

1976 Bill 41

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 41

THE WORKERS' COMPENSATION AMENDMENT ACT, 1976

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

BILL 41

1976

THE WORKERS' COMPENSATION AMENDMENT ACT, 1976

(Assented to _____, 1976)

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 15 is struck out and the following section is substituted therefor:*

15. (1) Where an accident happens to a worker in the course of his employment entitling him or his dependants to compensation under this Act, neither the worker, his dependants or his legal personal representative or the employer of the worker has any cause of action in respect of or arising out of the personal injury suffered by, or the death of the worker as a result of, the accident

(a) against any employer, or

(b) against any worker of an employer,
in an industry to which this Act applies when the conduct of the employer or worker which caused or contributed to the injury arose out of and in the course of employment in an industry to which this Act applies.

(2) In an action taken pursuant to section 14, subsection (1), clause (b), arising out of injury to or death of a worker a defendant may not bring third party or other proceedings against any employer or worker whom the plaintiff may not bring an action against because of the provisions of this Act, but where the court is of the opinion that such employer or worker, by his fault or negligence, contributed to the damage or loss of the plaintiff it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

3. *The following section is added after section 17:*

17.1 (1) The Board may enter into an agreement with the government of Canada or with the appropriate authority in any other province or territory of Canada providing for the sharing of the costs of claims in proportion to the

Explanatory Notes

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

2. This amendment will extend protection from action to all workers in industries to which the Act applies. It will also make clear that in determining a cause of action brought under this Act the court may take into account the contributory negligence of an employer or worker who is protected from action by the provisions of this Act.

3. This amendment will permit the Board to enter into agreements with other jurisdictions relating to contributions in respect of claims of losses where the exposure to situations likely to contribute to such losses occurred in more than one jurisdiction.

exposure or estimated amount of exposure to probable causes of the damage giving rise to the claims encountered by the claimants within their respective jurisdictional areas.

(2) All moneys paid or received by the Board pursuant to any agreement under subsection (1) shall be paid out of or into the Accident Fund, as the case may be, by the Board.

4. Section 28 is amended by striking out subsection 5 and by substituting therefor the following subsection:

(5) Where a lump sum payment has been made by the Board to a worker as settlement in full of his claim and has been so accepted by the worker, he may nevertheless subsequently receive benefits under section 55, subsection (4), the provision of additional medical aid and the payment of any temporary disability compensation in connection with the provision of the additional medical aid.

5. Section 37, subsection (4) is amended by adding at the end of clause (b) the word "or" and by adding after clause (b) the following clause:

(c) where the accident occurred on or after July 1, 1976, in the amount of \$320 per month together with an additional sum of \$90 per month in respect of each child so maintained,

6. Section 38, subsection (1) is amended by adding at the end of clause (b) the word ", or" and by adding after clause (b) the following clause:

(c) \$3,840 where the remarriage takes place on or after July 1, 1976.

7. Section 39, subsection (1) is amended by adding at the end of clause (b) the word ", or" and by adding after clause (b) the following clause:

(b.1) \$90 per month, where the death or remarriage occurs on or after July 1, 1976,

8. Section 40 is amended

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

(1.1) A dependent widow or widower receiving compensation under subsection (1) in respect of an accident occurring on or after January 1, 1974 but prior to July 1, 1976 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) \$405 per month, or

4. Section 28, subsection (5) presently reads:

(5) Where a lump sum payment has been made by the Board to a worker or a dependant as a settlement in full of his claim and has been so accepted by the worker or dependant, the worker or dependant is not entitled to receive or be paid any further or other compensation for or in respect of the degree of disability for which he was being compensated, but this subsection does not in any way prevent the application of section 55, subsection (4), the provision of additional medical aid or the payment of temporary total disability compensation in connection with the provision of the additional medical aid.

5. This amendment will set the levels of payment to foster parents in respect of accidents occurring on or after July 1, 1976. Section 37, subsection (4) presently reads:

(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 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.

6. This amendment will prescribe the amount payable upon termination of payments to a dependent widow or widower who remarries on or after July 1, 1976.

7. This amendment prescribes a new rate payable to dependent children where the dependent widow or widower has died or remarried on or after July 1, 1976.

8. These amendments increase the additional amounts payable to dependent widows or widowers receiving compensation for accidents occurring between January 1, 1974 and June 30, 1976, dependent widows or widowers receiving compensation under prior Acts, to foster parents and dependent children by prescribing the amounts that their pensions shall be raised to.

(b) the amount of pension that person would otherwise receive plus 10½ per cent of that amount.

(b) as to subsection (2)

(i) by striking out the word "and" at the end of clause (a) and by adding the word ", and" at the end of clause (b), and

(ii) by adding after clause (b) the following clause:

(c) \$320 per month commencing July 1, 1976.

(c) as to subsection (3)

(i) by striking out the word "and" at the end of clause (a) and by adding the word ", and" at the end of clause (b), and

(ii) by adding after clause (b) the following clause:

(c) \$320 per month commencing July 1, 1976.
and

(d) as to subsection (4)

(i) by striking out the word "and" at the end of clause (a) and by adding the word ", and" at the end of clause (b), and

(ii) by adding after clause (b) the following clause:

(b.1) \$90 per month commencing July 1, 1976.

9. Section 47 is amended

(a) as to subsection (1) by adding the word ", or" at the end of clause (b) and by adding after clause (b) the following clause:

(c) \$14,500 per year where the accident occurred on or after July 1, 1976.

and

(b) by striking out subsections (5) and (6).

10. Section 50, clause (a) is amended by adding the word "or" at the end of subclause (ii) and by adding after subclause (ii) the following subclause:

(iii) \$405 per month where the accident occurred on or after July 1, 1976,

11. Section 53 is amended by adding after subsection (1.1) the following subsection:

(1.2) On and after July 1, 1976, an injured person receiving compensation for permanent total disability or permanent partial disability under this Act or any prede-

9. The first amendment will increase the ceiling on the maximum rate per year in respect of which a worker can receive compensation.

The second amendment repeals subsections (5) and (6) which read as follows:

(5) Where a worker is receiving compensation for a permanent or temporary disability, he shall not receive compensation for any further or other disability in any amount that would result in him receiving in the aggregate compensation in excess of that payable for total disability.

(6) Where a worker has received a lump sum in lieu of the periodic payments that otherwise would have been payable for a permanent disability, he shall for the purposes of subsection (5) be deemed to be still in receipt of the periodic payments.

10. This amendment fixes the minimum amount of compensation for permanent total or partial disability in respect of an accident occurring on or after July 1, 1976.

11. This amendment increases disability payments.

cessor 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) \$405 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 otherwise receive pursuant to subsection (1.1), plus 10½ per cent of that amount.

12. Section 64, subsection (3) is amended by striking out the figure "\$13,000" and by substituting therefor the figure "\$14,500".

13. Section 67, subsection (2) is amended by striking out the figure "\$13,000" and by substituting therefor the figure "\$ 14,500".

14. Section 94, subsection (2) is amended by striking out the words "April 1, 1975" and by substituting therefor the words "July 1, 1976".

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

12. Section 64, subsection (3) reads as follows:

(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 \$13,000 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. This amendment increases the maximum figure at which the Board can fix as the wages for persons deemed workers who are not receiving a salary.

14. Section 94, subsection (2) presently reads:

(2) Claims in respect of accidents occurring prior to April 1, 1975 shall be administered under and in accordance with the law in effect at the time the accident occurred.