, its effective date.

#### **Definitions**

Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Impairment:	The condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease.
Long-Term Earnings Loss Benefit:	A benefit to compensate a worker for loss of earnings if a work-related injury results in a reduction in earning capacity due to permanent medical impairment and permanent workplace restrictions due to an impairment.
Retirement Benefit:	A payment made to a worker who received a Long-Term Earnings Loss Benefit upon reaching the age of eligibility for a Government of Canada Old Age Security Pension or their Long-Term Earnings Loss Benefits ending, whichever is later.
Supplementary Benefit Increase (SBI):	The annual percentage the WSCC uses to adjust Long-Term Earning Loss Benefits to keep their value even with the rate of inflation as determined by the Consumer Price Index.

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Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.
Year's Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ul style="list-style-type: none"> <li>a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers' Compensation Acts; and,</li> <li>b) the assessable payroll of employers for the year.</li> </ul>

## **Policy**

### *General*

Workers who receive a Long-Term Earnings Loss Benefit are eligible to receive a Retirement Benefit which is based on the total amount of Long-Term Earnings Loss Benefits paid to the worker over the course of their claim.

The Retirement Benefit is paid to workers when they reach the age of eligibility for a Government of Canada Old Age Security Pension or their Long-Term Earnings Loss Benefits is discontinued, whichever is later.

## **Benefit Calculation**

A worker is provided a Retirement Benefit to mitigate any reductions in benefits from Canada Pension Plans, or Employer Pension Plans, due to reduced contributions over time.

The Retirement Benefit is equal to 10% of the total amount of Long-Term Earning Loss Benefits paid to a worker over the course of their claim, plus accrued interest.

The amount of accrued interest is equal to the average Supplementary Benefit Increase (SBI) over the duration that the worker received a Long-Term Earning Loss Benefit. Upon being determined eligible, the amount of accrued interest is calculated by multiplying the worker's Retirement Benefit amount by the average SBI and is added to the Retirement Benefit amount.

### *Supplementary Benefit Increase*

The method for calculating the Supplementary Benefit Increase is outlined in Policy Scoping Document EBS-02, Long-Term Earning Loss Benefits, Calculation and Payment.

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## **Benefit Payment**

If the accumulated amount is less than Year's Maximum Insurable Remuneration (YMIR) in the year the Retirement Benefit is paid to the worker, the total amount is paid in one lump sum.

If the accumulated amount exceeds YMIR in the year that the Retirement benefit is paid, the worker must purchase an annuity from an external investment organization of their choice. There is no restriction on the term of the annuity purchased.

### *Benefit Payment in cases of Worker Fatality*

If a worker's dies prior to receiving their Retirement Benefit, and the cause of death is unrelated to their compensable injury, the Retirement Benefit is paid to the worker's designated beneficiary at the time of death. If the cause of death is related to their compensable injury, the retirement benefit would be transferred as part of the dependent benefits. The method for calculating dependents' benefits is outlined in Policy Document DBS-01, Dependents' Benefits.

## **Other Considerations**

### *Eligibility for On-Going Medical Aid and/or Support Services*

Receiving a Retirement Benefit does not impact a worker's eligibility for medical aid or support services related to their work-related impairment and approved under WSCC Policies.



## Dependent Benefits (EBS)

### → Eligibility, Calculation and Payment

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#### Purpose

In the event of a work-related death, the Workers' Safety and Compensation Commission (WSCC) will pay compensation to the deceased worker's spouse and dependents. A worker's spouse or dependants may establish their entitlement to compensation by filing a claim with the WSCC.

This document outlines how compensation to dependents resulting from a work-related fatality is calculated and paid.

#### Scope

This Policy is not retroactive and will only apply to claims for work-related injuries, disease diagnoses, or fatalities that occur on, or after, its effective date.

#### Definitions

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not happen. Annual Remuneration cannot exceed the Year's Maximum Insurable Remuneration (YMIR).
Compensation:	Any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death.
Consumer Price Index (CPI):	An indicator of changes in consumer prices experienced by Canadians. It is obtained by comparing, over time, the cost of a fixed basket of goods and services purchased by consumers.
Dependent	A family member or spouse, other than the primary spouse, who is dependent upon the worker, and for who the worker is financially responsible.
Dependents' Benefit:	An amount equal to 90% of a deceased worker's Net Annual Remuneration at the time of their death, plus any Long-Term Earnings Loss Benefits if applicable, allocated between dependents.

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Family Member:	In respect of a person: <ul style="list-style-type: none"> <li>a) a brother, sister, half-brother, or half-sister of the person;</li> <li>b) a parent, step-parent, or grandparent of the person; and</li> <li>c) a person who stands or stood in the place of a parent for the person.</li> </ul>
Net Annual Remuneration:	The amount of the worker’s Annual Remuneration minus the amount of the worker’s annual deductions, determined in accordance with the regulations.
Primary Spouse:	The Spouse of a worker on the day preceding their death or, if more than one spouse is identified, the spouse determined by the WSCC to be treated as the Primary Spouse. .
Spouse:	A person is to be considered a spouse of a worker if: <ul style="list-style-type: none"> <li>a) a person is married to the worker;</li> <li>b) the person has, in good faith, entered into a marriage with the worker that is void or voidable; or,</li> <li>c) the person is living in a conjugal relationship outside marriage with the worker and:           <ul style="list-style-type: none"> <li>i. they have so lived for at least one year; or,</li> <li>ii. the relationship is one of permanence and they are together the natural or adoptive parents of a child.</li> </ul> </li> </ul>
Supplementary Benefit Increase (SBI):	The annual percentage the WSCC uses to adjust Long-Term Earnings Loss Benefits to keep their value even with the rate of inflation.
Year’s Maximum Insurable Remuneration (YMIR):	A prescribed maximum remuneration for any year for the purposes of determining: <ul style="list-style-type: none"> <li>a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under the Workers’ Compensation Acts, and,</li> <li>b) The assessable payroll of employers for the year.</li> </ul>
Work-related:	An injury, disease, or death, that arises out of and during the course of employment, in accordance with WSCC Policy 03.03, Arising out of and During the Course of Employment.

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## **Policy**

### *General*

In the event that a worker's death is work-related, the worker's dependents are entitled to compensation. Dependents receive compensation as Dependent Benefits, which are calculated according to the allocation between them of an annual amount equal to the deceased worker's pre-injury Net Annual Remuneration, plus any applicable Long-Term Earnings Loss Benefits.

### **Entitlement and Calculation**

When a worker's death is work-related, the worker's dependents are entitled to compensation in the form of a Dependent's Benefit. The total Dependent's Benefit is equal to a maximum 90% of the deceased worker's Net Annual Remuneration. A deceased worker's Net Annual Remuneration at the time of their death is calculated according to WSCC Policy 03.07, Calculation of Disability Compensation.

The compensable amount plus any Long-Term Earnings Loss Benefits the worker was receiving at the time of their death, are distributed between dependents using the method prescribed in this Document. When allocating the benefit between those entitled, all dependents are considered as a whole, although the percentage allocated to the Primary Spouse will never drop below 50%. If the number of dependents identified would result in the Primary Spouse's allocation dropping below 50%, their allocation amount is set to 50% and all other dependents' portion of the remaining 50% are prorated based on their percentage allocation.

### **Compensation Entitlement for Primary Spouse**

The compensation that a deceased worker's Primary Spouse receives is equal to the total Dependents' Benefit minus the amounts allocated to other entitled dependents. The allocated amounts to other entitled dependents may never exceed 50% of the total Dependents' Benefit.

#### *Canada Pension Plan (CPP) Off-Set*

If the Primary Spouse is receiving a Canada Pension Plan (CPP) Survivor benefit, the amount of the Dependents' Benefit they receive is reduced by 50% of the amount CPP Survivor benefit.

#### *Primary Spouse Fatality Benefit*

Additionally, the Primary Spouse receives a lump sum payment of 30% of Year's Maximum Insurable Remuneration in the year of the worker's fatality. This payment is independent of the Dependents' Benefit allocation and is not subject to the 50% CPP off-set outlined above.

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### *Retirement Benefit*

The primary spouse is entitled to the same Retirement Benefit as a worker, which is calculated as 10% of total Dependents' Benefits paid to them, plus accumulated interest. The Retirement is paid on the date the deceased worker would have turned 65. This process is conducted in the same manner it would be for a worker, which is outlined in Policy Document ELB-04, Retirement Benefits.

If the worker was receiving a Long-Term Earning Loss Benefit at the time of death, and the primary spouse was designated as the beneficiary, the primary spouse's Retirement Benefit contributions are combined with the worker's Retirement Benefit contributions.

If a worker dies prior to becoming eligible for their Retirement Benefit and their cause of death is unrelated to their compensable injury, the deceased worker's designated beneficiary is paid the worker's Retirement Benefit at the time of death.

### *Discontinuation of Dependents' Benefit for Primary Spouse*

A primary spouse is paid a Dependents' Benefit until the year that the deceased worker would have been eligible for a Government of Canada Old Age Security (OAS) pension. If the deceased worker was two years below the age eligible for OAS or older at the time of their work-related fatality the primary spouse is entitled to a Dependents' Benefit for two additional years.

## **Entitlement for Other Spouses**

In order to be eligible for a Dependents' Benefit, any spouse other than the Primary Spouse must submit evidence to demonstrate that they were financially dependent on the deceased worker. If an entitlement is established, they are allocated up to 20% of the total Dependents' Benefit.

If the other spouse has no proven financial dependency, but was the guardian of dependent children, they are considered as a Guardian only.

### *Discontinuation of Dependents' Benefit for Other Spouses*

Other spouses are paid a Dependents' Benefit until the year that the deceased worker would have been eligible for a Government of Canada Old Age Security (OAS) pension. If the deceased worker was two years below the age eligible for an OAS pension or older at the time of their work-related fatality the other spouse is entitled to a Dependents' Benefit for two additional years.

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## **Entitlement for Dependent Children**

Dependent children of the deceased worker are entitled to up to a 10% allocation of the total Dependents' Benefit until they reach 19 years of age.

Children entitled to a Dependents' Benefit may continue to receive the Benefit up to the age of 24 if they are enrolled in an academic institution, or until they receive their first certificate, diploma, or degree, or complete a course in technical or vocational training, whichever occurs first.

Dependent children, 19 years of age or older, who withdraw from school can re-establish entitlement to a Dependents' Benefit if they return to school after an absence of one semester or less. The WSCC may, at any time, request confirmation of academic progress and enrolment in an academic institution.

## **Entitlement for a Guardian who is not a Spouse**

If a person shares guardianship of a dependent child with a deceased worker, they are entitled to a portion of up to 10% of the total Dependents' Benefit until the child reaches 19 years of age or is no longer under their guardianship.

## **Entitlement for Other Dependent**

Other dependents are family members who are financially dependent on the deceased worker at the time of their death. The family member's eligibility for the Dependents' Benefit is confirmed through the submission of evidence demonstrating that the deceased worker was financially responsible for the dependent at the time of their death. If determined eligible, other dependents are each entitled to an allocation of up to 10% of the total Dependents' Benefit.

### *Discontinuation of Dependents' Benefit for Other Dependent*

Other dependents are paid a Dependents' Benefit until the year that the deceased worker would have been eligible for a Government of Canada Old Age Security (OAS) pension. If the deceased worker was two years below the age eligible for an OAS pension or older at the time of their work-related fatality the other dependent is entitled to a Dependents' Benefit for two additional years.

## ***Payment of Compensation***

Each individual identified under this Document as having an entitlement to a Dependent's Benefit will receive the full amount of their Benefit allocation distributed to them by the WSCC in the form of equal monthly payments.

WORKERS' SAFETY AND COMPENSATION COMMISSION  
NORTHWEST TERRITORIES AND NUNAVUT

**NEW PENSION SYSTEM PROPOSAL**  
**APPENDIX B: POLICY SCOPING DOCUMENTS**



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