

1975 Bill 20
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

THE WORKERS' COMPENSATION AMENDMENT ACT, 1975

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

BILL 20

1975

(Second Session)

THE WORKERS' COMPENSATION AMENDMENT ACT, 1975

(Assented to _____, 1975)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Workers' Compensation Act is hereby amended.*

2. *Section 9 is amended by renumbering it as subsection (1) and by adding thereafter the following subsections:*

(2) The Board may, on such terms and conditions as it considers appropriate, provide that the Act shall apply to persons temporarily employed in preventing, combatting or alleviating the effects of any emergency or disaster, whether or not remuneration is paid for such employment.

(3) For the purposes of subsection (2), the words "disaster" and "emergency" have the meanings assigned them in *The Disaster Services Act*.

(4) Following application therefor by any employer or prospective employer proposing to engage persons in any volunteer employment in which the remuneration, if any, is nominal, the Board may direct that those persons shall be deemed to be workers under this Act.

3. *Section 37 is amended*

(a) *as to subsection (3) by striking out clause (a), and*

(b) *by striking out subsections (4) and (5) and by substituting therefor the following subsections:*

(4) Where the worker dies as the result of an accident and leaves no dependent widow or widower or the dependent widow or widower subsequently dies and any suitable person acts as foster-parent in keeping up a household and maintaining and taking care of the children entitled to compensation in a manner that the Board considers satisfactory, the foster-parent while so acting is entitled to receive compensation

(a) where the accident occurred on or after January 1, 1974, in the amount of \$225 per month

Explanatory Notes

1. This Bill will amend chapter 87 of the Statutes of Alberta, 1973.

2. This amendment will permit the extension of the application of the Act to temporary employment in times of disaster or emergency which would not otherwise be covered. It will also permit the application of the Act to volunteer employments.

3. The first amendment will delete a defined term no longer used. The second amendment will provide a pension increase for foster-parents and children in their care. Section 37, subsections (3), (4) and (5) presently read:

(3) In subsections (4) and (5),

(a) "existing household" means any household where children entitled to compensation are maintained and taken care of by one or more foster-parents;

(b) "foster-parent" includes a natural parent.

(4) Where the worker dies as the result of an accident occurring on or after January 1, 1974 and leaves no dependent widow or widower or the dependent widow or widower subsequently dies and any suitable person acts as foster-parent in keeping up the household and maintaining and taking care of the children entitled to compensation in a manner that the Board considers satisfactory, the foster-parent while so doing is entitled to receive compensation in the amount of \$225 per month together with an additional sum of \$70 per month in respect of each child so maintained until the child has, subject to section 39, attained the age of 18 years or sooner died.

(5) Where the worker dies as the result of an accident occurring before or after January 1, 1974 leaving no dependent widow or widower or the dependent widow or widower subsequently dies and the children are maintained by more than one of the persons referred to in subsection (4), the amount of \$225 per month shall be divided proportionately among the persons acting as foster-parents to the respective children in accordance with the number of children maintained by each foster-parent and such amount shall continue payable without change notwithstanding the termination of payment to any other foster-parent.

together with an additional sum of \$70 per month in respect of each child so maintained,
or

(b) where the accident occurred on or after April 1, 1975, in the amount of \$290 per month together with an additional sum of \$80 per month in respect of each child so maintained, until the child has, subject to section 39, attained the age of 18 years or died before attaining that age.

(5) Where the worker dies as the result of an accident leaving no dependent widow or widower or where the dependent widow or widower subsequently dies and the children are maintained by more than one of the persons referred to in subsection (4), the amount that would be payable to a foster-parent under subsection (4) shall be divided proportionately among the persons acting as foster-parents to the respective children in accordance with the number of children maintained by each foster-parent, and the amount of the payment to any foster-parent shall continue payable without change notwithstanding the termination of payment to any other foster-parent.

4. Section 38 is struck out and the following section is substituted therefor:

38. (1) If a dependent widow or widower remarries, the payments to that person shall thereupon cease but a lump sum termination payment shall thereafter be paid in an amount of

- (a) \$2,700, where the remarriage takes place on or after January 1, 1974, or
- (b) \$3,480, where the remarriage takes place on or after April 1, 1975.

(2) Where

- (a) a dependent widow or widower remarries, and
- (b) the amount of termination payment that was authorized to be paid to a dependent widow or widower at the time of the accident to the spouse of that widow or widower was less than the amount of the termination payment authorized under subsection (1),

the amount of such difference shall be paid to the Accident Fund out of the General Revenue Fund.

5. Section 39 is amended

- (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

4. This amendment will increase the lump sum payment to a widow or widower receiving compensation who remarries.

5. This amendment will increase the amount of payments to dependent children.

39. (1) Where a dependent widow or widower dies or remarries, the Board shall pay compensation at the rate of

- (a) \$70 per month, or
- (b) \$80 per month, where the death or remarriage occurs on or after April 1, 1975, to each dependent child who is not being maintained as a foster child pursuant to section 37
- (c) until the child attains the age of 18 years or dies before attaining that age, or
- (d) in the case of a dependent invalid child, irrespective of the age of the child, as long as in the opinion of the Board it might reasonably be expected that the worker had he lived would have continued to contribute to the support of the child.

- (b) *as to subsection (2) by striking out the words "section 40, subsection (2)" and by substituting therefor the words "section 40, subsection (4)", and*
- (c) *as to subsection (3) by striking out the words "section 40, subsection (2)" and by substituting therefor the words "section 40, subsection (4)".*

6. Section 40 is struck out and the following section is substituted therefor:

40. (1) A dependent widow or widower receiving compensation under this Act in respect of an accident occurring on or after January 1, 1974 but prior to April 1, 1975 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent widow or widower to the greater of

- (a) \$365 per month, or
- (b) the amount of pension that person would otherwise receive plus 11 per cent of that amount.

(2) A dependent widow or widower receiving compensation under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent widow or widower to the sum of

- (a) \$225 per month commencing January 1, 1974, and
- (b) \$290 per month commencing April 1, 1975.

(3) A foster-parent receiving compensation under this Act or any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to the foster-parent to the sum of

- (a) \$225 per month commencing January 1, 1974, and
- (b) \$290 per month commencing April 1, 1975.

6. These amendments will increase the effective pension amounts payable to existing pension recipients who are foster-parents, dependent widows or widowers or dependent children to coincide with the proposed new rates. Section 40 presently reads:

40. (1) On and after January 1, 1974, a foster-parent or a dependent widow or widower receiving compensation under any Workmen's Compensation Act of Alberta, where the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award is prior to that date, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the foster-parent or the dependent widow or widower up to the sum of \$225 per month.

(2) On and after January 1, 1974, a dependent child receiving compensation under any Workmen's Compensation Act of Alberta, where the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award is prior to that date, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the dependent child up to the sum of \$70

(a) for a dependent child under the age of 18 years other than a dependent invalid child, until the child attains the age of 18 years or dies before attaining that age;

(b) to a dependent invalid child irrespective of the age of the child for as long as in the opinion of the Board it might reasonably be expected that the worker had he lived would have continued to contribute to the support of the child.

(3) The cost of the additional amounts of compensation paid under this section shall be paid to the Accident Fund out of the General Revenue Fund.

(4) A dependent child receiving compensation under this Act or any predecessor to this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent child to the sum of

(a) \$70 per month commencing January 1, 1974, and

(b) \$80 per month commencing April 1, 1975,

and such amounts shall be payable

(c) to a dependent child under the age of 18 years other than a dependent invalid child, until the child attains the age of 18 years or dies before attaining that age, or

(d) to a dependent invalid child, irrespective of the age of the child, for as long as in the opinion of the Board it might reasonably be expected that the worker had he lived would have continued to contribute to the support of the child.

(5) The cost of the additional amounts of compensation paid under this section in respect of accidents occurring prior to January 1, 1974 shall be paid to the Accident Fund out of the General Revenue Fund.

7. Section 41 is amended by striking out subsection (2) and by substituting therefor the following subsection:

(2) The capital value of increases in monthly payments to foster-parents, dependent widows and widowers and dependent children as authorized by section 40 in respect of accidents occurring before January 1, 1974 shall not be included in determining the cost of capitalized awards for the purposes of subsection (1).

8. Section 47, subsection (1) is amended by striking out the words "\$10,000 a year" and by substituting therefor the following clauses:

(a) \$10,000 a year, where the accident occurred on or after January 1, 1974, or

(b) \$13,000 a year, where the accident occurred on or after April 1, 1975.

9. Section 48, subsection (1) is amended by striking out clause (a) and by substituting therefor the following clause:

(a) any university, public or private college, institute of technology, agricultural and vocational college, vocational training centre or secondary school;

10. Section 50 is amended by striking out the words "\$275 a month, and" in clause (a) and by substituting therefor the following subclauses:

7. Section 41, subsection (2) presently reads:

(2) The capital value of increases in monthly payments being made prior to January 1, 1974 to dependent widows and widowers and dependent children as authorized by section 37, subsection (4) or section 40 shall not be included in determining the cost of capitalized awards for the purposes of subsection (1).

8. Section 47, subsection (1) presently reads:

47. (1) Subject to the regulations, the average weekly earnings of a worker for the purposes of this Act shall be computed in such manner as is best calculated to give the rate per week at which the worker was being remunerated in industries to which the Act applies at the time of the accident, but not so as in any case to exceed \$10,000 a year.

9. Section 48, subsection (1) presently reads:

48. (1) In this section, "institution" means

- (a) any educational institution for the administration of which the Minister of Advanced Education is responsible;
- (b) a correctional institution under The Corrections Act;
- (c) a hospital designated as a facility under The Mental Health Act, 1972.

This amendment will alleviate any doubts as to the application of the Act to students in work training programs in the listed academic institutions.

10. This amendment will provide higher minimum compensation rates for workers. Section 50 presently reads:

50. The amount of compensation to which an injured person is entitled under this Act

- (a) for permanent total disability shall not be less than \$275 a month, and
- (b) for permanent partial disability, shall not be less than a proportionate monthly amount calculated according to the percentage of disability assessed.

- (i) \$275 per month, where the accident occurred on or after January 1, 1974, or
 - (ii) \$365 per month, where the accident occurred on or after April 1, 1975,
- and

11. *Section 53 is amended*

- (a) *by adding after subsection (1) the following subsection:*

(1.1) On and after April 1, 1975, an injured person receiving compensation for permanent total disability or permanent partial disability under this Act or any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that person to the greater of

- (a) \$365 per month in case of permanent total disability or a proportionate monthly amount calculated according to the percentage of disability assessed in case of permanent partial disability, or
- (b) the amount of pension that person would receive apart from the provisions of this section, plus
 - (i) 32 per cent of that amount, where the accident occurred prior to 1970, or
 - (ii) 28 per cent of that amount, where the accident occurred during 1970, or
 - (iii) 25 per cent of that amount, where the accident occurred during 1971, or
 - (iv) 21 per cent of that amount, where the accident occurred during 1972, or
 - (v) 17 per cent of that amount, where the accident occurred during 1973, or
 - (vi) 11 per cent of that amount, where the accident occurred on or after January 1, 1974 and prior to April 1, 1975.

and

- (b) *as to subsection (2) by adding after the words "this section" the words "in respect of an accident occurring prior to January 1, 1974".*

12. *Section 64, subsection (3) is amended by striking out the figure "\$10,000" and by substituting therefor the figure "\$13,000".*

13. *Section 67, subsection (2) is amended by striking out the figure "\$10,000" and by substituting therefor the figure "\$13,000".*

11. These amendments will increase existing pensions in accordance with the consumer price index for Alberta and will provide the same minimum payment as awards will be pursuant to section 10 of this Bill. Section 53 presently reads:

53. (1) On and after January 1, 1974, a person receiving compensation for permanent total or permanent partial disability under any Workmen's Compensation Act of Alberta, irrespective of the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award, shall be granted an additional payment of compensation sufficient to bring the monthly payment to him up to \$275 for total disability and a proportionate amount thereof for partial disability calculated according to the percentage of disability assessed.

(2) The cost of the additional amounts of compensation paid under this section shall be paid to the Accident Fund out of the General Revenue Fund.

12. Section 64, subsection (3) presently reads:

(3) Where the assessment is based upon the payroll of the employer and the payroll shows in any one year earnings in respect of any worker in excess of \$10,000 for that year, every such excess shall be deducted from the amount of the payroll before it is used as a basis for assessment.

13. Section 67, subsection (2) presently reads:

(2) Every person rendering service to a corporation, wherever and however incorporated or constituted, under a contract of service written or oral, express or implied, whether that person is or is not a member, officer or executive of the corporation, and whether or not the corporation is or is not under legal obligation to pay such person any wages, salary or other remuneration, shall be deemed to be a worker employed by the corporation and shall be included upon the payroll thereof, and in every such case, where the person is not being paid any wages or salary, or is being paid a merely nominal or token remuneration, the Board shall, for the purposes of assessment, fix such sum as in its opinion represents a reasonable wage or salary for the service rendered by the person, having regard to the nature of the employment, but not in any case exceeding in any one year the sum of \$10,000 and the Board shall for the purpose of its assessment add the sum so fixed by it to the amount of the payroll of the corporation.

14. *Section 94 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

94. (1) Any previous provisions of this Act or any predecessor of this Act in Alberta shall be deemed to be of full force and effect insofar as they relate to any benefits provided or any right to the provision of benefits granted thereunder except to the extent that those benefits or rights are modified or revoked by express words in any subsequent *Workmen's Compensation Act* or by this Act, or by amendments to any of those Acts, indicating their application to those existing rights and benefits.

- (b) *as to subsection (2) by striking out the words "January 1, 1974" and by substituting the words "April 1, 1975", and*

- (c) *by adding after subsection (2) the following subsection:*

(3) On and after April 1, 1975, no worker whose entitlement to compensation arose prior to January 1, 1974 has the right to request a medical examination under section 28 of *The Workmen's Compensation Act*, being chapter 397 of the Revised Statutes of Alberta 1970, but all medical appeals shall be dealt with in accordance with sections 26 and 27 of this Act.

15. (1) *The Blind Workmen's Compensation Act is amended*

- (a) *by striking out the title "THE BLIND WORKMEN'S COMPENSATION ACT" and by substituting therefor the title "THE BLIND WORKERS' COMPENSATION ACT";*

- (b) *by striking out section 1;*

- (c) *by striking out section 2 and by substituting therefor the following section:*

2. In this Act,

- (a) "blind worker" means a worker as defined by *The Workers' Compensation Act*, and possessing a central visual acuity of his better eye reading 6-60 or 20-200 or less, either with or without glasses;

- (b) "Board" means The Workers' Compensation Board;

- (c) "employer" means an employer as defined in *The Workers' Compensation Act*, who has a blind worker in his employment;

- (d) "full cost of compensation" includes

14. The first amendment is to alleviate any doubt as to the application of the section. The last amendment is self-explanatory. Section 94, subsection (1) presently reads:

94. (1) The provisions of any previous Workmen's Compensation Act of Alberta shall be deemed to be of full force and effect insofar as they relate to any benefits provided or any right to the provision of benefits granted thereunder except to the extent that those benefits or rights are expressly modified or revoked by a subsequent Workmen's Compensation Act or amendments thereto or by this Act.

15. Corrects cross-references.

- (i) compensation, burial expenses, the cost of furnishing medical aid and all other amounts payable under or by virtue of *The Workers' Compensation Act*, by reason of an accident to a blind worker for which the worker is entitled to compensation under that Act, and
 - (ii) the capitalized sum or present value of the sum required as determined by the Board to provide for future payments of compensation to the worker or his dependants;
 - (e) "Institute" means the Canadian National Institute for the Blind.
- (d) *as to section 3 by striking out subsection (1) and by substituting therefor the following subsection:*

3. (1) When the full cost of compensation exceeds \$50, the Provincial Treasurer in the case of industries to which *The Workers' Compensation Act* applies

- (a) shall, when the employers are not individually liable to pay the compensation, pay the excess of the full cost of compensation over and above \$50 to the Board by way of reimbursement to the Accident Fund as defined in *The Workers' Compensation Act*, and
 - (b) shall, when the employers are individually liable to pay compensation, pay the excess of the full cost of compensation over \$50 to the employer.
- (e) *by striking out sections 4 and 5 and by substituting therefor the following sections:*

4. In making an award under *The Workers' Compensation Act* to a blind worker for injury by accident under *The Workers' Compensation Act*, the Board may have regard to any previous awards made to him for injury under that Act.

5. The assessment on the wages of a blind worker to be levied by the Board on an employer may be fixed by the Board at such an amount as the Board considers fair, having regard to the provisions of *The Workers' Compensation Act*.

- (f) *as to section 6, subsection (1) by striking out the words "blind workman" wherever they appear in the subsection and by substituting therefor the words "blind worker", and*
- (g) *as to section 7 by striking out the words "blind workman" and by substituting therefor the words "blind worker".*

(2) *The M.L.A. Compensation Act is amended*

(a) *as to section 2*

(i) *by striking out clauses (a) and (b) and by substituting therefor the following clauses:*

(a) "Board" means The Workers' Compensation Board established under *The Workers' Compensation Act*;

(b) "compensation" means

(i) in the case of a member of the Legislative Assembly

(A) the maximum payments payable under section 42 and section 47, subsection (1) of *The Workers' Compensation Act* to a worker suffering permanent total disability, or

(B) the maximum payments payable under section 43 and section 47, subsection (1) of *The Workers' Compensation Act* to a worker suffering permanent partial disability,

as the circumstances require, and

(ii) in the case of a dependant of a member of the Legislative Assembly, compensation equivalent to and payable in the same manner and upon the same basis as the compensation payable under *The Workers' Compensation Act*, to a similar dependant of a worker under that Act;

(ii) *by striking out in clause (e) the words "a workman under The Workmen's Compensation Act" and by substituting therefor the words "a worker under The Workers' Compensation Act", and*

(iii) *by striking out in clause (f) the words "The Workmen's Compensation Act" and by substituting therefor the words "The Workers' Compensation Act",*

(b) *as to section 6 by striking out the words "The Workmen's Compensation Act" and by substituting therefor the words "The Workers' Compensation Act",*

- (c) *as to section 7 by striking out the words "The Workmen's Compensation Act" and by substituting therefor the words "The Workers' Compensation Act", and*
- (d) *by striking out section 8 and by substituting therefor the following section:*

8. (1) *The Workers' Compensation Act*, with all necessary modifications, applies to members of the Legislative Assembly and their dependants as if such members and their dependants were workers or dependants of workers, respectively, under that Act.

(2) For the purposes of this Act the term "employer" in *The Workers' Compensation Act* shall be deemed to refer to the Clerk of the Legislative Assembly.

- (3) *The Motor Vehicle Accident Claims Act is amended by striking out section 20 and by substituting therefor the following section:*

20. Notwithstanding anything in *The Workers' Compensation Act*, where compensation or an award is made by the Workers' Compensation Board of any province or territory of Canada in respect of bodily injury or death of any person as a result of an automobile accident, and there is a larger judgment or settlement for the same injury or death made in respect of a claim under this Act, then

- (a) there shall be paid out of the Fund the difference between the compensation or award made by the Workers' Compensation Board and the judgment or settlement under this Act, and
- (b) the Workers' Compensation Board is not subrogated to the rights of the claimant, his legal personal representatives or his dependants and has no right whatsoever in respect of the sum paid pursuant to clause (a).

16. The words "The Workmen's Compensation Act" are struck out wherever they appear in the following provisions and the words "The Workers' Compensation Act" are substituted therefor:

The Companies Act, section 266, subsection (1), clause (d);

The Forests Act, 1971, section 21;

The Alberta Health Care Insurance Act, section 2, clause (1);

The Proceedings Against the Crown Act, section 3, subsection (1).

16. Corrects references.

17. The words "The Workmen's Compensation Board" are struck out wherever they appear in the following provisions and the words "The Workers' Compensation Board" are substituted therefor:

The Coal Mines Regulation Act, section 77 and section 95, subsections (1) and (2);

The Crown Agencies Employee Relations Act, Schedule;

The Crown Property Municipal Grants Act, section 5, clause (h);

The Alberta Health Care Insurance Act, section 25, subsection (1.1);

The Alberta Hospitals Act, section 35, subsection (5), clause (b), subclause (i);

The Nursing Homes Act, section 12, subsection (2), clause (a), subclause (ii);

The Ombudsman Act, section 2, clause (a);

The Public Service Management Pension Act, section 12, subsection (2);

The Public Service Pension Act, section 11, subsection (2) and section 37, clause (a), subclause (i);

The Alberta Government Purchasing Agency Act, section 8, subsection (2).

18. This Act comes into force on the day upon which it is assented to.

17. Corrects references.