

Entitlement to allowance or refund

24(1) In this section, 'member's allowance' means:

- (a) where a member dies before receiving an allowance and has eight or more years of eligibility service, the allowance to which the member would have been entitled pursuant to section 19 if the member had been entitled to receive an allowance on the date of death;
- (b) where a member dies before receiving an allowance and has less than eight years of eligibility service, an allowance commencing on the day on which the member would have been entitled to receive an allowance in accordance with section 19; and
- (c) where the member dies while receiving an allowance, that allowance.

(2) Subject to subsection (12), the surviving spouse or dependants of a member who dies before commencing to receive an allowance may elect to receive a refund of contributions and credited interest.

(3) Where a member dies leaving a spouse, an allowance equal to 60% of the member's allowance shall be paid to the spouse for life.

(4) Subject to subsection (5), where a member dies leaving a spouse and one or more dependants who are children, an allowance equal to 10% of the member's allowance shall be paid with respect to each child while the child is a dependant, in addition to the allowance payable to the spouse pursuant to subsection (3).

(5) The total amount payable with respect to the children pursuant to subsection (4) must not exceed 25% of the member's allowance and must be divided equally among them.

(6) Where a member dies leaving no spouse, or where the spouse, having survived the member, dies:

- (a) an allowance equal to the allowance that was or would have been payable to the spouse shall be paid with respect to a dependant who is a child; or
- (b) if there is more than one dependant who is a child, the allowance mentioned in clause (a) together with an additional allowance equal to 10% of the member's allowance for each additional dependant who is a child to a maximum of 25% of the member's allowance shall be divided equally among the dependent children and paid with respect to each child as long as the child is a dependant.

(7) Where a member dies leaving no spouse or dependants who are children, an allowance equal to 60% of the member's allowance shall be paid to a dependant who is a parent.

(8) Where there are two dependants who are parents:

- (a) the allowance mentioned in subsection (7) shall be paid:
 - (i) to one of the parents or divided between them, as the commission may direct; and
 - (ii) where the allowance is divided between the parents, in the proportions determined by the commission;
- (b) on the death of a parent who is receiving an allowance mentioned in subsection (7), the allowance shall be continued and paid to the surviving dependant who is a parent.

(9) Where a member dies leaving no spouse or dependants, a refund of contributions in an amount calculated in accordance with subsection (10) or (11) shall be paid to one or more beneficiaries nominated by the member or, if no beneficiary has been nominated, to the member's personal representative.

(10) Where a member dies before commencing to receive an allowance, the amount that is payable pursuant to subsection (9) is equal to the member's contributions and credited interest.

(11) Where a member dies after commencing to receive an allowance or a disability benefit, the amount that is payable pursuant to subsection (9) is the amount, if any, by which the amount of the member's contributions, with credited interest to the date of the member's retirement, exceeds the total of all of the payments made to the member.

(12) No interest shall be paid with respect to a refund provided pursuant to subsection (2) or (9) for more than one year after the date of the member's death.

Payment to legal custodian of child

25(1) Allowances that are payable with respect to a child shall be paid to the person constituted or appointed legal custodian of the child pursuant to *The Children's Law Act* or otherwise.

(2) Lump sum amounts that are payable with respect to a child shall be paid to the person constituted or appointed guardian of the property of the child pursuant to *The Children's Law Act*.

(3) Notwithstanding *The Public Trustee Act*, where there is no legal custodian or guardian of the property of a child, moneys payable with respect to the child may be paid to any person that the commission may determine, having regard to the best interests of the child.