

1983 Wisconsin Act 9

AN ACT to repeal 40.65 (1); to amend 40.65 (2) and 40.65 (6) (a) to (c) and (7) (a) 1 and 2; and to create 40.02 (41m) and 40.02 (48) (c) of the statutes, relating to disability and death benefits for protective occupation participants.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 40.02 (41m) of the statutes is created to read:

40.02 (41m) "Monthly salary" means the gross amount paid to a participant making a claim under s. 40.65, at the time he or she becomes disabled within the meaning of s. 40.65 (4), by the employer in whose employ the injury occurred or the disease was contracted. Overtime pay may not be considered part of an employe's monthly salary unless the employe received it on a regular and dependable basis.

SECTION 2. 40.02 (48) (c) of the statutes is created to read:

40.02 (48) (c) In s. 40.65, "protective occupation participant" means a participating employe, other than a county employe, who is a police officer, fire fighter, conservation warden, state forest ranger, field conservation employe of the department of natural resources who is subject to call for forest fire control or warden duty, member of the state traffic patrol, university of Wisconsin system full-time police officer, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution including central state hospital, excise tax investigator employed by the department of revenue, or a special agent employed by the division of criminal investigation of the department of justice.

SECTION 3. 40.65 (1) of the statutes is repealed.

SECTION 4. 40.65 (2) of the statutes is amended to read:

40.65 (2) Any person desiring a benefit under this section must apply to the department of industry, labor and human relations, which department shall determine whether the applicant is eligible to receive the benefit and the participant's monthly salary. Appeals from the eligibility decision shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an applicant is eligible, the department of industry, labor and human relations shall notify the department of employe trust funds and shall certify the applicant's monthly salary. If at the time of application for benefits an applicant is still employed in any capacity by the employer in whose employ the disabling injury occurred or disease was contracted, that continued employment shall not affect that applicant's right to have his or her eligibility to receive those benefits determined in proceedings before the department of industry, labor and human relations or the labor and industry review commission or in proceedings in the courts. The department of industry, labor and human relations may adopt rules needed to administer this subsection.

SECTION 5. 40.65 (6) (a) to (c) and (7) (a) 1 and 2 of the statutes are amended to read:

40.65 (6) (a) For the purposes of sub. (5) (b) 6, annually on ~~July~~ January 1 until the participant's death;

(b) For the purposes of sub. (5) (a), if the participant is receiving an annuity under s. 40.63 (1), annually on ~~July~~ January 1 until the participant's death; and

(c) For the purposes of sub. (5) (a), if the participant is not receiving an annuity under s. 40.63 (1), annually on ~~July~~ January 1 until the first ~~July~~ January 1 after the participant's 60th birthday. Beginning on the ~~July~~ January 1 after the participant's 60th birthday the participant's monthly salary shall be increased annually in a percentage amount equal to the percentage amount of dividend awarded under s. 40.27 (2) until the participant's death. Notwithstanding s. 40.27 (2), any benefits payable under this section are not subject to distribution of annuity reserve surpluses.

(7) (a) 1. To the surviving spouse, if the spouse was married to the participant on the date the participant was ~~injured or contracted the disease~~ disabled within the meaning of sub. (4), one-third of the participant's monthly salary as reflected at the time of death until the surviving spouse marries again.

2. To the guardian of a surviving unmarried child under age 18, \$15 per child until the child marries, dies or reaches 18 years of age.

**SECTION 6. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

(1) EMPLOYE TRUST FUNDS.

(a) *Protective occupation participants.*

<b>A</b>	<b>B</b>	<b>C</b>
Statute Sections	Old Cross-References	New Cross-References
40.05 (2)(a)	40.65 (1)	40.02 (48)(c)
40.65 (8)	subch. VII	subch. VIII

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