

**RE: Compensation on the Death of a Worker  
Introduction**

**ITEM: C8-52.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy provides an overview of compensation entitlement on the death of a worker.

### **2. The Act**

Section 5(1):

Where, in an industry within the scope of this Part, personal injury or death arising out of and in the course of employment is caused to a worker, compensation as provided by this Part must be paid by the Board out of the accident fund.

Section 6(1):

Where

- (a) a worker suffers from an occupational disease and is thereby disabled from earning full wages at the work at which the worker was employed or the death of a worker is caused by an occupational disease; and
- (b) the disease is due to the nature of any employment in which the worker was employed, whether under one or more employments,

compensation is payable under this Part as if the disease were a personal injury arising out of and in the course of that employment. A health care benefit may be paid although the worker is not disabled from earning full wages at the work at which he or she was employed.

## **POLICY**

Compensation is payable under the *Act* where the death of a worker arises out of and in the course of employment or is caused by an occupational disease that is due to the nature of any employment in which the worker was employed.

Compensation is payable to the worker's surviving dependants or in some cases to non-dependent relatives having a reasonable expectation of pecuniary benefit from the continuation of the life of the deceased.

**REHABILITATION SERVICES &  
CLAIMS MANUAL**

Benefits are normally based on the worker's average net earnings prior to the date of death. In addition, cost of living adjustments are made to payments and to the dollar amounts in the *Act*. Effective December 31, 2003, where a worker in receipt of a permanent disability award dies as a result of the compensable disability and dependant's benefits are payable, no cost of living adjustment is applied in the 12 month period following the date of death.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Sections 5(1) and 6(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Average Earnings (Chapter 9), Cost of Living Adjustments to Periodic Payments (policy item #51.00) and Dollar Amounts in the <i>Act</i> (policy item #51.20) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II
<b>HISTORY:</b>	Replaces policy item #52.00 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Definitions - Meaning of "Dependant"  
and Presumptions of Dependency**

**ITEM: C8-53.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes who is a "dependant" for the purposes of compensation as a result of a worker's death. It also describes the circumstances where it is presumed, without further investigation, that a spouse or child was a dependant of a worker at the date of the worker's death.

### **2. The Act**

Section 1:

"dependant" means a member of the family of a worker who was wholly or partly dependent on the worker's earnings at the time of the worker's death, or who but for the incapacity due to the accident would have been so dependent, and, except in section 17(3)(a) to (h), (9) and (13), includes a spouse, parent or child who satisfies the Board that he or she had a reasonable expectation of pecuniary benefit from the continuation of the life of the deceased worker.

"member of family" means wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half brother and half sister and a person who stood in loco parentis to the worker or to whom the worker stood in loco parentis, whether related to the worker by consanguinity or not.

Section 17(7):

Where 2 workers are married to each other and both are contributing to the support of a common household, each is deemed to be a dependant of the other.

Section 17(8):

Where 2 parents contribute to the support of a common household at which their children also reside, the children are deemed to be dependants of the parent whose death is compensable under this Part.

## **POLICY**

### **1. Meaning of Dependant**

The term “dependant” means a member of a worker’s family who was wholly or partly dependent on the worker’s earnings at the time of the worker’s death, or who but for the incapacity due to the accident would have been so dependent. In certain limited situations, as discussed in Item C8-56.70, the term also includes a spouse, parent or child who satisfies the Board that he or she had a reasonable expectation of pecuniary benefit from the worker if the worker had not died.

Section 1 of the *Act* defines who are the members of a worker’s family.

Only the members of a worker’s family may be found to be the worker’s dependants. Thus, a former husband or wife does not qualify as a dependant of a deceased worker because he or she is not considered a member of the worker’s family under the *Act*.

Dependency does not exist simply because the claimant is a member of the worker’s family. There must be evidence that, at the time of the worker’s death, the claimant was actually wholly or partly dependent on the worker’s earnings.

Except in respect of the provision discussed in Item C8-56.70, a reasonable expectation of pecuniary benefit from the continuation of the life of the worker is not itself sufficient to constitute dependency.

The above principles also apply where the claimant is a child. In the case of a child who was unborn at the date of the worker’s death, once paternity is established, the fact that the worker would have been under an obligation to support the child is evidence to warrant an inference that that person would have supported the child, and should be accepted as proof of dependency unless it is controverted by evidence to the contrary. If it is found that the worker was supporting the mother at the time of death, that is also evidence from which an inference may be drawn that that person would have supported the child.

Dependency is determined at the date of death. Changes of circumstances after the death, for instance, the marriage of a child, do not affect the status of a person as a dependant.

### **2. Presumptions of Dependency**

Where two workers are married to each other and both are contributing to the support of a common household, each is deemed to be a dependant of the other.

Where two parents contribute to the support of a common household at which their children also reside, the children are deemed to be dependants of the parent whose death is compensable.

For a common household to exist it is not necessary that there be a constant 24-hour-a-day presence by both parties in the house. There are many reasons why one party to a marriage would leave the house for different periods which would not affect the existence of the common household. However, this only applies when the absences are consistent with the normal continuation of the marriage. The common household will come to an end when there is some kind of separation of the parties which brings into question the continued existence of the marriage. For example, if one party deserts the other or, because of difficulties in the marital relationship, a separation agreement or court order comes into being.

A prospect of reconciliation is not sufficient to establish that a common household existed. This might indicate a possibility of the common household again coming into existence at a future time, but does not alter the fact that there was no such household in existence at the time of the worker's death.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Sections 1, 17(7) and 17(8) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #54.00 and #54.10 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II. A typographical correction was made on March 22, 2004.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.



**RE: Compensation on the Death of a Worker**                      **ITEM: C8-53.10**  
**Definitions - Meaning of "Child" or "Children"**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy explains the meaning of "child" for the purposes of determining entitlement to compensation following the death of the worker.

### **2. The Act**

Section 1:

"member of family" means wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half brother and half sister and a person who stood in loco parentis to the worker or to whom the worker stood in loco parentis, whether related to the worker by consanguinity or not.

"invalid" means physically or mentally incapable of earning.

"invalid child" includes a child who, though not an invalid at the date of death of the worker, becomes an invalid before otherwise ceasing to be entitled to compensation.

Section 17(1):

"child" means

- (a) a child under the age of 19 years, including a child of the deceased worker yet unborn;
- (b) an invalid child of any age; and
- (c) a child under the age of 25 years who is regularly attending an academic, technical or vocational place of education,

and "children" has a similar meaning.

## **POLICY**

### **1. Meaning of “Child” or “Children”**

A “child” of the deceased worker includes a person to whom the worker stood in loco parentis at the date of the worker’s death. “Child” also includes an unborn child of the deceased worker. The concept of “in loco parentis” and the issue of unborn children are discussed below in sections 2 and 3 of this Item.

To be eligible for compensation as a result of the death of a worker, a child must satisfy one of the three following requirements. He or she must be

- (a) a child under the age of 19 years, including a child of the deceased worker yet unborn;
- (b) an invalid child of any age; or
- (c) a child under the age of 25 years who is regularly attending an academic, technical or vocational place of education.

### **2. In Loco Parentis**

The term “in loco parentis” means the worker stood in the role of a parent to the child.

It is not possible to specify in advance when a deceased worker will be considered to have stood in loco parentis to a child. The decision will, in each case, depend on the particular circumstances of the claim. Generally, the evidence will have to show that the worker acted as, and assumed the responsibility of, a parent of the child. Normally, the worker will have been living with and maintaining the child, but it may be possible to establish an in loco parentis relationship even where they were not living in the same household.

The evidence must show that the in loco parentis relationship continued to exist right up to the date of death. It is not sufficient simply to establish that such a relationship existed at some past time. There is no presumption under the *Act* that, once an in loco parentis situation is found to have existed, it must be deemed to have continued unless and until there is evidence to the contrary.

### **3. Unborn Children**

Under section 17 of the *Act*, a “child” includes a child of the deceased worker yet unborn. To be considered an unborn child of the deceased worker, the child must have been conceived before the worker’s death. Where the pregnancy occurs after the worker’s death, for instance through scientific intervention, the unborn child will not be considered a “child” of the deceased worker for the purposes of compensation under the *Act*.

Benefits payable in respect of an unborn child of a deceased worker commence from the date of death of the worker, and not from the date of the child's birth. If the child is stillborn, the provision set out in Item C8-57.00 applies as from the date of birth.

Under the Canada Pension Plan, a widow who is pregnant at the date of the worker's death receives a pension for the child from the first day of the month in which the child is born. The amount of workers' compensation benefits will be adjusted when the child is born according to the Canada Pension Plan benefits then being received.

#### **4. Invalid Children**

The term "invalid" is defined in the *Act* as "physically or mentally incapable of earning". This means the person is not physically or mentally capable of independently supporting himself or herself financially. A person who has a physical or mental disability, but is capable of independently supporting himself or herself financially is not an "invalid". A temporary physical or mental incapacity to earn is not sufficient to determine that a person is an "invalid".

An "invalid child" includes a child who, though not an invalid at the date of death of the worker, becomes an invalid before otherwise ceasing to be entitled to compensation.

#### **5. Regularly Attending an Academic, Technical or Vocational Place of Education**

This Item applies to a child who has reached the age of 19 years but is under the age of 25 years and who regularly attends an academic, technical or vocational place of education.

There is no requirement that attendance at the place of education must be full time or at a certain time of day. For instance, a child who works during the day may attend school at night. However, this is subject to the nature of the course being taken. If, for example, all that is being done by the child is attending a single course, one night per week, which may lead to a degree in 10 years or so, it might be difficult to conclude that he or she was "regularly attending" a place of education.

Correspondence courses taken at home are not sufficient. The only possible exception might be where the period of home study is temporary and the child intends to return shortly to a place of education.

Apprenticeships do not qualify since they involve practical work in a work place as opposed to attending a place of education.

When a child reaches age 19, the widow or widower and/or the child are contacted with regard to plans for continuing education. If the child plans to continue his or her education, the child is advised that benefits will be paid until age 25, including summer months, as long as the child pursues his or her education.

Temporary absences from school will not cause a discontinuation of benefits as long as the Board is satisfied that there is a clear intention to eventually return to the educational program. In the absence of fraud or misrepresentation, no overpayment will be declared if the child, in fact, does not return to school.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Sections 1 and 17(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Recalculation of Compensation on a Change in Circumstances (Item C8-57.00), Compensation on the Death of a Worker – Definitions – Meaning of Dependant and Presumptions of Dependency (item C8-53.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00) and Compensation on the Death of a Worker – Calculation of Compensation – Children (Item C8-56.40) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #55.25, #58.10, #58.11, #58.12, #58.13, #58.14 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.

**RE: Compensation on the Death of a Worker  
Definitions - Meaning of "Federal Benefits"****ITEM: C8-53.20**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy explains the meaning of "federal benefits". In certain situations, the *Act* directs that 50% of federal benefits payable for a dependent spouse and/or children be deducted from survivor benefits payable to them.

### **2. The Act**

Section 17(1):

"federal benefits" means the benefits paid for a dependant under the *Canada Pension Plan* as a result of a worker's death, other than the death benefit payable to the estate of a worker under section 57 of that Act.

## **POLICY**

### **Meaning of "Federal Benefits"**

The *Act* defines the term "federal benefits" as benefits paid for a dependant under the Canada Pension Plan ("CPP") as a result of a worker's death. This means the survivor's pension and/or children's benefits paid under the CPP. Federal benefits do not include the death benefit that is payable to a worker's estate under the CPP.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Section 17(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with No Children (Item C8-56.10) and Compensation on the Death of a Worker – Calculation of Compensation – Children (Item C8-56.40) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #55.24 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker-  
Funeral and Other Death Expenses****ITEM: C8-54.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy establishes the amount the Board will pay for funeral and other death expenses following the death of a worker. It also describes who is eligible to receive payments for these expenses.

### **2. The Act**

Section 17(2):

Where compensation is payable as the result of the death of a worker or as the result of injury resulting in death,

- (a) in addition to any other compensation payable under this section, an amount in respect of funeral and related expenses, as determined in accordance with the policies of the board of directors, must be paid out of the accident fund,
- (b) the employer of the worker must bear the cost of transporting the body to the nearest business premises where funeral services are provided, and
- (c) if burial does not take place there, the costs of any additional transportation, up to a maximum determined in accordance with the policies of the board of directors, may be paid out of the accident fund.

Section 17(2.1):

No action for an amount larger than that established by subsection (2) lies in respect of the funeral, burial or cremation of the worker or cemetery charges in connection with it.

## **POLICY**

### **1. Funeral and Other Death Expenses**

Where compensation is payable as the result of the death of a worker or as the result of injury resulting in death, an amount for funeral and related expenses is paid in addition to any other compensation payable. The maximum amount payable for funeral and related expenses is set out below.

The employer of the worker is required to bear the cost of transporting the body to the nearest business premises where funeral services are provided, and if burial does not take place there any additional transportation may, up to the sum set out below, be paid by the Board.

	<b>Funeral And Related Expenses</b>	<b>Transportation of Body</b>
January 1, 2008 – December 31, 2008	\$7,902.14	\$1,248.48
January 1, 2009 – December 31, 2009	\$8,107.48	\$1,280.92

If required, earlier figures may be obtained by contacting the Board.

Effective December 31, 2003, the above figures are adjusted annually on January 1 of each year. The percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20, is used.

No action for an amount larger than that established by the above provisions lies in respect of the funeral, burial, or cremation of the worker or cemetery charges in connection with it.

### **2. Person to Whom Expenses are Paid**

Payment of funeral and related expenses is made to the most eligible person or persons, as determined by the Board. In determining whom to pay, the Board considers who has incurred the cost of funeral and related expenses, or who has undertaken to meet those payments.

Where the funeral and related expenses are less than the maximum provided in this Item, the Board pays only the actual amount of funeral and related expenses.

Once the Board has paid out the maximum amount provided in this Item to one or more persons, the Board does not consider any other claims for funeral and related expenses.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(2) of the <i>Act</i>
<b>CROSS REFERENCES:</b>	Dollar Amounts in the <i>Act</i> (policy item #51.20) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #53.00 and #53.10 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.



**RE: Compensation on the Death of a Worker-  
Lump Sum Payment****ITEM: C8-55.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the provision of a lump sum payment to eligible widows, widowers, common-law wives, common-law husbands or foster parents.

### **2. The Act**

Section 17(13):

In addition to any other compensation provided, a dependent widow or widower, common law wife or common law husband or foster parent in Canada to whom compensation is payable is entitled to a lump sum of \$2,394.55.

## **POLICY**

### **Lump Sum Payment**

A dependent widow or widower, common-law wife or common-law husband, or foster parent in Canada to whom compensation is payable as a result of a worker's death is also entitled to a lump sum payment as follows:

January 1, 2008	—	December 31, 2008	\$2,333.90
January 1, 2009	—	December 31, 2009	\$2,394.55

If required, earlier figures may be obtained by contacting the Board.

Payment of this amount is made as soon as the claim is accepted.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(13) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Dollar Amounts in the <i>Act</i> (policy item #51.20) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #55.10 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Widow or Widower with Children**

**ITEM: C8-56.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for a dependent widow or widower with dependent children.

### **2. The Act**

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
- (a) where the dependants are a widow or widower and 2 or more children, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for those dependants, would equal the total of
    - (i) the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, subject to the minimum set out in paragraph (g); and
    - (ii) \$311.17 per month for each child beyond 2 in number.
  - (b) where the dependants are a widow or widower and one child, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for those dependants, would equal 85% of the monthly rate compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, subject to the minimum set out in paragraph (g).
  - (g) the minimum allowances payable under paragraphs (a), (b) and (f) must be the allowances that would be payable if the allowances were calculated under those paragraphs in respect of a deceased worker with average earnings of \$33,522.66 per annum.

**POLICY**

This Item applies to a widow or widower and children who were wholly or partly dependent on a worker's earnings at the time of the worker's death. A widow or widower and children who were not dependent upon the worker's earnings may be entitled to compensation under Item C8-56.70.

**1. Calculation of Compensation – Widow or Widower with Two or More Children**

The monthly payment for a dependent widow or widower and two or more dependent children is calculated as follows:

- (I) The Board adds:
- (a) the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, subject to the minimum provided in section 4 of this Item, and
  - (b) the following amount per month for each child beyond two in number.

January 1, 2008	—	December 31, 2008	\$303.29
January 1, 2009	—	December 31, 2009	\$311.17

If required, earlier figures may be obtained by contacting the Board.

- (II) The Board then deducts 50% of the federal benefits payable to or for the dependants from the sum determined above.

The example below describes the monthly benefits that would be payable for a dependent widow or widower and three dependent children following the death of a worker on June 30, 2002. The worker's average net earnings were \$40,000 per year.

**A. 50% of total federal benefits**

Federal benefits for widow or widower		=	437.99
Federal benefits for children	(3 x 183.77)	=	551.31
Total federal benefits (widow or widower and children)		=	989.30
50% of total federal benefits	50% x 989.30	=	494.65

WORKING TO MAKE A DIFFERENCE

B.	Monthly permanent total disability award rate at date of death	$90\% \times \frac{40,000}{12}$	=	3,000
C.	Additional child allowance under section 17		=	263.70
D.	Total monthly benefits (B plus C)		=	3,263.70
	Total benefit entitlement (W.C.B. and federal benefits)		=	3,263.70
E.	Total W.C.B. monthly benefits payable (D less A)		=	2,769.05

**2. Calculation of Compensation – Widow or Widower with One Child**

The monthly payment for a dependent widow or widower with one dependent child is calculated as the difference between:

- (a) 85% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, subject to the minimum provided in section 4 of this Item, and
- (b) 50% of the federal benefits payable to or for the dependants.

In the example described in section (1) above, monthly benefits would be payable to a dependent widow or widower and one dependent child as follows:

A.	50% of total federal benefits			
	Federal benefits for widow or widower		=	437.99
	Federal benefits for child		=	183.77
	Total federal benefits		=	621.76
	50% of total federal benefits	$50\% \times 621.76$	=	310.88
B.	Monthly permanent total disability award rate at date of death	$90\% \times \frac{40,000}{12}$	=	3,000

C.	85% of permanent total disability award rate	85% x 3,000	=	2,550
	Total benefit entitlement (W.C.B. and federal benefits)		=	2,550
D.	Total W.C.B. monthly benefits payable (C less A)		=	2,239.12

**3. Change in Federal Benefits**

If the Board receives evidence of a change in a dependant's entitlement to federal benefits, the amount of federal benefits deducted from the compensation for that dependant is adjusted accordingly. For instance, if the Board receives evidence that children's benefits under the Canada Pension Plan have been terminated, the amount of federal benefits deducted from the compensation for that child will be adjusted. The adjustment takes effect as of the date of the change in federal benefits.

**4. Minimum Monthly Benefits**

The minimum monthly payment under this Item must not be less than the amount that would be payable if, at the date of death, the deceased worker had the following average earnings:

January 1, 2008	—	December 31, 2008	\$32,673.61
January 1, 2009	—	December 31, 2009	\$33,522.66

If required, earlier figures may be obtained by contacting the Board.

**5. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

**6. Duration and Recalculation of Benefits**

Compensation for a dependent widow or widower is payable for life.

Benefits for a dependent widow or widower with children are recalculated in accordance with Item C8-57.00 as each child ceases to meet the requirements, described in Item C8-53.10, to be eligible for compensation as a "child" of the deceased worker.

Benefits for dependent children are recalculated under Item C8-57.00 if the widow or widower dies before the children cease to meet the requirements, as described in Item C8-53.10, to be eligible for compensation as "children" of the deceased worker.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Sections (17)(3)(a), (b) and (g) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Definitions – Meaning of “Federal Benefits” (Item C8-53.20), Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) and Compensation on the Death of a Worker – Recalculation of Compensation on a Change in Circumstances (Item C8-57.00) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #55.00, #55.20, #55.21, #55.22, #55.26, #55.60 and #61.60 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Widow or Widower with No Children**

**ITEM: C8-56.10**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for a dependent widow or widower with no dependent children.

### **2. The Act**

Section 1:

“invalid” means physically or mentally incapable of earning.

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
- (c) where the dependant is a widow or widower who, at the date of death of the worker, is 50 years of age or over, or is an invalid spouse, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for that dependant, would equal 60% of the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, but the monthly payments must not be less than \$1,005.51.
  - (d) where the dependant, at the date of death of the worker, is a widow or widower who is not an invalid and is under the age of 50 years, and there are no dependent children, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for that dependant, would equal the product of
    - (i) the percentage determined by subtracting 1% from 60% for each year that the age of that dependant, at the date of the death of the worker, is under 50 years, and
    - (ii) the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability,

but the percentage determined under subparagraph (i) must not be less than 30% and the monthly payments must not be less than \$1,005.51.

- (6) Where at the date of death a spouse is not an invalid, but is suffering from a disability that results in a substantial impairment of earning capacity, the Board may, having regard to the degree of disability or the extent of impairment of earning capacity, pay the spouse a proportion of the compensation that would have been payable if the spouse had been an invalid.

## **POLICY**

This Item applies where there are no dependent children, but there is a widow or widower who was wholly or partly dependent upon a worker's earnings at the time of the worker's death. A widow or widower who was not dependent upon the worker's earnings may be entitled under Item C8-56.70.

### **1. Meaning of "Invalid"**

The term "invalid" is defined in the *Act* as "physically or mentally incapable of earning". This means the person is not capable of independently supporting himself or herself financially. A person who has a physical or mental disability, but is capable of independently supporting himself or herself financially is not an "invalid". A temporary physical or mental incapacity to earn is not sufficient to determine that a person is an "invalid".

Where at the date of death a spouse is not an invalid, but is suffering from a disability that results in a substantial impairment of earning capacity, the Board may, having regard to the degree of disability or the extent of impairment of earning capacity, pay the spouse a proportion of the compensation that would have been payable if the spouse had been an invalid.

### **2. Calculation of Compensation – Widow or Widower 50 Years or Older or Invalid**

The monthly payment for a widow or widower who, at the date of the worker's death, is either:

- 50 years of age or over, or
- an invalid,

is calculated as the difference between:

- (a) 60% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, and
- (b) 50% of the federal benefits payable to or for the widow or widower.

The monthly payment is subject to the minimum amount provided in section 5 of this Item.

### **3. Calculation of Compensation – Widow or Widower under 50 Years**

The monthly payment for a widow or widower who, at the date of the worker's death, is not an invalid and is under the age of 50 years is calculated as follows:

- (I) The Board multiplies:
  - (a) the percentage determined by subtracting one percentage point from 60%, to a minimum of 30%, for each year that the age of the widow or widower, at the date of the worker's death, is under 50 years, and
  - (b) the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability.
- (II) The Board then deducts 50% of the federal benefits payable to or for the widow or widower from the product determined above.

The monthly payment is subject to the minimum amount provided in section 5 of this Item.

When determining the percentage under (I)(a) above, the Board does not round up the age of the widow or widower to the nearest whole number. For instance, a widow or widower who is 35 years and 11 months is considered 35, not 36, for the purpose of determining the percentage to use in establishing benefits.

The example below describes the monthly benefits that would be payable for a dependent widow or widower who, at the date of the worker's death, has no children and is 35 years old. The worker, whose death occurred on June 30, 2002, had average net earnings of \$40,000 per year.

#### **A. 50% of federal benefits**

Federal benefits for widow or widower	=	437.99
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WORKING TO MAKE A DIFFERENCE

	50% of federal benefits	$50\% \times 437.99$	=	219
B.	Determination of percentage based on widow's age	$50 - 35$	=	15%
	Relevant percentage	$60\% - 15\%$	=	45%
C.	Monthly permanent total disability award rate at date of death	$90\% \times \frac{40,000}{12}$	=	3,000
D.	45% of permanent total disability award rate	$45\% \times 3,000$	=	1,350
	Total benefit entitlement (W.C.B. and federal benefits)		=	1,350
E.	Total W.C.B. monthly benefits payable (D less A)		=	1,131

**4. Change in Federal Benefits**

If the Board receives evidence of a change in the entitlement of a dependent widow or widower to federal benefits, the amount of federal benefits deducted from the compensation for that dependant is adjusted accordingly. The adjustment takes effect as of the date of the change in federal benefits.

**5. Minimum Monthly Benefits**

The minimum monthly payment for a dependent widow or widower under this Item is as follows:

January 1, 2008	—	December 31, 2008	\$980.04
January 1, 2009	—	December 31, 2009	\$1,005.51

If required, earlier figures may be obtained by contacting the Board.

The minimum monthly payment is the actual minimum paid by the Board. Federal benefits are not deducted from this minimum amount.

**6. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

**7. Duration and Recalculation of Benefits**

Compensation for a dependent widow or widower is payable for life.

The amount of compensation payable for a dependent widow or widower who is an invalid is recalculated in accordance with Item C8-57.00 if the widow or widower ceases to be an invalid.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Section 1 and sections 17(3)(c) and (d) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Definitions – Meaning of “Federal Benefits” (Item C8-53.20), Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) and Compensation on the Death of a Worker – Recalculation of Compensation on a Change in Circumstances (Item C8-57.00) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #55.23, #55.30, #55.31, #55.32 and #55.33 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Spouse Separated from Deceased Worker**

**ITEM: C8-56.20**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for a dependent separated spouse and any dependent children living with that spouse.

### **2. The Act**

Section 17:

- (9) Where compensation is payable as the result of the death of a worker, or of injury resulting in death, and where at the date of death the worker and dependent spouse were living separate and apart, and
- (a) there was in force at the date of death a court order or separation agreement providing periodic payments for support of the dependent spouse, or children living with that spouse, no compensation under subsection (3) is payable to the spouse or children living with the spouse; but monthly payments must be made in respect of that spouse and those children equal to the periodic payments due under the order or agreement; or
  - (b) there was no court order or separation agreement in force at the date of death providing periodic payments for support of the dependent spouse, or children living with that spouse, and
    - (i) the worker and dependent spouse were living separate and apart for a period of less than 3 months preceding the date of death of the worker, compensation is payable as provided in subsection (3); or
    - (ii) the worker and dependent spouse were separated with the intention of living separate and apart for a period of 3 months or longer preceding the death of the worker, monthly payments must be made up to the level of support which the Board believes the spouse and those children would have been likely to receive from the worker if the death had not occurred.

- (10) Compensation payable under subsection (9) must never exceed the compensation that would have been payable under subsection (3) if there had been no separation.

## **POLICY**

This Item applies where the worker and dependent spouse, though still married, were living separate and apart at the date of the worker's death. It also applies to any dependent children of the deceased worker who were living with the separated spouse at the time of the worker's death.

A spouse, or a child of the deceased worker living with that spouse, who was not wholly or partly dependent on the worker's earnings at the time of the worker's death is not entitled to compensation under this Item. The spouse or child may, however, be entitled under Item C8-56.70.

A divorced spouse is not eligible for compensation as a result of the worker's death. A divorce does not, however, affect the claim of any children of the marriage, who may be eligible for benefits under another Item in this chapter.

### **1. Calculation of Compensation – Court Order or Separation Agreement**

Where, at the date of the worker's death, a court order or separation agreement was in force providing periodic support payments for the dependent spouse, or children living with that spouse, monthly benefits equal the payments due under that order or agreement.

Section 17(10) of the *Act* provides that compensation must never exceed the amount that would have been payable under the *Act* if the worker and spouse had not been separated at the date of the worker's death. As a result, the terms of the court order or separation agreement will be followed provided they do not result in a higher award than would be otherwise payable under section 17(3) of the *Act* if there had been no separation.

It is irrelevant whether the worker was actually meeting his or her obligations under the court order or separation agreement at the date of death. However, where the worker was in arrears of support payments at the date of death, benefits will not cover the amount in arrears.

### **2. Calculation of Compensation – No Court Order or Separation Agreement**

Where, at the date of the worker's death, there was no court order or separation agreement in force providing support payments for the spouse, or children living with the spouse, the length of time during which the worker and spouse had been separated is considered as described below.

## **2.1 Separation of Less than Three Months – No Court Order or Separation Agreement**

Where, at the date of death, the worker and spouse had been living separate and apart for less than three months, benefits are calculated under section 17(3) of the *Act* as if there had been no separation.

## **2.2 Separation of More than Three Months – No Court Order or Separation Agreement**

Where, at the date of death, the worker and spouse had been separated for three or more months, the Board considers whether the parties intended to live separate and apart. The intention to live separate and apart is discussed below in section 2.2.1 of this Item.

Where it is found that, at the date of death, the parties did not intend to live separate and apart, section 17(9) of the *Act* does not apply and monthly benefits are calculated as if there had been no separation.

Where it is found that, at the date of death, the parties did intend to live separate and apart, monthly benefits are based on the amount that the Board believes the dependent spouse and children would likely have received from the worker if the worker had not died. However, compensation must never exceed the amount that would have been payable under section 17(3) of the *Act* if there had been no separation.

### **2.2.1 Determination of Intention to Live Separate and Apart**

Whether the worker and dependent spouse were separated with the “intention” of living separate and apart requires an examination of all the circumstances to determine whether the geographical separation is consistent with the normal continuation of the marriage, or whether these circumstances bring into question the continued existence of the marriage. The presence or absence of this mental element concerning the status of the relationship should be assessed both on an objective and subjective basis, rather than being solely based on the subjective views of the parties to the marriage.

The question is whether, on the basis of all the evidence, the parties either treated the marriage as being at an end or, alternatively, whether it may be concluded on an objective basis that the marriage had no continuing existence.

It would be sufficient to support a conclusion that the parties were living separate and apart if one party (not necessarily both) treated the marriage as being at an end. Also, it could be concluded on an objective basis that the parties were living separate and apart, notwithstanding the subjective belief of both parties that the marriage was continuing. This might be the case if the separation was for an indefinite period and there was no reasonable prospect of their being reunited in the foreseeable future. It

might be considered that they had at least reconciled themselves to this situation, notwithstanding the subjective continuance of the marriage relationship. On the other hand, if the parties viewed themselves as continuing in their marriage and intended to reunite, and it was considered that this would occur in the reasonably foreseeable future, then it might be concluded that they were not living separate and apart.

It would not normally be considered that the parties were living separate and apart in circumstances where a period of temporary separation was necessitated by the worker's employment.

### **3. Lump Sum Payment**

The full amount of the lump sum provided for in Item C8-55.00 is payable to a dependent spouse, in Canada, who receives benefits under this Item.

### **4. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

### **5. Duration of Benefits**

Benefits for a separated spouse under this Item are for life, unless the terms of a court order or separation agreement specify otherwise. Where there is no court order or separation agreement, benefits for a separated spouse under this Item are for life, unless the Board determines the worker would have provided payments for a lesser period of time.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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**EFFECTIVE DATE:**

June 30, 2002

**AUTHORITY:**

Sections 17(9) and (10) of the *Act*.

**CROSS REFERENCES:**

Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Lump Sum Payment (Item C8-55.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with No Children (Item C8-56.10), Compensation on the Death of a Worker – Calculation of Compensation – Children (Item C8-56.40), Compensation on the Death of a Worker – Calculation of Compensation – Common-Law Relationships



WORKERS' COMPENSATION BOARD OF BC

## REHABILITATION SERVICES & CLAIMS MANUAL

(Item C8-56.30) and Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) of the *Rehabilitation Services & Claims Manual*, Volume II.

**HISTORY:**

Replaces policy item #55.40 of the *Rehabilitation Services & Claims Manual*, Volume II.

**APPLICATION:**

This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Common-Law Relationships**

**ITEM: C8-56.30**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for a dependent common-law wife or common-law husband.

### **2. The Act**

Section 17:

- (11) Where a worker has lived with and contributed to the support and maintenance of a common law wife or common law husband, and
- (a) where the worker and the common law wife or common law husband have no children, for a period of 3 years; or
  - (b) where the worker and the common law wife or common law husband have children, for a period of one year

immediately preceding the worker's death, and where the worker does not leave a dependent widow or widower, the Board may pay the compensation to which a dependent widow or widower would have been entitled under this Part to the common law wife or common law husband.

- (12) Where
- (a) a worker has lived with and contributed to the support and maintenance of a common law wife or common law husband for the period set out in subsection (11);
  - (b) the worker also left surviving a dependent widow or widower from whom, at the date of death, the worker was living separate and apart, and
  - (c) there is a difference in the amount of compensation payable to the widow or widower by reason of the separation and the amount of compensation that would have been payable to that person if that person and the worker had not been living separate and apart,

the Board may pay compensation to the common law wife or common law husband up to the amount of the difference.

## **POLICY**

### **1. Common-Law Wife or Common-Law Husband**

The phrase "common-law wife" or "common-law husband" is used to describe situations in which two people of the opposite sex are living together in a regular and established way, sharing conjugal relations and a common household. A woman or a man is not excluded from being a common-law wife or common-law husband of one person simply because she or he is legally married to another.

The Board may pay compensation to a common-law wife or a common-law husband where, immediately preceding the worker's death, the worker had lived with and contributed to the person's support and maintenance for a period of:

- (a) three years, where the worker and common-law wife or common-law husband have no children; or
- (b) one year, where the worker and common-law wife or common-law husband have children.

The phrase "have children" in paragraph (b) means that the children must be born of the relationship between the worker and the common-law wife or common-law husband or be adopted by the worker and the common-law wife or common-law husband. The fact that children have been brought into the relationship from a previous relationship is not sufficient. On the other hand, such children may have claims in their own right as children of the deceased, even if brought into the relationship by the common-law wife or common-law husband.

### **2. Calculation of Compensation – No Dependent Widow or Widower**

The existence of a dependent separated spouse is a key consideration in determining the amount of compensation that may be payable to a common-law wife or a common-law husband.

Where the worker does not leave a dependent widow or widower, the Board may pay the compensation to which a dependent widow or widower would have been entitled to the common-law wife or common-law husband.

**3. Calculation of Compensation – Dependent Widow or Widower**

Where

- (a) the worker also left surviving a dependent widow or widower from whom, at the date of death, the worker was living separate and apart; and
- (b) there is a difference in the amount of compensation payable to the widow or widower under Item C8-56.20 by reason of the separation and the amount of compensation that would have been payable to that person, if that person and the worker had not been living separate and apart,

the Board may pay compensation to the common-law wife or common-law husband up to the amount of the difference.

**4. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

**5. Duration of Benefits**

Compensation for a common-law wife or common-law husband is payable for life. Benefits are not affected if the common-law wife or common-law husband remarries.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

**EFFECTIVE DATE:**

December 31, 2003

**AUTHORITY:**

Sections 17(11) and (12) of the *Act*.

**CROSS REFERENCES:**

Compensation on the Death of a Worker – Definitions – Meaning of "Dependant" and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of "Child" or "Children" (Item C8-53.10), Compensation on the Death of a Worker – Lump Sum Payment (Item C8-55.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with No Children (Item C8-56.10), Compensation on the Death of a Worker – Calculation of Compensation – Spouse Separated from Deceased Worker (Item C8-56.20) and Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) of the *Rehabilitation Services & Claims Manual*, Volume II.



WORKERS' COMPENSATION BOARD OF BC

## REHABILITATION SERVICES & CLAIMS MANUAL

**HISTORY:**

Replaces policy items #56.00 to #56.40 of the *Rehabilitation Services & Claims Manual*, Volume II.

**APPLICATION:**

This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Calculation of Compensation - Children****ITEM: C8-56.40**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for dependent children.

### **2. The Act**

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
  - (f) where there is no surviving spouse or common law spouse eligible for monthly payments under this section, and
    - (i) the dependant is a child, a monthly payment of a sum that, when combined with 50% of the federal benefits to or for that child, would equal 40% of the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability;
    - (ii) the dependants are 2 children, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for those children, would equal 50% of the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability; or
    - (iii) the dependants are 3 or more children, a monthly payment of a sum that, when combined with 50% of the federal benefits payable to or for those children, would equal the total of
      - (A) 60% of the monthly rate of compensation under this Part that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability; and

- (B) \$311.17 per month for each child beyond 3 in number,

subject, in all cases, to the minimum set out in paragraph (g).

- (g) the minimum allowances payable under paragraphs (a), (b) and (f) must be the allowances that would be payable if the allowances were calculated under those paragraphs in respect of a deceased worker with average earnings of \$33,522.66 per annum.

## **POLICY**

Children who were not wholly or partly dependent on the worker's earnings at the time of the worker's death are not entitled to compensation under this Item. They may, however, be entitled under Item C8-56.70.

### **1. Calculation of Compensation – Surviving Spouse or Common-Law Wife/Husband**

Where there is a surviving spouse, common-law wife or common-law husband eligible for periodic benefits, the children's benefits are calculated in conjunction with those of the spouse, common-law wife or common-law husband under Items C8-56.00, C8-56.20 or C8-56.30. With one exception, this is so whether the children live with the spouse, common-law wife or common-law husband or not. Where they live apart, the apportionment provisions described in Item C8-58.00 may be applied to the benefits. The exception involves item C8-56.20, which applies to children only when they are living with the separated spouse at the date of the worker's death.

Where there is a widow or widower and a child or children, and the widow or widower subsequently dies, benefits for the dependent children are recalculated under Item C8-57.00.

### **2. Calculation of Compensation – No Surviving Spouse or Common-Law Wife/Husband**

Where there is no surviving spouse or, common-law wife or common-law husband eligible for monthly payments under section 17 of the *Act*, benefits for any dependent children are calculated as described below.

#### **2.1 One Dependent Child**

The monthly payment for one dependent child is calculated as the difference between:

- (a) 40% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability; and
- (b) 50% of the federal benefits payable to or for that child.

## 2.2 Two Dependent Children

The monthly payment for two dependent children is calculated as the difference between:

- (a) 50% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability; and
- (b) 50% of the federal benefits payable to or for those children.

## 2.3 Three or More Dependent Children

The monthly payment for three or more dependent children is calculated as follows:

- (I) The Board adds:
  - (a) 60% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability; and
  - (b) the following amount per month for each child beyond three in number:

January 1, 2008	—	December 31, 2008	\$303.29
January 1, 2009	—	December 31, 2009	\$311.17

If required, earlier figures may be obtained by contacting the Board.

- (II) The Board then deducts 50% of the federal benefits payable to or for those children from the sum determined above.

## 3. Change in Federal Benefits

If the Board receives evidence of a change in a dependant child's entitlement to federal benefits, the amount of federal benefits deducted from the compensation for that child is adjusted accordingly. For instance, if the Board receives evidence that a child's benefits under the Canada Pension Plan have been terminated, the amount of federal benefits deducted from the compensation for that child will be adjusted. The adjustment takes effect as of the date of the change in federal benefits.

**4. Minimum Monthly Benefits**

The minimum monthly payment under this Item must not be less than the amount that would be payable if, at the date of death, the deceased worker had the following average earnings:

January 1, 2008	—	December 31, 2008	\$32,673.61
January 1, 2009	—	December 31, 2009	\$33,522.66

If required, earlier figures may be obtained by contacting the Board.

**5. Recalculation**

Benefits for dependent children are recalculated in accordance with Item C8-57.00 as each child ceases to meet the requirements, described in Item C8-53.10, to be eligible for compensation as a “child” of the deceased worker.

**6. Foster Parents**

Where a foster parent assumes responsibility for the care and maintenance of a deceased worker’s dependent child or children, the Board may pay compensation to the foster parent and children under Item C8-56.50. If the Board pays compensation under Item C8-56.50, no compensation is provided for the child or children under this Item.

**7. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker’s death.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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**EFFECTIVE DATE:**

June 30, 2002

**AUTHORITY:**Sections 17(3)(f) and (g) of the *Act*.

**CROSS REFERENCES:**

Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Definitions – Meaning of “Federal Benefits” (Item C8-53.20), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00), Compensation on the Death of a Worker – Calculation of Compensation – Spouse Separated from Deceased Worker (Item C8-56.20), Compensation on the Death of a Worker – Calculation of Compensation – Common-Law Relationships (Item C8-56.30), Compensation on the Death of a Worker – Calculation of Compensation – Foster Parents (Item C8-56.50), Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70), Compensation on the Death of a Worker – Recalculation of Compensation on a Change in Circumstances (Item C8-57.00) and Compensation on the Death of a Worker – Apportionment of Compensation (Item C8-58.00) of the *Rehabilitation Services & Claims Manual*, Volume II.

**HISTORY:**

Replaces policy items #58.00, #58.21 and #58.22 of the *Rehabilitation Services & Claims Manual*, Volume II.

**APPLICATION:**

This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker  
Calculation of Compensation - Foster Parents**

**ITEM: C8-56.50**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the calculation of compensation for the foster parent of a deceased worker's dependent child or children.

### **2. The Act**

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
- (j) where the worker leaves no dependent widow or widower, or the widow or widower subsequently dies, and the Board considers it desirable to continue the existing household, and when a suitable person acts as a foster parent in keeping up the household and taking care of and maintaining the children entitled to compensation, in a manner satisfactory to the Board, the same allowance is payable to the foster parent and children as would have been payable to a widow or widower and children, and must continue as long as those conditions continue.

## **POLICY**

### **Foster Parents**

Where the worker leaves dependent children, but no dependent widow or widower, or the widow or widower subsequently dies, the Board may consider it desirable to continue the existing household. When a suitable person acts as a foster parent in keeping up the household and taking care of and maintaining the children entitled to compensation, in a manner satisfactory to the Board, the same benefits are payable to the foster parent and children as would have been payable to a widow or widower and children under Item C8-56.00. The benefits continue as long as the conditions continue.

**REHABILITATION SERVICES &  
CLAIMS MANUAL**

A foster parent means a person who assumes responsibility for the care and maintenance of a dependent child or children. For the purposes of section 17(3)(j) of the *Act*, a foster parent may include a natural parent who did not have physical custody of the child or children at the time of the workplace fatality.

The allowance includes the lump sum payable to widows or widowers referred to in Item C8-55.00.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(3)(j) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Lump Sum Payment (Item C8-55.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00) and Compensation on the Death of a Worker – Recalculation of Compensation on a Change in Circumstances (Item C8-57.00) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #57.00 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Other Dependants and Dependent Parents**

**ITEM: C8-56.60**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the calculation of compensation for “other dependants” and dependent parents of a deceased worker.

### **2. The Act**

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
- (h) where there is
    - (i) no dependent spouse or child entitled to compensation under this section, but a worker leaves other dependants, a sum reasonable and proportionate to the pecuniary loss suffered by those dependants by reason of the death, to be determined by the Board, but not exceeding in the whole \$550.72 per month for life or a lesser period as determined by the Board; or
    - (ii) a dependent spouse, or a dependent child or children, entitled to compensation under this section, but not a spouse and child or children, and, in addition, the worker leaves a dependent parent or parents, then, in addition to the compensation payable to the spouse or children, a sum, reasonable and proportionate to the pecuniary loss suffered by the dependent parent or parents by the death, to be determined by the Board, but not exceeding \$550.72 per month for life or a lesser period as determined by the Board.

## **POLICY**

In this Item, the term “spouse” means a “widow”, “widower”, “common-law wife” or “common-law husband”.

### **1. Dependent Spouse and Children**

If both a dependent spouse and children of the deceased worker are eligible for benefits as a result of the worker’s death, no other person is entitled to compensation for the death, other than funeral and transportation expenses under Item C8-54.00.

### **2. Other Dependants**

Where there is neither a dependent spouse nor children entitled to benefits as a result of a worker’s death, compensation is payable to “other dependants” of the deceased worker.

The term “other dependants” means any of the following members of the worker’s family who were wholly or partly dependent on the worker’s earnings at the time of the worker’s death:

- father, mother, stepfather, stepmother;
- person who stood in loco parentis to the worker, whether or not the person is related to the worker;
- grandfather, grandmother;
- son, daughter who does not meet the requirements under Item C8-53.10 to be eligible for compensation as a “child” of the deceased worker;
- grandson, granddaughter;
- stepson, stepdaughter who does not meet the requirements under Item C8-53.10 to be eligible for compensation as a “child” of the deceased worker;
- brother, sister, half-brother, half-sister; and
- person to whom the worker stood in loco parentis, whether or not the person is related to the worker, and who does not meet the requirements under Item C8-53.10 to be eligible for compensation as a “child” of the deceased worker.

Except in the case of parents, a member of the worker's family who is described in the above list and who was not wholly or partly dependent on the worker's earnings at the time of the worker's death is not entitled to compensation under the *Act*. A parent who was not wholly or partly dependent upon the worker's earnings may still be entitled to compensation under Item C8-56.70.

### **3. Dependent Parents**

Where there is either a dependent spouse or a dependent child or children entitled to benefits as a result of a worker's death, but not a spouse and child or children, compensation is payable for the dependent parent or parents of the deceased worker.

The compensation payable to a dependent parent is in addition to the compensation payable to a dependent spouse or to a dependent child or children as a result of the worker's death.

A parent who was not wholly or partly dependent upon the worker's earnings at the time of the worker's death is not entitled to compensation under this Item. The parent may, however, be entitled to compensation under Item C8-56.70.

### **4. Calculation of Compensation**

Compensation for a dependant under this Item is a sum determined by the Board to be reasonable and proportionate to the pecuniary loss suffered by the dependant as a result of the worker's death.

In determining the appropriate amount of compensation, the Board considers the amount of financial support that the dependant had been receiving from the worker at the date of the worker's death, or at the date of the injury resulting in death. The Board also considers the number of dependants eligible for compensation under this Item, as well as the maximum amount of compensation payable, as set out below.

The total amount of compensation payable for all dependants under this Item, taken together, must not exceed the following amount:

January 1, 2008	—	December 31, 2008	\$536.77
January 1, 2009	—	December 31, 2009	\$550.72

If required, earlier figures may be obtained by contacting the Board.

### **5. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

**6. Duration of Benefits**

Compensation under this Item may be for life or for a lesser period as determined by the Board. For instance, the worker's grandchild might have been dependent upon the worker's earnings for payment of tuition fees. In such a case, the Board may determine that benefits should be terminated when the grandchild ceases to attend school.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Section 17(3)(h) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10), Compensation on the Death of a Worker – Funeral and other Death Expenses (Item C8-54.00) and Compensation on the Death of a Worker – Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit (Item C8-56.70) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #59.00 and #59.10 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.

**RE: Compensation on the Death of a Worker  
Calculation of Compensation –  
Persons with a Reasonable Expectation  
of Pecuniary Benefit**

**ITEM: C8-56.70**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how compensation as a result of a worker's death is calculated for a person who, though not dependent upon the worker's earnings, had a reasonable expectation of pecuniary benefit from the worker.

### **2. The Act**

Section 17:

- (3) Where compensation is payable as the result of the death of a worker or of injury resulting in such death, compensation must be paid to the dependants of the deceased worker as follows:
- (i) where
    - (i) no compensation is payable under the foregoing provisions of this subsection; or
    - (ii) the compensation is payable only to a spouse, a child or children or a parent or parents,

but the worker leaves a spouse, child or parent who, though not dependent on the worker's earnings at the time of the worker's death, had a reasonable expectation of pecuniary benefit from the continuation of the life of the worker, payments, at the discretion of the Board, to that spouse, child or children, parent or parents, but not to more than one of those categories, not exceeding \$550.72 per month for life or a lesser period determined by the Board.

**POLICY****1. Persons with a Reasonable Expectation of Pecuniary Benefit**

This Item applies where

- (a) no compensation is payable to a dependant of the deceased, or
- (b) the compensation is payable only to a spouse, a child or children, or a parent or parents,

but the worker leaves a spouse, child or children, or parent or parents who, though not dependent upon the worker's earnings at the time of death, had a reasonable expectation of pecuniary benefit from the continuation of the life of the worker.

A reasonable expectation of pecuniary benefit requires more than an assumption that the person would have received a financial benefit from the worker if the worker had not died. There must be objective evidence that the worker would have provided an actual monetary benefit to the spouse, child or parent if he or she had not died.

Compensation may be payable to persons with a reasonable expectation of pecuniary benefit in only one of the following categories:

- (a) spouse of the deceased worker;
- (b) child or children of the deceased worker; or
- (c) parent or parents of the deceased worker.

An application for compensation from a spouse, child or parent, on the grounds that he or she is a dependant of the deceased worker will automatically be considered under this Item if it is concluded that the person was not wholly or partly dependent upon the worker's earnings at the time of the worker's death.

**2. Calculation of Compensation**

Compensation under this Item is determined at the Board's discretion. However, monthly payments must not exceed the following amount:

January 1, 2008	—	December 31, 2008	\$536.77
January 1, 2009	—	December 31, 2009	\$550.72

If required, earlier figures may be obtained by contacting the Board.

**3. Commencement of Benefits**

Benefits under this Item commence on the day after the date of the worker's death.

**4. Duration of Benefits**

Compensation under this Item may be for life or for a lesser period as determined by the Board. For instance, before death the worker may have given a promissory note to a parent, undertaking to repay a loan with interest. In such a situation, the Board would not provide benefits for life because the parent's expectation of pecuniary benefit was not a lifelong expectation.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(3)(i) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00) and Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #60.00 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.



**RE: Compensation on the Death of a Worker  
Recalculation of Compensation on a  
Change in Circumstances**

**ITEM: C8-57.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the recalculation of compensation when there has been a change in a dependant's circumstances.

### **2. The Act**

Section 17:

- (4) Where an invalid spouse ceases to be an invalid, or a widow or widower with dependent children no longer has dependent children or there is a reduction in the number of dependent children, the spouse, widow, widower or children is then entitled to the same category of benefits as would have been payable if the death of the worker had occurred on the date the invalid spouse ceases to be an invalid or the widow or widower no longer has dependent children, or the number of dependent children is reduced, as the case may be.
- (5) Where there is a widow or widower and a child or children, and the widow or widower subsequently dies, the allowances to the children must, if they are in other respects eligible, continue and be calculated in the same manner as if the worker had died leaving no dependent spouse.

Section 35.2

- (4) Subject to subsections (5) and (6), in recalculating compensation under section 17(4) or (5), the Board must, if the actual date of the death of a worker was before June 30, 2002, base the recalculation on this Act as it read immediately before June 30, 2002.
- (5) Subject to section 19(2.1) of this Act, section 25 of this Act, as amended by the *Skills Development and Labour Statutes Amendment Act, 2003*, applies to compensation paid on or after the transition date in respect of the death of a worker irrespective of the date the worker died.

- (6) Commencing on the transition date, for the purposes of applying subsections (3) and (4), the Board must adjust the dollar amounts referred to in sections 17 and 18 and Schedule C of this Act, as it read immediately before June 30, 2002, in accordance with section 25.2(1), as amended by the *Skills Development and Labour Statutes Amendment Act, 2003*.

## **POLICY**

### **1. Recalculation of Compensation on a Change in Circumstances**

Compensation payable as a result of the death of a worker is recalculated when there has been a change in circumstances as follows:

- (a) an invalid spouse ceases to be an invalid;
- (b) a widow or widower with dependent children no longer has dependent children;
- (c) there is a reduction in the number of dependent children; or
- (d) there is a widow or widower and a child or children, and the widow or widower subsequently dies.

When a change in circumstances occurs, as described in (a) to (d) above, the Board recalculates compensation as if the worker died on the date that the change occurred, subject to the exception discussed in section 2 of this Item.

For instance, in the circumstances described in (d) above, where a worker is survived by a dependent widow or widower and children, and the widow or widower subsequently dies, benefits are recalculated as if the worker died leaving no widow or widower. In such a situation, benefits for the children would be determined under Item C8-56.40.

When recalculating benefits on a change in circumstances, it is necessary to determine the amount of compensation that would have been payable to the deceased worker for a permanent total disability. That amount is calculated by reference to the date of injury or the date of disablement from occupational disease and not by reference to the date of death (unless it is the same) or to the date of the change of circumstances. However, cost of living adjustments to the resulting figure will be made up to the date of the change in circumstances.

The recalculated level of compensation applies as of the date of the change in circumstances. For instance, where the change that leads to the recalculation is a change in a child's school attendance or a child's birthday, the Board uses the exact

date when the change occurs as the date of commencement of the new benefits. For example, where a child who is no longer attending school turns 19 on December 15, the old benefit levels remain in effect until December 14 and the new benefits become effective on December 15.

Dependants are advised at the outset of the claim of the various provisions that may result in a change in benefits payable to them. They are also advised in advance of a potential change in their benefits resulting from an age change in a dependent child.

## **2. Exception – Deaths before June 30, 2002**

If the actual date of the worker's death was before June 30, 2002, the recalculation of compensation is based upon the *Act* as it read immediately before June 30, 2002.

The policies in Volume I of this *Manual* apply in such cases. However, cost of living adjustments to benefits paid on or after December 31, 2003 are made in accordance with policy item #51.00 of Volume II of this *Manual*. In addition, the dollar amounts referred to in sections 17 and 18 and Schedule C of the *Act*, as it read immediately before June 30, 2002, are adjusted in accordance with policy item #51.20 of Volume II of this *Manual*.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Sections 17(4) and (5) and sections 35.2(4), (5) and (6) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Cost of Living Adjustments to Periodic Payments (policy item #51.00) and Dollar Amounts in the <i>Act</i> (policy item #51.20), Compensation on the Death of a Worker – Definitions – Meaning of "Dependant" and Presumptions of Dependency (Item C8-53.00), Compensation on the Death of a Worker – Definitions – Meaning of "Child" or "Children" (Item C8-53.10), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with Children (Item C8-56.00), Compensation on the Death of a Worker – Calculation of Compensation – Widow or Widower with No Children (Item C8-56.10) and Compensation on the Death of a Worker – Calculation of Compensation – Children (Item C8-56.40) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #55.50 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.



**RE: Compensation on the Death of a Worker  
Apportionment of Compensation****ITEM: C8-58.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how the Board apportions compensation among dependants in situations where there is a need to do so.

### **2. The Act**

Section 17:

- (14) Where in any situation there is a need to apportion allowances payable to dependants among those dependants, the formula for apportionment must be at the discretion of the Board; but, unless the Board has grounds for a different apportionment, the apportionment must be:
- (a) where there is a dependent spouse and one child, 2/3 to the dependent spouse and 1/3 to the child;
  - (b) where there is a dependent spouse and more than one child, 1/2 to the dependent spouse and 1/2 among the children in equal shares; and
  - (c) where there are children but no dependent spouse, among the children in equal shares.

## **POLICY**

Where in any situation there is a need to apportion allowances payable to dependants among those dependants, the Board has discretion in determining the formula for apportionment. However, unless the Board has grounds for a different apportionment, the following apportionment applies:

- (a) where there is a dependent spouse and one child, two-thirds to the dependent spouse and one-third to the child;
- (b) where there is a dependent spouse and more than one child, one-half to the dependent spouse and one-half among the children in equal shares; and

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- (c) where there are children but no dependent spouse, among the children in equal shares.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(14) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00) and Compensation on the Death of a Worker – Definitions – Meaning of “Child” or “Children” (Item C8-53.10) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy items #61.00 and #61.10 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Death of More than One Worker**

**ITEM: C8-59.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This Item describes how compensation is calculated for a dependant of more than one deceased worker.

### **2. The Act**

Section 17:

(16) If a dependant is entitled to receive compensation

- (a) as a result of the death of a worker, and
- (b) as a result of the subsequent death of another worker,

the total compensation payable for the dependant as a result of those deaths is an amount that the Board considers appropriate.

(16.1) The compensation payable for a dependant under subsection (16) must not

- (a) be less than the highest of the amounts that would otherwise be payable in respect of the death of any of the workers, and
- (b) be more than 90% of the average net earnings of a worker whose wage rate is the maximum wage rate established under section 33(6) and (7) for the year in which the last death referred to in subsection 16(b) occurred.

(16.2) For the purposes of subsection (16.1), "average net earnings" means the average net earnings calculated in accordance with section 33.8.

## **POLICY**

### **Death of More than One Worker**

Where a dependant, who is entitled to compensation as a result of a worker's death, becomes eligible for compensation as a result of another worker's death, the total

compensation payable as a result of the deaths is an amount the Board considers appropriate.

Total compensation under this Item must not be less than the highest of the amounts payable as a result of the death of any of the workers.

The maximum benefits payable are calculated as follows:

- (a) The maximum wage rate for the year in which the last worker died is used as average earnings to calculate average net earnings.
- (b) Short-term average net earnings are calculated in accordance with policy item #71.10.
- (c) Benefits payable are based upon 90% of the short-term average net earnings.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	June 30, 2002
<b>AUTHORITY:</b>	Sections (16), (16.1) and (16.2) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Short-term Average Net Earnings (policy item #71.10) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #61.30 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after June 30, 2002.

**RE: Compensation on the Death of a Worker  
Enemy Warlike Action**

**ITEM: C8-60.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the calculation of benefits where a worker is injured or killed in the course of employment as a direct result of enemy warlike action or counteraction.

### **2. The Act**

Section 17:

- (15) Where personal injury to, disablement of or death of a worker occurs in the course of the worker's employment as a direct result of enemy warlike action or counteraction taken against it and provision has been made for compensation in respect of it for the worker or the worker's dependants by the government of Canada, the worker or the dependants are entitled to compensation under this Part only when the compensation provided by the government of Canada is less than that provided by this Act, and then only to the extent of the difference.

## **POLICY**

### **Enemy Warlike Action**

This policy applies where:

- (a) personal injury to, or disablement or death of, a worker occurs in the course of employment as a direct result of enemy warlike action or counteraction; and
- (b) the government of Canada has provided for compensation for the worker or the worker's dependants as a result of the personal injury, disablement or death.

In the circumstances described above, if the government of Canada provides for less compensation than that provided under the *Act*, benefits are payable to the worker or the worker's dependants in an amount equal to the difference. If the compensation provided by the government of Canada is equal to or greater than that provided under the *Act*, no compensation is payable under the *Act*.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(15) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Compensation on the Death of a Worker – Definitions – Meaning of “Dependant” and Presumptions of Dependency (Item C8-53.00) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #61.20 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to a death or injury on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Special or Novel Cases**

**ITEM: C8-61.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes how the Board has discretion, in certain situations, to deviate from the strict application of the survivor benefit provisions in the *Act*.

### **2. The Act**

Section 17:

- (17) Where a situation arises that is not expressly covered by this section, or where some special additional facts are present that would, in the Board's opinion, make the strict application of this section inappropriate, the Board must make rules and give decisions it considers fair, using this section as a guideline.

## **POLICY**

### **Special or Novel Cases**

Where a situation arises that is not expressly covered by the provisions discussed in this chapter or where some special additional facts are present that would, in the Board's opinion, make the strict application of those provisions inappropriate, the Board may make rules and give decisions it considers fair, using those provisions as a guideline.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 17(17) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	
<b>HISTORY:</b>	Replaces policy item #61.40 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.



**RE: Compensation on the Death of a Worker  
Interest Payment Arising from the Application  
of Section 19(2)**

**ITEM: C8-61.10**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes the interest payable to a person whose monthly payments are reinstated under section 19(2) of the *Act*.

### **2. The Act**

Section 19:

(1) In this subsection and subsections (2) and (2.1)

“former subsection” means the section 19(1) that came into force on April 17, 1985 or the section 19(4) repealed in 1994;

“interest” means interest calculated at a rate and in a manner set by the Board for the purposes of this section;

“monthly payments” mean monthly payments under this Act to a widow, widower, former common law wife or former common law husband of a deceased worker;

“person” does not include a widow or former common law wife of a deceased worker if the widow or former common law wife remarried or entered into a new common law relationship before April 17, 1985.

(2) A person whose monthly payments were discontinued by application of a former subsection is entitled to

(a) monthly payments beginning on the later of

(i) the expiry of the 2 year period for which payment was made under the former subsection, or

(ii) the repeal of the former subsection,

(b) the amount, if any by which, during the period from April 17, 1985 to the beginning of monthly payments under paragraph (a), the total amount of compensation described by section 17 that the person would have received if the former subsection had not been in force exceeds the sum paid to the person under the former subsection, and

- (c) interest on any amount payable under paragraph (b).
- (2.1) In calculating monthly payments for the purposes of subsection (2), adjustments are deemed to have been made under section 25, as it read immediately before being amended by the *Workers Compensation Amendment Act, 2002*, for the months the former subsection was in force.

## **POLICY**

### **Interest Payment Arising from the Application of Section 19(2)**

Where interest is payable as a result of the application of section 19(2), it is calculated at the rates and in the manner set out in policy item #50.00.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 19 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Interest (policy item #50.00) of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	Replaces policy item #55.61 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to interest payable under section 19(2) of the <i>Act</i> on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Proof of Existence of Dependants**

**ITEM: C8-62.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy addresses the proof required by the Board to confirm the existence and condition of a deceased worker's dependants.

### **2. The Act**

Section 20:

The Board may from time to time require the proof of the existence and condition of dependants in receipt of compensation payments that is deemed necessary by the Board, and pending the receipt of that proof may withhold further payments.

## **POLICY**

### **Proof of Existence of Dependants**

The application for compensation submitted by a dependant should be accompanied by marriage and/or birth certificates or other evidence establishing the applicant's relationship to the deceased worker.

Each year, the Board mails out, to dependants receiving compensation under section 17 of the *Act*, declaration forms and school attendance forms. Failure to complete and return these forms may result in payments being withheld pending their receipt by the Board.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Rehabilitation and Compensation Services Division's Practice Directives available on the WCB website.

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**EFFECTIVE DATE:**

December 31, 2003

**AUTHORITY:**

Section 20 of the *Act*.

**CROSS REFERENCES:**

Compensation on the Death of a Worker – Definitions – Meaning of "Dependant" and Presumptions of Dependency (Item C8-53.00) of the *Rehabilitation Services & Claims Manual*, Volume II.



WORKERS' COMPENSATION BOARD OF BC

## REHABILITATION SERVICES & CLAIMS MANUAL

**HISTORY:**

Replaces policy item #61.50 of the *Rehabilitation Services & Claims Manual*, Volume II.

**APPLICATION:**

This Item applies to the death of a worker on or after December 31, 2003.

**RE: Compensation on the Death of a Worker  
Death of a Commercial Fisher**

**ITEM: C8-63.00**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy describes entitlement to compensation following the death of a commercial fisher.

### **2. The Act**

Section 4:

- (3) Where the death of a commercial fisher resident in British Columbia arises out of and in the course of his or her occupation in the Province or waters off the Province after January 1, 1975, and the death is not otherwise compensable under this Part, the Board may treat the death in the same manner as if the commercial fisher were a worker employed by the Crown in the right of the Province.

## **POLICY**

### **Death of a Commercial Fisher**

Where the death of a commercial fisher resident in British Columbia arises out of and in the course of his or her occupation in the Province or waters off the Province after January 1, 1975, and the death is not otherwise compensable, the Board may treat the death in the same manner as if the commercial fisher were a worker employed by the Crown in right of the Province.

## **PRACTICE**

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<b>EFFECTIVE DATE:</b>	December 31, 2003
<b>AUTHORITY:</b>	Section 4(3) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	
<b>HISTORY:</b>	Replaces policy item #61.70 of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>APPLICATION:</b>	This Item applies to the death of a worker on or after December 31, 2003.

