

Indexation Policy Review

An overview of policy changes made to comply with and support the implementation of amendments made to the *Workplace Safety and Insurance Act, 1997* as a result of Bills 144 and 127

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Indexation policy review

Introduction

In 2015 and 2017 amendments were made to the *Workplace Safety and Insurance Act, 1997* (WSIA) regarding indexation and also the calculation of certain benefits.

AN ACT TO IMPLEMENT BUDGET MEASURES AND TO ENACT OR AMEND CERTAIN OTHER STATUTES (BUDGET MEASURES ACT, 2015)

The *Budget Measures Act, 2015* (Bill 144) amended the sections of the WSIA that address the factor and method used for indexing ongoing WSIB benefits and the amounts set out in legislation that are used to calculate certain benefits (legislated amounts). As required by the amendments, a single indexing factor and method will be used as of January 1, 2018: **the ongoing amounts payable for all indexed benefit types and the legislated amounts will be indexed by a single indexing factor that reflects the Consumer Price Indexed (CPI).**¹

STRONGER, HEALTHIER ONTARIO ACT (BUDGET MEASURES), 2017 (BUDGET MEASURES ACT, 2017)

The *Budget Measures Act, 2017* (Bill 127) amended the WSIA to change how the amount of the federal Old Age Security (OAS) benefit is used when calculating and indexing benefits paid to workers with accident dates prior to January 2, 1990. More specifically,

- the amount of federal OAS a worker is eligible for will not be taken into account when calculating the worker's s. 147(14) additional amount, and
- the amount of a worker's s. 147(4) supplement will not be limited by the amount of a federal OAS benefit when indexing the supplement (i.e., the s. 147(4) supplement will receive full CPI indexing).

In addition, Bill 127 amended the WSIA to clarify the minimum used for partial loss of earnings (LOE) benefits (applicable to accident dates on or after January 1, 1998) and to update the legislated amounts to reflect the 2017 values.

¹ As outlined in s. 49(1) of the WSIA, "...on January 1 of every year, an indexing factor shall be calculated that is equal to the amount of the percentage change in the Consumer Price Index for Canada for all items, for the 12-month period ending on October 31 of the previous year, as published by Statistics Canada."

OPERATIONAL POLICY MANUAL (OPM)

To support the implementation of the Bill 144 amendments a new policy has been created to provide more information about annual indexing in the OPM. Existing benefit payment policies were also revised to comply with and/or to support the implementation of the Bill 144 and Bill 127 amendments.

As the policies impacted by the Bill 144 and Bill 127 amendments overlap, revisions to comply with and support the implementation of the Bill 127 amendments were made simultaneously to those made as a result of the Bill 144 amendments.

Consistent with the provisions regarding policy revisions made as a result of legislative change outlined in the *Framework for Operational Policy Development and Renewal*, internal business partners were consulted regarding the development of the new policy and revisions to existing policies required to implement the Bill 144 and Bill 127 amendments.

While not required by the *Framework*, due to the number of policies impacted, the approved new and revised policies have been posted in advance to allow stakeholders time to become familiar with them prior to their January 1, 2018 effective date.

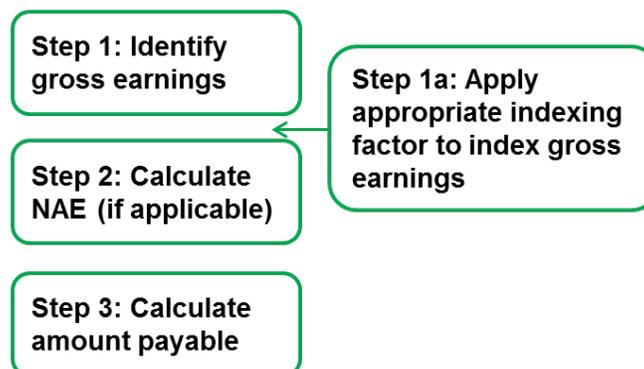
Background

INDEXATION

Indexation is the annual adjustment² of ongoing benefits and the legislated amounts that are used to calculate certain benefits.³ This annual adjustment to benefits and legislated amounts helps benefits keep pace with inflation.

Currently, legislation requires that different indexing factors be used depending on the benefit type or legislated amount. As of January 1, 2018, a single indexing factor that reflects CPI (referred to as CPI) will be used for the annual indexing of all benefits and legislated amounts.

Currently, a single indexing method is used in most cases: the indexing factor is applied to a worker's pre-injury gross earnings and the worker's benefit is recalculated using the applicable statutory formula (e.g., the statutory formula for full LOE benefits is 85 per cent of pre-injury net average earnings (NAE)).



The exception to the above is future economic loss (FEL) benefits and non-economic loss (NEL) monthly payments, which are indexed by applying the indexing factor to the actual amount payable.

² The WSIA provides for the annual indexing of ongoing benefits and legislated amounts. In prior years, there were instances where the provincial government legislated adjustments in addition to annual indexing (e.g., July 1, 2007).

³ Examples of these legislated amounts include the amounts used to calculate NEL benefits (base, minimum, maximum, and adjustment factor), the minimum amount payable for burial expenses, and the minimum amounts for full and partial LOE benefits.

As of January 1, 2018, all benefits will be indexed the same way: the indexing factor will be applied to the actual amount payable.

Step 1: Identify amount payable

Step 2: Apply appropriate indexing factor to index amount payable

Indexing all benefits on the amount payable by CPI will result in the same outcome for all workers and survivors in receipt of an indexed benefit type: the amount payable received by each will increase by CPI.

INDEXATION AND BENEFIT CALCULATION

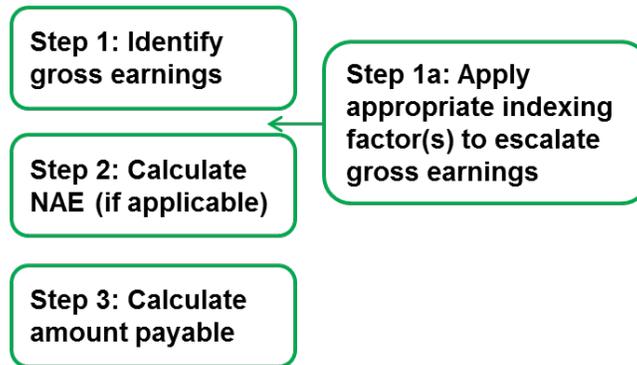
All indexed benefit types are “earnings-based benefits,” with the exception of the NEL monthly payment. That is, each time one of these benefits is calculated or recalculated, the starting point is the worker’s pre-injury gross earnings. For example,



*The above formula for permanent disability benefits applies to accident dates between April 1, 1985 and January 1, 1990.

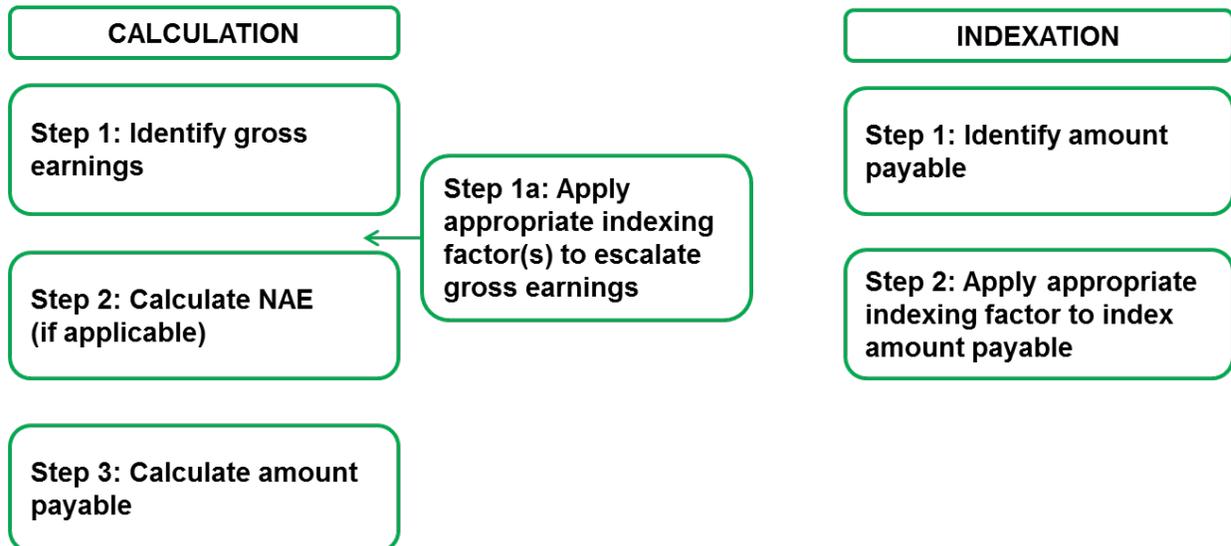
In some cases, a benefit may be calculated or recalculated in a year that is different than the earnings year. When this occurs, the pre-injury gross earnings are updated (“escalated”)

prior to applying the statutory formula. This is done to protect the pre-injury gross earnings from the effects of inflation. A single method is used for escalating pre-injury gross earnings: the relevant indexing factor(s) is/are applied to the pre-injury gross earnings for every indexing date between the earnings date and the date from which the benefit is payable.



As can be seen above, when pre-injury gross earnings must be escalated to calculate or recalculate a benefit, the method for doing so is the same as the method currently used to index most benefit types.

As of January 1, 2018, the way a benefit is indexed will be different than the way it is escalated for calculation/recalculation:



In other words, as of January 1, 2018,

- **the way pre-injury gross earnings are escalated prior to calculating or recalculating a benefit will remain the same: apply the indexing factor to the pre-injury gross earnings and apply the statutory formula, and**
- **the way most benefits are indexed will change so that a single indexing method is used for all benefit types: apply the indexing factor to the amount payable.**

PRE-1990 BENEFITS

Permanent disability (PD) benefits may be paid to workers with accident dates prior to January 2, 1990. Workers who are entitled to PD benefits may also be eligible for a PD supplement (s. 147(4) supplement) and a PD additional amount (s. 147(14) additional amount), provided certain eligibility criteria are met.

PD supplement (s. 147(4))

Prior to the Bill 144 amendments, the amount of the s. 147(4) supplement could not exceed the amount of a federal OAS benefit, both when calculating and indexing the supplement. In addition, the legislation required that the s. 147(4) supplement be recalculated at the 24 and 60 month review dates, regardless of whether there had been any change in the worker's circumstances.

As a result of the Bill 127 amendments, when the s. 147(4) supplement is indexed, it will not be limited to a maximum amount equivalent to the amount of the federal OAS benefit; the maximum will still apply for calculations and recalculations. Also as a result of Bill 127, there will no longer be a requirement to recalculate the s. 147(4) supplement at the 24 and 60 month review dates.

PD additional amount (s. 147(14))

Prior to the Bill 127 amendments, the amount of the federal OAS benefit a worker was eligible for was taken into account when calculating the s. 147(14) additional amount. In some cases, doing so resulted in a reduction to the additional amount.

As a result of the Bill 127 amendments, the amount of the federal OAS benefit a worker is eligible for will no longer be taken into account when calculating the s. 147(14) additional amount. Further to this, a worker may request that the WSIB reconsider the additional amount paid in the claim if

- on or after the day the amendments were introduced (April 27, 2017) the worker was entitled to the additional amount, and
- the additional amount had been reduced (including to zero dollars).

In cases where the WSIB finds the additional amount was reduced due to the worker's eligibility for federal OAS benefits, the WSIB will recalculate the additional amount without regard for the amount of federal OAS the worker was eligible for and pay the worker any difference owing.

NOTE: If the Workplace Safety and Insurance Appeals Tribunal (WSIAT) made a decision regarding a WSIB decision relating to the calculation of a reduced additional amount, a worker who meets the criteria outlined above may request that the WSIAT refer the decision back to the WSIB to be reconsidered as described above.

Overview of policy revisions

ANNUAL INDEXING

To support the implementation of amendments made as a result of Bill 144, a new policy has been created (18-01-14, Annual Indexing) to provide more information about annual indexing in the Operational Policy Manual (OPM).

Policy 18-01-14 provides guidelines about annual indexing that directly reflect the Bill 144 amendments. In particular, the policy identifies the circumstances in which annual indexing applies and outlines the factor and method used to index ongoing amounts payable and the legislated amounts. It also identifies the period of time for which an indexed amount payable is applicable.

BENEFIT CALCULATION

Existing benefit payment policies have been revised to comply with the Bill 144 and Bill 127 amendments, where applicable. Existing benefit payment policies have also been revised to support the implementation of the Bill 144 and Bill 127 amendments. Specifically, existing policies have been revised to provide more information about indexation and benefit calculation.

Prior to the Bill 144 amendments, the method for escalating pre-injury gross earnings to calculate/recalculate a benefit was the same as the method for indexing most benefit types (see the “Indexation and benefit calculation” section in the “Background” for more information). This will no longer be the case as of January 1, 2018.

Revisions have been made to applicable policies in each benefit policy suite (i.e., LOE, FEL, temporary benefits, PD, and survivors) to help users of these policies more clearly distinguish between indexation and benefit calculation. Information about indexation and benefit calculation (including escalation) has been added or revised, including information about when a benefit should be calculated/recalculated and when it should be continued to paid as is (subject to annual indexing).

For example, the LOE policies, when read together, provide information about

- when and how pre-injury gross earnings are escalated for the purpose of calculating/recalculating an LOE benefit
- how an LOE benefit is calculated

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- when, at the time of review, an LOE benefit should continue to be paid as is or recalculated
 - when and how an ongoing LOE benefit is indexed

Policies pertaining to prior schemes (i.e., FEL, temporary benefits, PD) and policies pertaining to survivors' benefits have also been revised to provide information about

- when and how pre-injury gross earnings are escalated for the purpose of calculating/recalculating a benefit
- how a benefit is calculated
- when and how an ongoing benefit is indexed

In addition to providing more information about indexation and benefit calculation, the policies have been revised to improve their overall readability, which is why some of the policies may look different. These types of revisions are generally made whenever a policy is reviewed. They do not change current practices and they do not change outcomes for workers.

These types of revisions include the following:

- Existing information has been reorganized so that it appears in a more sequential manner/the order in which it is relevant.
- Existing information has been moved and/or consolidated so that similar information appears together and to remove duplicative information.
- Existing information has been simplified or clarified.
- Outdated terminology has been updated.
- Terminology has been revised to improve uniformity within and across policies.
- The current OPM template has been applied.

PD BENEFITS (ACCIDENTS BEFORE JANUARY 2, 1990)

In addition to the above, policies pertaining to PD benefits have also been revised to comply with and/or support the implementation of the amendments to the WSIA that change how the amount of the federal OAS benefit is used when calculating the s. 147(14) additional amount and when indexing the s. 147(4) supplement.

More specifically, PD benefit policies have been revised to

- no longer require that the s. 147(14) additional amount be potentially reduced where a worker is eligible for federal OAS benefits
- explain how a worker can request a reconsideration of a s. 147(14) additional amount that had been previously reduced
- specify that the s. 147(4) supplement is not limited by the amount of the federal OAS benefit when the supplement is indexed, and
- explain when, at the time of review, the s. 147(4) supplement should continue to be paid as is or be recalculated.

FURTHER INFORMATION

An overview of the types of revisions made in each policy can be found in the sections that follow. The new policy, revised policies, and annotated versions of the revised policies can be found via the “Policy Updates” page on the WSIB website.

New indexation policy

Annual indexing

Policy 18-01-14, Annual Indexing has been created to provide more information about annual indexing in the OPM. Policy 18-01-14 provides guidelines about annual indexing that directly reflect the Bill 144 amendments. In particular, the policy identifies the circumstances in which annual indexing applies and outlines the factor and method used to index ongoing amounts payable and legislated amounts. It also identifies the period of time for which an indexed amount payable is applicable.

As outlined in the policy

- Benefits are indexed if a worker or survivor is entitled to a benefit payment as of December 31 of one calendar year and that entitlement continues into the next calendar year.
- Legislated amounts are indexed by applying the indexing factor to the amount as adjusted the preceding January 1.

As of January 1, 2018, annual indexing will occur by applying CPI to the amount payable or the legislated amount.

IMPACT

Prior to the Bill 144 amendments, different indexing methods and factors were used depending on the benefit type or the legislated amount. As of January 1, 2018, all benefit types and legislated amounts that are subject to annual indexing will be indexed using a single method and factor.

Net average earnings (NAE)

NAE: accidents on or after January 1, 1998

Policy [18-02-07, Calculating Net Average Earnings](#) outlines how the WSIB determines the amount of a worker's NAE when calculating benefits for an accident that occurred on or after January 1, 1998 (i.e., LOE benefits or periodic payments for survivors).

Prior to being revised, this policy reflected the legislated requirement that the amount of a worker's NAE be redetermined every January 1; this was required to support the annual indexing method of applying the indexing factor to a worker's pre-injury gross earnings and recalculating the benefit amount payable. This content has been removed from the policy to comply with the Bill 144 amendments.

SUPPORT IMPLEMENTATION

To support implementation of the amendments, the policy has been revised to provide additional information and clarity about benefit calculation:

- Information has been added about how pre-injury earnings are escalated prior to NAE being determined.
- Existing information about probable deductions has been revised to clarify that the WSIB does not actually remit income tax deductions or Canada Pension Plan and Employment Insurance premiums to the federal government.
- Existing information about when and how changes to a worker's net exemption code (NEC) are applied (and the benefit subsequently recalculated) has been reorganized and reworded.
- Existing information about the maximum average earnings has been reworded to remove reference to a maximum amount of compensation; the legislation provides for a maximum amount of average earnings, which is then used to calculate the benefit, rather than a maximum amount of compensation.
- Existing information about the minimum has been replaced with cross-references to the Survivors' and LOE policies in which information about the minimum is available in the context of Survivors or LOE, as the case may be.
- Most of the specific references to LOE have been removed as NAE is applicable to the calculation of both LOE and Survivors' benefits.

OTHER REVISIONS

Policy 18-02-07 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- Information about the probable deductions has been moved from the policy statement into the guidelines where it more properly belongs.
- A policy statement has been added in the place of the probable deductions information that has been moved to the guidelines.
- Outdated terminology and information has been updated (e.g., documentation accepted as proof of a NEC change has been updated).
- References to specific WSIB forms have been removed.
- The list of examples of the types of workers who may not have income tax deducted at the source has been replaced with a general guideline.

IMPACT

NAE will no longer be redetermined every January 1 as part of the annual indexing process.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Loss of earnings (LOE) benefits

LOE benefits may be paid to workers with accident dates on or after January 1, 1998. A full LOE benefit is 85 per cent of a worker's pre-injury net average earnings (NAE).

LOE benefits (prior to final review)

Policy 18-03-02, Payment and Reviewing LOE Benefits (Prior to Final Review) provides guidelines for paying and reviewing LOE benefits from the date of entitlement up to, but not including, the 72-month final review date.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy did not address if, when, or how an LOE benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments. The following revisions have also been made to provide additional information and clarity about calculating and paying LOE benefits:

- Information has been added to the first paragraph of the guidelines to clarify that NAE are determined every time an LOE benefit is calculated (i.e., previously determined NAE are not used for subsequent calculations).
- Existing information about full and partial LOE benefits, including the calculation, has been reworded and reorganized to appear in distinct sections, with some information added.
- Information has been added about how the minimum is used when calculating LOE benefits.
- A new section about reductions and redirections (e.g., garnishment, support deduction order) has been added to clarify that all or a portion of an LOE benefit may be reduced or redirected, as provided for in the applicable policies (i.e., the reduction is made to the LOE amount payable itself, not as part of the LOE calculation).

OTHER REVISIONS

Policy 18-03-02 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The "Law" section has been replaced with a policy statement.
- A purpose statement has been added.

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- Outdated terminology and information (e.g., frequency of case management reviews) has been updated.
 - Existing information about actual and determined earnings has been reorganized so it appears together in one place and has been reworded.
 - Information gaps, such as wage information used at annual reviews, have been addressed.
 - Existing information that replicates the guidelines of other policies has been replaced with cross-references to those policies (e.g., the list of types of material changes in the “Material change reviews” section has been replaced with a cross-reference).
 - Terminology in the “Material change in post-injury earnings - significance test” section has been revised for clarity.
 - A new section about blending benefits has been added.

IMPACT

Every January 1, ongoing LOE benefits will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

LOE benefits (final review)

Policy 18-03-06, Final LOE Benefit Review provides guidelines respecting the 72 month post-injury final LOE benefit review (lock-in), and outlines when and how an LOE benefit may be reviewed after the 72 month post-injury review period has expired.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy did not address if, when, or how an LOE benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments. The following revision has also been made to provide additional information and clarity about calculating and paying LOE benefits:

- A new section has been added about recalculating LOE benefits at final review. It clarifies that a worker’s LOE benefit is only recalculated at the final review if there has been a change that must be reflected in the worker’s benefit amount (e.g., the worker’s

post-injury earnings have changed). Otherwise, the LOE benefit amount is locked-in as is.

OTHER REVISIONS

Policy 18-03-06 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- Outdated terminology has been updated.
- Information has been added to existing guidelines about how LOE benefits are restored after being suspended at 70 months for failing to provide the information required for the review.
- Terminology in the “Post-injury earnings at final review” section has been updated (e.g., replaced “actual earnings” with “actual employment earnings”) and some existing information has been reworded (e.g., clarified that the use of experienced worker earnings is an exception by adding “Exception” to the heading).
- The following information, about which the Operational Policy Branch regularly receives questions, has been revised or added:
 - The “New area of entitlement” section has been removed and its guidelines reworded and incorporated into the “Significant deteriorations post 72 months” section, as a new area of entitlement that is accepted as a significant deterioration is treated as a significant deterioration.
 - Information about material changes that occur prior to 72 months but that are not reported until after 72 months has been added to the “Requirement to report material change in circumstances” section, addressing an information gap.
 - Existing information about material changes that occur post 72 months has been reworded to clarify that the material change itself does not prompt a review of the LOE benefit (i.e., the LOE benefit can only reviewed for the exceptional circumstances outlined in the policy).

IMPACT

Every January 1, ongoing LOE benefits, including locked-in benefits, will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Permanent disability (PD) benefits

PD benefits may be paid to workers with accident dates prior to January 2, 1990. The PD benefit is based on a worker's pre-injury earnings and degree of disability.

Workers who are entitled to PD benefits may also be eligible for a PD supplement (s. 147(4) supplement) and a PD additional amount (s. 147(14) additional amount), provided certain eligibility criteria are met.

PD benefits

Policy [18-07-04, Calculating Permanent Disability Benefits](#) provides guidelines respecting the calculation of PD benefits.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy referenced indexing, but was not clear about when and how this occurred. This information has been added to support the implementation of the Bill 144 amendments. The following revisions have also been made to provide additional information and clarity about calculating and paying PD benefits:

- Information about the earnings used to calculate the PD benefit has been moved from the policy statement to the beginning of the guidelines and has been reworded.
- Information has been added about how NAE are determined and in what circumstances.
- Existing incomplete information about escalation has been replaced with updated wording.
- Information about calculating the PD benefit has been added to existing guidelines.
- Existing information about the maximum has been reorganized so that it appears together in one place and has been reworded.
- Existing information about the minimum has been reworded.

OTHER REVISIONS

Policy [18-07-04](#) has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- A purpose statement has been added.
- Outdated terminology has been updated.

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- Terminology has been revised to be consistent within and across policies.

IMPACT

Every January 1, ongoing PD benefits will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions were made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

PD benefits: arrears

Policy [18-07-05, Arrears](#) provides guidelines respecting arrears payments for PD benefits.

SUPPORT IMPLEMENTATION

Arrears are determined by calculating what should have been paid, comparing this to what was paid, and paying the difference. Calculating what should have been paid may involve either or both of escalating earnings for the benefit calculation or indexing an ongoing benefit amount, depending on the facts of the case.

Prior to being revised, this policy referenced escalation only, and was not clear about when and how it occurs. To support Bill 144 implementation, the information about escalating in order to calculate arrears has been replaced with a cross-reference to [18-07-04, Calculating Permanent Disability Benefits](#), which provides complete information about calculating a PD benefit (including when and how escalation and indexation apply).

OTHER REVISIONS

Policy [18-07-05](#) has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- A purpose statement has been added.
- Outdated terminology has been updated.

IMPACT

All revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

PD benefits: additional amount

Policy 18-07-09, Section 147(14) - \$200 Additional Amount (Permanent Disability) provides guidelines respecting entitlement to and the payment and review of the s. 147(14) additional amount.

Prior to being revised, this policy contained guidelines requiring the federal OAS amount to be taken into account when calculating the s. 147(14) additional amount. This content has been removed from the policy to comply with the Bill 127 amendments.

SUPPORT IMPLEMENTATION

To support the implementation of the Bill 127 amendments this policy has been revised to include information about the circumstances in which a worker whose additional amount was previously reduced may request that it be reconsidered.

Prior to being revised, this policy did not address if, when, or how the s. 147(14) additional amount is indexed. It also did not specify that the \$200 maximum for the additional amount is an indexed value. This information has been added to support the implementation of the Bill 144 amendments.

OTHER REVISIONS

Prior to being revised, with the exception of minor housekeeping revisions, policy 18-07-09 had remained largely unchanged since its original publication. Some of the information was outdated or did not reflect the current approach to OPM documents. Noting this, the policy has been extensively revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The “Law” section has been replaced with a policy statement.
- A purpose statement has been added.
- Outdated terminology has been updated, including in the policy title.
- Existing information has been reorganized to appear in a more sequential manner: eligibility (including duration and multiple payments); payment; review and recalculation; and, indexation.
- Existing information about eligibility, duration, and multiple claims has been reworded.
- Existing calculation information has been replaced with a new section about paying the additional amount. The new section includes information about the factors taken into

account in the calculation, payment frequency, and how to request a reconsideration if the additional amount had been previously reduced.

- Existing scenario-specific information about reviews has been replaced with a general guideline.
- Existing information about recalculation at reviews has been revised to clarify that the additional amount is only recalculated at the review if the worker's circumstances have changed. Otherwise the additional amount continues to be paid as is.
- Existing information about benefit-related debts, assignments, and commutations has been removed as there are policies specifically about these topics.
- Transitional guidelines used when the additional amount came into effect in 1995 have been replaced with a cross-reference to prior versions of the policy.
- Existing examples have been removed.

IMPACT

The amount of the federal OAS benefit a worker is eligible for will no longer be taken into account when calculating the s. 147(14) additional amount. Further to this, where requested, the WSIB will reconsider the reduced additional amount of a worker who meets the legislated eligibility criteria and pay any additional amount owing.

Every January 1, ongoing s. 147(14) additional amounts will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

PD benefits: supplements

Policy 18-07-10, Sections 147(2) and 147(4) Supplements (Permanent Disability) provides guidelines respecting entitlement to, and the payment and review of, the s. 147(2) and s. 147(4) supplements.

Prior to being revised, this policy contained guidelines limiting the s. 147(4) supplement to a maximum amount equivalent to the amount of the federal OAS benefit. To comply with the Bill 127 amendments, these guidelines have been revised to no longer limit the supplement to an amount equivalent to the amount of the federal OAS benefit when the supplement is indexed.

SUPPORT IMPLEMENTATION

To support the implementation of the Bill 127 amendments this policy has been revised to clarify that the s. 147(4) supplement is only recalculated at the 24 and 60 month reviews if there is a change in the worker's circumstances.

Prior to being revised, this policy did not address if, when, or how the s. 147(2) and s. 147(4) supplements are indexed. This information has been added to support the implementation of the Bill 144 amendments.

The following revisions have also been made to provide additional information and clarity about calculating and paying the s. 147(2) supplement:

- Information has been added about how pre-injury earnings are escalated for the purpose of determining entitlement to the s. 147(2) supplement.

OTHER REVISIONS

Prior to being revised, with the exception of minor housekeeping revisions, policy 18-07-10 had remained largely unchanged since its original publication. Some of the information was outdated or did not reflect the current approach to OPM documents. Noting this, the policy has been extensively revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The policy and purpose statements have been reworded.
- Outdated terminology has been updated, including in the policy title.
- Transitional guidelines used when the supplements came into effect in 1989 have been replaced with a cross-reference to prior versions of the policy.
- Existing information has been reorganized to appear in a more sequential manner: eligibility (including duration and multiple payments); payment; review and recalculation; and, indexation.
- Existing information about eligibility, duration, and multiple claims has been reworded.
- Existing scenario-specific information about the "Effect of Retirement" has been replaced with general guidelines about "Workers not in the workforce."
- For each of the supplements, a new section has been added about paying the supplements. The section includes more information about the factors taken into account in the calculation and the payment frequency.

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- Existing information about reviews has been revised.

IMPACT

The s. 147(4) supplement will no longer be limited to a maximum amount equivalent to the amount of the federal OAS benefit at the time of indexing; in other words, the s. 147(4) supplement will receive full CPI indexing every January 1.

The s. 147(4) supplement will only be recalculated at the 24 and 60 month reviews if the worker's circumstances have changed. Otherwise, the supplement will continue to be paid as is.

Every January 1, ongoing s. 147(2) and s. 147(4) supplements will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the supplements.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Benefits for survivors

In claims where a worker dies as a result of the work-related injury/disease, the worker's survivors may be entitled to periodic payments and/or a lump sum payment, depending on how many survivors there are, their ages, and their relationship to the deceased worker.

The lump sum payment is based on legislated amounts. The periodic payment is based on the deceased worker's NAE, accident date, and, in some cases, date of death:

- Periodic payments are based on 85 per cent of the deceased worker's NAE if the accident date was on or after January 1, 1998.
- Periodic payments are based on 90 per cent of the deceased worker's NAE if the accident date was prior to January 1, 1998, and the date of death was on or after April 1, 1985.
- Periodic payments are based legislated amounts if the accident date and the date of death were prior to April 1, 1985.

With the exception of policies [20-03-03, Calculating CPP/QPP Offsets from Survivors' Benefits](#) and [20-03-16, Payments to Dependents \(Accidents before 1998\)](#), the below policies apply to claims with accident dates on or after January 1, 1998 only.

Canada/Quebec pension plan (CPP/QPP) offsets

Policy [20-03-03, Calculating CPP/QPP Offsets from Survivors' Benefits](#) outlines the circumstances in which CPP/ QPP monthly survivors' benefits impact WSIB periodic payments.

While this policy does not contain content specific to indexation or escalation, clarity issues with the policy were identified as part of Bills 144 and 127 implementation, prompting revisions to clarify when and how the CPP/QPP offset occurs. To this end

- Information has been added to further clarify CPP/QPP benefits are offset from the deceased worker's NAE prior to calculating the periodic payments, not from the periodic payment itself.
- Information has been added to clarify that the statutory minimums apply despite the requirement to offset CPP/QPP.
- Examples of the specific circumstances in which CPP/QPP monthly survivors benefits paid to children or incapable children are not offset have been replaced with a guideline

that clarifies there are no circumstances in which this is done for entitlement periods on or after January 1, 2004.

OTHER REVISIONS

Policy 20-03-03 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The “Law” section has been removed.
- A purpose statement has been added.
- Terminology has been revised to be consistent within and across policies.
- The values used in the example have been updated and the example’s narrative simplified.

IMPACT

All revisions have been made to provide additional information and clarity about how CPP/QPP monthly survivor benefits are offset from WSIB periodic payments, improve the readability of the policy, or conform to the current OPM template.

Benefits for survivors (accidents on or after January 1, 1998)

The following 8 policies related to benefits for survivors have been revised:

- Policy 20-03-04, Spouse with No Children outlines how the WSIB determines the lump sum payment and periodic payments for a surviving spouse with no children.
- Policy 20-03-06, Spouse with One or More Children outlines how the WSIB determines the lump sum payment and periodic payments where the deceased worker is survived by a spouse and one or more children.
- Policy 20-03-07, Spouse and Children not Living Together outlines how the WSIB apportions periodic payments where a surviving spouse and the deceased worker’s children do not live together.
- Policy 20-03-09, Apportionment of Survivors’ Benefits outlines how the WSIB apportions periodic payments where more than one person is entitled to survivor benefits as a spouse.
- Policy 20-03-10, Children and No Spouse outlines how the WSIB determines survivors’ benefits for the deceased worker’s dependent child(ren) where there is no spouse.

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- Policy 20-03-11, Children Cared for by Parent or Other Person outlines how the WSIB determines survivors' benefits where there is no surviving spouse and the deceased worker's dependent children are cared for by someone who does not qualify as a spouse.
 - Policy 20-03-12, Child 19 Years or Older Continuing in Education outlines the circumstances in which the WSIB provides periodic payments to a surviving child(dren) who is/are between the ages of 19 and 30 and continues in an educational program.
 - Policy 20-03-14, Other Dependants outlines how the WSIB determines periodic payments for other dependants.

SUPPORT IMPLEMENTATION

Certain survivors are entitled to a lump sum payment. The lump sum payment is based on legislated amounts, which are indexed every January 1. Bill 127 amended the WSIA to update the legislated amounts to reflect the 2017 values. To support the implementation of the Bill 127 amendments, the lump sum legislated amounts have been updated to the 2017 values wherever they appear in the above policies.

Prior to being revised, these policies made reference to indexing, but were not clear about when and how this occurs. To support the implementation of the Bill 144 amendments, this information has been added for both ongoing periodic payments and the legislated amounts, where references to the legislated amounts appear.

The following revisions have also been made to provide additional information and clarity about calculating and paying survivor benefits:

- Guidelines pertaining to the reapportionment of periodic payments have been revised to remove the term “recalculate”, where applicable (e.g., 20-03-09). Once the deceased worker’s NAE are initially determined, they are not recalculated unless there is a change in the pre-injury earnings to reflect. If periodic payments must be reapportioned amongst the survivors, they are reapportioned based on the NAE.
- Existing information has been revised or information has been added about the maximum average earnings, maximum payable, minimum payable, and CPP/QPP offsets, where applicable.

OTHER REVISIONS

These policies have also been revised to improve readability and/or to conform to the current OPM template. For example

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- The policy statements have been revised to clarify that the policies only apply where the worker dies a result of the work-related injury/disease.
 - Purpose statements have been added.
 - Out of date terminology has been updated.
 - Terminology has been revised to be consistent within and across policies
 - The values used in examples have been updated and examples' narratives have been simplified.
 - Where applicable, the guidelines have been revised to clarify the children must be children of the deceased worker for benefits to be paid to or for the children.
 - Where applicable, the guidelines have been reorganized so existing information appears in a more sequential order or so that related information appears together.
 - Where applicable, information about whom payments are made to if a child is under the age of 18 or where a child is 18 and older but incapable of managing his or her own affairs has been reworded to more closely reflect the language in the legislation.

IMPACT

Every January 1, ongoing periodic payments will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Benefits for survivors (Accidents before January 1, 1998)

Policy 20-03-16, Payments to Dependents (Accidents before 1998) provides guidelines respecting the determination of survivors' benefits for the dependents of deceased workers who were injured prior to January 1, 1998 and died as a result of their work-related injury/disease on or after April 1, 1985.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy did not address if, when, or how periodic payments are indexed. This information has been added to support the implementation of the Bill 144 amendments.

OTHER REVISIONS

Policy 20-03-16 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The policy statement has been revised to clarify the policy only applies where the worker dies as a result of the work-related injury/disease.
- A purpose statement has been added.
- Out of date terminology has been updated.
- Terminology has been revised to be consistent within and across policies.
- The guidelines have been revised to clarify that the children must be children of the deceased worker for benefits to be paid to or for the children.
- Existing information about burial expenses has been replaced with a cross-reference to 20-03-02, Burial Expenses.
- Existing information about wards of the society and wards of the Crown has been moved into its own section and reworded to be consistent across policies.
- In the “Separated spouses” section, specific examples of judicially ordered payments have been replaced with a general guideline.

IMPACT

Every January 1, ongoing periodic payments will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Temporary Benefits

Temporary benefits may be paid to workers with accident dates prior to January 1, 1998. For accident dates between April 1, 1985 and December 31, 1997, a full temporary benefit is 90 per cent of a worker's pre-injury NAE. For accident dates prior to April 1, 1985, a full temporary benefit is 75 per cent of a worker's pre-injury gross average earnings.

Temporary total benefits

Policy 18-06-01, Calculating Temporary Total Disability Benefits (Accidents between 1985 and 1998) provides guidelines respecting the calculation of temporary total disability benefits.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy did not address if, when, or how a temporary total disability benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments.

OTHER REVISIONS

Policy 18-06-01 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- The policy statement has been revised to move information about probable deductions, lapses in employment, and federal work sharing or job creation programs to the guidelines where it more properly belongs.
- A purpose statement has been added.
- Outdated terminology and information has been updated.
- Existing information has been reorganized to appear in a more sequential manner: general approach to average earnings; net average earnings; benefit calculation; and, benefit recalculation.
- Existing information about average bonuses and pay increases has been clarified.
- Existing information about NEC changes has been clarified.
- Existing information about optional insurance has been clarified.
- Information about the "Minor's wage basis" has been moved to 18-06-04, Most Recent Earnings for Recurrences, as this information is only applicable in recurrence scenarios.

IMPACT

Every January 1, ongoing temporary total disability benefits will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Temporary partial benefits

Policy 18-06-02, Calculating Temporary Partial Disability Benefits (Accidents between 1985 and 1998) provides guidelines respecting the calculation of temporary partial disability benefits.

SUPPORT IMPLEMENTATION

Prior to being revised, this policy did not address if, when, or how a temporary partial disability benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments. A cross-reference to where information about determining pre-injury earnings can be found has also been added to provide additional information and clarity about calculating temporary partial disability benefits.

OTHER REVISIONS

Policy 18-06-02 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- Information about irregular post-injury earnings has been moved from the policy statement to the guidelines about irregular earnings, where it more properly belongs.
- A purpose statement has been added.
- Outdated terminology and information has been updated.
- Terminology has been revised to be consistent within and across policies.
- Existing information about irregular post-injury earnings has been revised to be clear that the guidelines apply to both work reintegration and work transition scenarios.
- References to specific sections in legislation have been replaced with information about the reference.

IMPACT

Every January 1, ongoing temporary partial disability benefits will be indexed by applying CPI to the amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Temporary benefits: most recent earnings

Policy 18-06-04, Most Recent Earnings for Recurrences provides guidelines respecting calculating temporary disability benefits when a worker experiences a recurrence of the work-related injury/disease.

SUPPORT IMPLEMENTATION

The following revisions have been made to provide additional information and clarity about calculating most recent earnings for temporary disability benefits:

- Information has been added about when and how pre-injury or most recent earnings are escalated.
- Information has been added about how earnings are determined for accidents on or after April 1, 1985, similar to existing information about how earnings are determined for accidents prior to April 1, 1985.

OTHER REVISIONS

Policy 18-06-04 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- A purpose statement has been added.
- Outdated terminology and information has been updated.
- Information about the “Minor’s wage basis” from 18-06-01, Calculating Temporary Total Disability Benefits (Accident between 1985 and 1998) has been incorporated as this information is only applicable in recurrence scenarios.
- Existing wording that has been mistaken to mean a worker must have been working at the time of the recurrence to have the benefit based on the earnings from the date of most recent employment has been revised.

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- Existing information about identifying which earnings to use to calculate the benefit has been reorganized so it all appears together in one place
 - Existing information about recalculating pre-injury earnings based on one year's prior earnings has been moved to appear in its own section and reworded to be consistent across policies.
 - Existing information about changes to the NEC has been revised to be clear that the new NEC is applied once the appropriate earnings have been identified.

IMPACT

All revisions have been made to provide additional information and clarity about benefit calculation, improve the readability of the policy, or conform to the current OPM template.

Future economic loss (FEL) benefits

FEL benefits may be paid to workers with accident dates between January 2, 1990 and December 31, 1997. A full FEL benefit is 90 per cent of a worker's pre-injury NAE.

FEL benefits: initial determination

Policy 18-04-05, Initial Determination - Workers Who are Earning at Time of Determination outlines how FEL benefits are calculated for workers who are earning at the time of the initial determination. Policy 18-04-06, Initial Determination - Where Suitable Occupation has been Determined outlines how FEL benefits are calculated for workers who are not earning at the time of initial determination.

SUPPORT IMPLEMENTATION

Prior to being revised, neither policy addressed if, when, or how a FEL benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments.

The following revision has also been made to provide additional information and clarity about calculating and paying FEL benefits:

- Information has been added about when and how pre-injury earnings are escalated prior to a calculating a FEL benefit.

OTHER REVISIONS

Both policies have also been revised to improve the readability and/or to conform to the current OPM template. For example

- Outdated terminology has been updated.
- Terminology has been revised to be consistent within and across policies.
- Existing information about the Loss of Retirement Income (LRI) benefit has been revised to be clear that additional funds are also set aside where a worker is receiving a FEL supplement.
- Headings have been added where appropriate.

IMPACT

As FEL benefits are already indexed on the amount payable, all revisions have been made to provide additional information and clarity about benefit calculation, improve readability, or conform to the current OPM template.

FEL benefits: supplements

Policy 18-04-11, Supplements for Programs and Work Reintegration Activities Before and After 24 Months outlines when a worker is entitled to receive the FEL supplement both before and after 24 months from the initial FEL determination date. Policy 18-04-12, Supplement Following Significant Deterioration outlines when a worker is entitled to receive the FEL supplement following a significant deterioration of the worker's condition.

SUPPORT IMPLEMENTATION

Prior to being revised, neither policy addressed if, when, or how a FEL benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments.

OTHER REVISIONS

Both policies have also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- Outdated terminology has been updated.
- Terminology has been revised to be consistent within and across policies.
- Information about the LRI benefit has been added to be clear that additional funds are also set aside where a worker is receiving a FEL supplement.

IMPACT

Every January 1, ongoing FEL supplements will be indexed by applying CPI to the supplement amount payable, rather than by applying one of multiple indexing factors to the gross earnings and recalculating the benefit.

All other revisions have been made to provide additional information and clarity about benefit calculation, improve readability, or conform to the current OPM template.

FEL benefits: NEC changes

Policy 18-04-18, FEL: Changes to Net Exemption Code outlines when and how a FEL benefit is recalculated to take into account a change in a worker's NEC.

SUPPORT IMPLEMENTATION

Prior to being revised, policy [18-04-18](#) included information about both indexation and escalation. To support implementation of the Bill 144 amendments, this information has been removed as the primary purpose of the policy is to provide guidance regarding when a NEC change is applied (and the worker's benefit subsequently recalculated), and information about indexation and escalation is now available in the FEL determination policies.

The following revisions have also been made to provide additional information and clarity about NEC changes:

- Information has been added to clarify the circumstances in which the WSIB updates a worker's NEC: the worker's NEC has changed or an incorrect NEC was reported when the FEL benefit was calculated.
- Information has been added about the type of documentation required to validate a NEC change.

OTHER REVISIONS

Policy [18-04-18](#) has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- A purpose statement has been added.
- Outdated terminology has been updated.
- Terminology has been revised to be consistent within and across policies.
- The appendix with examples has been removed.

IMPACT

All revisions have been made to provide additional information about NEC changes, improve the readability of the policy, or conform to the current OPM template.

FEL benefits: final FEL review

Policy [18-04-20, Final FEL Benefit Review](#) outlines when the final FEL benefit review is conducted and how exceptional cases are addressed.

SUPPORT IMPLEMENTATION

Prior to being revised, policy 18-04-20 did not address if, when, or how a locked-in FEL benefit is indexed. This information has been added to support the implementation of the Bill 144 amendments.

OTHER REVISIONS

Policy 18-04-20 has also been revised to improve the readability of the policy and/or to conform to the current OPM template. For example

- Outdated terminology has been updated.
- Information has been added to existing information about how FEL benefits are restored after being suspended at 58 months for failing to provide the information required for the review.
- Terminology in the “Post-injury earnings at final review” section has been updated (e.g., replaced “actual earnings” with “actual employment earnings”) and some existing information has been reworded for clarity (e.g., clarified that the use of experienced worker earnings is an exception by adding “Exception” to the heading).
- The following information, about which the Operational Policy Branch regularly receives questions, has been revised or added:
 - The “New area of entitlement” section has been removed and its guidelines reworded and incorporated into the “Significant deteriorations post 60 months” section as a new area of entitlement that is accepted as a significant deterioration is treated as a significant deterioration.
 - Information about material changes that occur prior to 60 months but that are not reported until after 60 months has been added to the “Requirement to report material change in circumstances” section, addressing an information gap.
 - Existing information about material changes that occur post 60 months has been reworded to clarify that the material change itself does not prompt a review of the FEL benefit (i.e., the FEL benefit can only be reviewed for the exceptional circumstances outlined in the policy).

IMPACT

As FEL benefits, including locked-in benefits, are already indexed on the amount payable, all revisions have been made to provide additional information and clarity about benefit calculation, improve readability, or conform to the current OPM template.