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Workplace Safety and Insurance Act, 1997

ONTARIO REGULATION 562/99

BENEFIT FOR LOSS OF RETIREMENT INCOME

**Consolidation Period:** From June 11, 2012 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [144/12](https://www.ontario.ca/laws/regulation/R12144).

Legislative History: 562/99, s. 8 and 9, [72/03](https://www.ontario.ca/laws/regulation/R03072), [338/05](https://www.ontario.ca/laws/regulation/R05338), [144/12](https://www.ontario.ca/laws/regulation/R12144).

This is the English version of a bilingual regulation.

Definition

**1.**In this Regulation,

“worker account balance” means the sum of,

(a) the amounts set aside by the Board under subsection 45 (2) of the Act on behalf of the worker,

(b) the amounts contributed by the worker under subsection 45 (3) of the Act, if any, and

(c) the accumulated investment income on the amounts referred to in clauses (a) and (b). O. Reg. 562/99, s. 1.

Payment Schemes

**2.**The following are the payment schemes for the purposes of subsection 45 (6) of the Act:

1. A joint and survivor annuity, which provides regular income payments to the worker from age 65 and throughout his or her lifetime and to the worker’s surviving spouse, if any, after the death of the worker and throughout the lifetime of the spouse.

2. A life annuity with return of worker account balance, which provides regular income payments to the worker from age 65 and throughout his or her lifetime and from which, if the worker dies before receiving annuity payments totalling the worker account balance, a lump sum equal to the difference between the total amount paid to the worker and the worker account balance shall be paid to the worker’s estate.

3. A life annuity with guarantee to age 70, which provides regular income payments to the worker from age 65 and throughout his or her lifetime and from which, if the worker dies before reaching age 70, a lump sum equal to the commuted value of the payments due for the remainder of the guarantee period shall be paid to the worker’s estate. O. Reg. 562/99, s. 2; O. Reg. 562/99, s. 8 (1); O. Reg. 338/05, s. 1.

Joint and Survivor Annuity Payment Scheme

**3.**(1)  Every retirement benefit payable under the Act to a worker who has a spouse with whom the worker was cohabiting on the worker’s 65th birthday shall be paid as a joint and survivor annuity under paragraph 1 of section 2 unless the worker and that spouse previously made a joint election under subsection (2) and the election was not revoked by them under subsection (4). O. Reg. 562/99, s. 3 (1); O. Reg. 562/99, s. 8 (2); O. Reg. 338/05, s. 2 (1).

(2)  The worker and the worker’s spouse may jointly elect not to have the retirement benefit paid as a joint and survivor annuity. O. Reg. 562/99, s. 3 (2); O. Reg. 562/99, s. 8 (2); O. Reg. 338/05, s. 2 (2).

(3)  To be effective, a joint election under subsection (2) must be in writing, must be signed by the worker and the spouse and must be received by the Board on or before the worker’s 65th birthday. O. Reg. 562/99, s. 3 (3); O. Reg. 562/99, s. 8 (2); O. Reg. 338/05, s. 2 (3).

(4)  An election under subsection (2) may be revoked by written notice signed by the worker and the spouse and received by the Board on or before the worker’s 65th birthday. O. Reg. 562/99, s. 3 (4); O. Reg. 562/99, s. 8 (2); O. Reg. 338/05, s. 2 (4).

(5)  Subject to subsection 5 (5), if a retirement benefit is to be paid as a joint and survivor annuity under this section, the amount of each benefit payment payable to the surviving spouse shall be 60 per cent of each benefit payment payable to the worker, unless the worker has elected to have the survivor benefit payments set at 75 per cent or at 100 per cent of each benefit payment payable to the worker. O. Reg. 562/99, s. 3 (5); O. Reg. 562/99, s. 8 (2); O. Reg. 338/05, s. 2 (5).

(6)  To be effective, an election under subsection (5) must be in writing, must be signed by the worker and must be received by the Board on or before the worker’s 65th birthday. O. Reg. 562/99, s. 3 (6).

Payment Schemes other than Joint and Survivor Annuity

**4.**(1)  This section applies where a retirement benefit is to be paid as a life annuity under paragraph 2 or 3 of section 2. O. Reg. 562/99, s. 4 (1).

(2)  A worker may elect to have a retirement benefit paid as a life annuity with return of worker account balance or a life annuity with guarantee to age 70. O. Reg. 562/99, s. 4 (2).

(3)  To be effective, an election under subsection (2) must be in writing, must be signed by the worker and must be received by the Board on or before the worker’s 65th birthday. O. Reg. 562/99, s. 4 (3).

(4)  A retirement benefit that is to be paid as a life annuity shall be paid,

(a) according to the payment scheme elected by the worker under subsection (2), if the worker has made such an election; or

(b) as a life annuity with return of worker account balance, otherwise. O. Reg. 562/99, s. 4 (4).

Indexing

**5.**(1)  A worker may elect to receive his or her retirement benefit payments on an indexed basis, to permit periodic increases in the amount of the payments. O. Reg. 562/99, s. 5 (1).

(2)  To be effective, an election under this section must be in writing, must be signed by the worker and must be received by the Board on or before the worker’s 65th birthday. O. Reg. 562/99, s. 5 (2).

(3)  A worker who makes an election under this section may select which indexing formula he or she prefers from a range of actuarially determined indexing formulas approved by the Board. O. Reg. 562/99, s. 5 (3).

(4)  A worker who makes an election under this section shall receive his or her retirement benefit payments,

(a) according to the indexing formula selected by him or her in accordance with subsection (3); or

(b) if no such selection was made, according to an actuarially determined indexing formula selected by the Board. O. Reg. 562/99, s. 5 (4).

(5)  If a worker who has made an election under this section dies leaving a spouse entitled to a survivor annuity under paragraph 1 of section 2, the amount of the payments to the surviving spouse shall be indexed in the same manner as were the payments to the worker and, for that purpose, the amount of the first payment to the spouse shall be determined by applying the percentage determined under subsection 3 (5) to the last payment paid to the worker. O. Reg. 562/99, s. 5 (5); O. Reg. 562/99, s. 8 (3); O. Reg. 338/05, s. 3.

Pre-Retirement Death Benefits

**6.**(1)  This section provides for the payment of a pre-retirement death benefit for the surviving spouse, the surviving dependent children or the surviving dependants, if any, of a worker for whom the Board has set aside amounts under subsection 45 (2) of the Act if that worker dies before beginning to receive a retirement benefit. O. Reg. 562/99, s. 6 (1); O. Reg. 562/99, s. 8 (4); O. Reg. 338/05, s. 4 (1).

(2)  In this section,

“survivor account balance”, with respect to a worker, means the sum of,

(a) the amounts set aside by the Board under subsection 45 (2) of the Act on behalf of the worker, and

(b) the accumulated investment income on those amounts. O. Reg. 562/99, s. 6 (2).

(3)  A pre-retirement death benefit payable under this section shall be equal in value to the survivor account balance. O. Reg. 562/99, s. 6 (3).

(4)  The pre-retirement death benefit shall be paid to the worker’s surviving spouse if the worker was cohabiting with that spouse on the date of the worker’s death. O. Reg. 562/99, s. 6 (4);O. Reg. 562/99, s. 8 (5); O. Reg. 338/05, s. 4 (2).

(5)  If no spouse is entitled to a benefit under subsection (4) and at least one dependent child of the worker survives the worker, the pre-retirement death benefit shall be paid in equal shares to each dependent child of the worker who survives the worker. O. Reg. 562/99, s. 6 (5); O. Reg. 562/99, s. 8 (5); O. Reg. 338/05, s. 4 (3).

(6)  If no person is entitled to a benefit under subsection (4) or (5), the pre-retirement death benefit shall be paid in equal shares to each dependant of the worker who survives the worker. O. Reg. 562/99, s. 6 (6).

(6.1)  If no person is entitled to receive the pre-retirement death benefit under subsection (4), (5) or (6), it shall be paid to the worker’s designated beneficiary, and, if the worker has not designated a beneficiary, to his or her estate. O. Reg. 72/03, s. 1.

(6.2)  Subsection (6.1) is effective as of January 1, 1998. O. Reg. 72/03, s. 1.

(7)  A pre-retirement death benefit payable under this section shall be paid as a lump sum equal to the survivor account balance unless,

(a) it is paid to the worker’s surviving spouse under subsection (4); and

(b) the spouse makes an election under subsection (8). O. Reg. 562/99, s. 6 (7); O. Reg. 562/99, s. 8 (5); O. Reg. 338/05, s. 4 (4).

(8)  If the annual benefit to which a spouse becomes entitled on the death of a worker is $1,142.20 or more, the spouse may elect to have the pre-retirement death benefit paid as a life annuity with return of survivor account balance with the following terms:

1. The commuted value of the life annuity shall be equal to the survivor account balance.

2. It shall provide regular income payments to the spouse beginning after the death of the worker and continuing throughout the lifetime of the spouse.

3. If the spouse dies before receiving annuity payments totalling the survivor account balance, a lump sum equal to the difference between the total amount paid to the spouse and the survivor account balance shall be paid to the estate of the spouse. O. Reg. 562/99, s. 8 (6); O. Reg. 338/05, s. 4 (5).

(9)  To be effective, an election under subsection (8) must be in writing, must be signed by the spouse and must be delivered to the Board within 90 days after the Board notifies the spouse of his or her right to make an election under subsection (8). O. Reg. 562/99, s. 6 (9); O. Reg. 562/99, s. 8 (7); O. Reg. 338/05, s. 4 (6).

**7.**(1)  This section provides for the payment of a supplementary pre-retirement death benefit with respect to a worker who elected to contribute additional amounts under subsection 45 (3) of the Act and dies before beginning to receive a retirement benefit. O. Reg. 562/99, s. 7 (1).

(2)  In this section,

“supplementary survivor account balance” means the sum of,

(a) the amounts contributed by the worker under subsection 45 (3) of the Act, and

(b) the accumulated investment income on those amounts. O. Reg. 562/99, s. 7 (2).

(3)  A supplementary pre-retirement death benefit payable under this section shall be equal in value to the supplementary survivor account balance. O. Reg. 562/99, s. 7 (3).

(4)  The supplementary pre-retirement death benefit shall be paid to the worker’s surviving spouse if the worker was cohabiting with that spouse on the date of the worker’s death. O. Reg. 562/99, s. 7 (4); O. Reg. 562/99, s. 8 (8); O. Reg. 338/05, s. 5 (1).

(5)  If no spouse is entitled to a benefit under subsection (4) and at least one dependent child of the worker survives the worker, the supplementary pre-retirement death benefit shall be paid in equal shares to each dependent child of the worker who survives the worker. O. Reg. 562/99, s. 7 (5); O. Reg. 562/99, s. 8 (8); O. Reg. 338/05, s. 5 (2).

(6)  If no person is entitled to a benefit under subsection (4) or (5), the supplementary pre-retirement death benefit shall be paid in equal shares to each dependant of the worker who survives the worker. O. Reg. 562/99, s. 7 (6).

(7)  If no person is entitled to receive the supplementary pre-retirement death benefit under subsection (4), (5) or (6), it shall be paid to the worker’s designated beneficiary, and, if the worker has not designated a beneficiary, to the worker’s estate. O. Reg. 562/99, s. 7 (7).

(8)  A supplementary pre-retirement death benefit payable under this section shall be paid as a lump sum equal to the survivor account balance unless,

(a) it is paid to the worker’s surviving spouse under subsection (4); and

(b) the spouse makes an election under subsection (9). O. Reg. 562/99, s. 7 (8);O. Reg. 562/99, s. 8 (8); O. Reg. 338/05, s. 5 (3).

(9)  If the annual benefit to which a spouse becomes entitled on the death of a worker is $1,142.20 or more, the spouse may elect to have the supplementary pre-retirement death benefit paid as a life annuity with return of supplementary survivor account balance, with the following terms:

1. The commuted value of the life annuity shall be equal to the supplementary survivor account balance.

2. It shall provide regular income payments to the spouse beginning after the death of the worker and continuing throughout the lifetime of the spouse.

3. If the spouse dies before receiving annuity payments totalling the supplementary survivor account balance, a lump sum equal to the difference between the total amount paid to the spouse and the supplementary survivor account balance shall be paid to the estate of the spouse. O. Reg. 562/99, s. 8 (9); O. Reg. 338/05, s. 5 (4).

(10)  To be effective, an election under subsection (9) must be in writing, must be signed by the spouse and must be delivered to the Board within 90 days after the Board notifies the spouse of his or her right to make an election under subsection (9). O. Reg. 562/99, s. 7 (10); O. Reg. 562/99, s. 8 (10); O. Reg. 338/05, s. 5 (5).

**8.**  Spent: O. Reg. 562/99, s. 8.

**9.**  (1)  This section applies with respect to the continuing application of Ontario Regulation 715/94 under section 102 of the Act. O. Reg. 562/99, s. 9 (1).

(2)  Every reference to a “spousal partner” in sections 2, 3 and 6 of Ontario Regulation 715/94 shall be deemed to be a reference to either of two persons who, on the date the worker reaches 65 years of age, are cohabiting and,

(a) are married to each other; or

(b) are living together in a conjugal relationship outside marriage and,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

(iii) have together entered into a cohabitation agreement under section 53 of the Family Law Act or a successor to that section. O. Reg. 338/05, s. 6.

(3)  Every reference to a “spouse” in section 7 of Ontario Regulation 715/94 shall be deemed to be a reference to a spouse as defined in subsection 1 (1) of the pre-1997 Act, as that subsection is deemed to be amended by section 103.1 of the Act. O. Reg. 338/05, s. 6.

10.  Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 562/99, s. 10.

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