

**Operational
Policy**

Section
Benefits for Survivors

Subject
**Reinstatement of Survivors' Benefits for Spouses Who
Married or Remarried Before April 1, 1985**

Law Policy

s.109

Any person whose benefits were terminated for reason of marriage or remarriage under s.36(2) or 37(1) of the *Workers' Compensation Act* ([WCA](#)), as it read on March 31, 1985, may apply to the WSIB for a reinstatement of benefits. The WSIB will reinstate the benefits as of April 1, 1985.

Purpose

[The purpose of this policy is to outline eligibility criteria for reinstatement to survivors' benefits for spouses who married or remarried before April 1, 1985, how they are calculated and to whom they are paid.](#)

Guidelines

Historical note

Before April 1, 1985, a spouse of a deceased worker was referred to in the [WCA](#) ~~*Workers' Compensation Act*~~ as a widow, widower, common-law wife or common-law husband. The spouse was eligible for fixed monthly payments that were not dependent on the deceased workers' earnings. A common-law wife or husband was entitled to monthly payments only if there was no eligible widow or widower.

The ~~Act~~ [WCA](#) required that the monthly payments be terminated upon marriage or remarriage, and that the spouse be provided a lump sum equivalent to [two \(2\)](#) years of payments.

If a widow, widower, or common-law wife/husband had one or more dependent children, additional monthly payments were made for each child under the age of 16 (or older, if the child was still in school). The children's benefits continued even if the spouse's monthly payments were terminated.

Note ~~O~~ **T** **E**

The pre-1985 ~~Act~~ [WCA](#) made no provision for the deduction of Canada Pension Plan or Quebec Pension Plan benefits.

Eligibility

A person is eligible for reinstatement of benefits if:

- survivors' benefits were paid under the pre-1985 ~~Act~~ [WCA](#), and
- the benefits were terminated because of marriage or remarriage.

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Spousal eligibility**Confirmation of eligibility**

To confirm eligibility for the reinstated benefit, a spouse is required to provide to the WSIB:

- a commissioned affidavit
- a notarized copy of their birth certificate or proof of citizenship, and
- ~~his or her~~ their social insurance number.

Spouse deceased

If a spouse is now deceased, the WSIB calculates the reinstated benefit from April 1, 1985 to the date of the spouse's death. The benefit is payable to the estate of the spouse.

Payment to personal representative of the estate

If there is a personal representative of the estate, the reinstated benefit is paid to that representative.

A personal representative can be, for example, the executor of the will, or a court-appointed administrator, and is required to provide an affidavit and copy of the will to the WSIB.

Payment to court

If there is no personal representative of the estate, the WSIB may make payment to the court under a court order.

Indexed amount

Benefits are paid based on the rates payable by the WSIB as of April 1, 1985. These benefits are indexed annually. ~~(see refer to 18-01-03, Benefit Dollar Amounts - Accidents Before 1998).~~

Lump sum payment deducted

A spouse's reinstated benefit is subject to an adjustment if the monthly payments were terminated on or after April 1, 1983. In these cases, the adjustment is deducted from the reinstated benefit.

Reinstatement date

Survivors' benefits will be reinstated from April 1, 1985 regardless of the date the spouse makes the application for reinstatement. The periodic payments are made until the date of the survivor's death.

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Application date

This policy applies to all decisions made on or after ~~January 1, 1998~~ [December 5, 2024](#), for reinstatement of survivors' benefits for spouses who married or remarried prior to April 1, 1985.

Document history

This document replaces 20-03-15 dated ~~June 15, 1999~~ [October 12, 2004](#).

This document was previously published as:

[20-03-15 dated June 15, 1999](#)

[13.17](#) dated January 1, 1998.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, ~~as amended~~
Sections 61, 109

Minute Approval

Administrative

~~#7, June 18, 2004, Page 372~~