

1977 BILL 35

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 35

THE WORKERS' COMPENSATION AMENDMENT ACT, 1977

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

Bill 35

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1977

THE WORKERS' COMPENSATION AMENDMENT ACT, 1977

(Assented to _____, 1977)

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 32 is amended*

(a) *by striking out subsections (1) and (2) and by substituting therefor the following subsections:*

32. (1) Where the only dependants are persons other than those mentioned in section 30, section 37, subsection (1) or in section 39, the compensation payable as the result of an accident occurring on or after July 1, 1977 shall be a sum to be determined by the Board as reasonable and proportionate to the pecuniary loss to those dependants occasioned by the death but shall not exceed \$90 per month to a parent or parents or \$135 per month in total payments to all such dependants.

(2) On and after July 1, 1977, a dependant, other than a person mentioned in section 30, section 37, subsection (1) or in section 39, receiving compensation under this Act or any predecessor of this Act in respect of the death of a worker 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, may be granted an additional payment of compensation sufficient to bring the monthly payment to an amount not exceeding \$90 per month in the case of a parent or parents or \$135 per month in total payments to all such dependants.

(b) *as to subsection (3) by adding after the words "subsection (2)" the words "in respect of accidents occurring prior to January 1, 1974".*

Explanatory Notes

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

2. This amendment will increase the amount of compensation payable to dependants other than spouses or children from \$70 to \$90 per month for a parent or parents and from \$105 to \$135 per month as a total payment to all such dependants. Section 32(3) presently reads:
(3) The cost of any additional amounts of compensation paid under subsection (2) shall be paid into the Accident Fund from the General Revenue Fund.

3. Section 37 is amended

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

37. (1) Where an accident happens on or after January 1, 1974 and death results from the accident, the amount of the compensation payable shall be a sum to a dependent widow or widower on behalf of the widow or widower and the children of the deceased worker, if any, equal to the amount of pension that would have been received by the worker if his injury, rather than resulting in death, had resulted in permanent total disability.

(b) as to subsection (2) by striking out the words “, clause (d)”,

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

(2.1) Where a worker dies on or after July 1, 1977 as a result of an accident for which compensation is payable, irrespective of the date of the accident, the following death benefits shall be paid:

- (a) the sum of \$600 to a dependent widow or widower as a contribution to the additional expense occasioned consequent upon the death of the deceased worker;
- (b) the necessary expenses of the burial, cremation or memorial service of the worker, not exceeding \$600;
- (c) where the death occurred away from the worker's usual place of residence and it seems to the Board that transportation of the body is desirable, the necessary expenses, not exceeding \$200, of
 - (i) transporting the body from the place of death
 - (A) to the usual place of residence of the worker, or
 - (B) if the usual place of residence is outside Alberta, to the boundary of Alberta,
 - and
 - (ii) transporting the body to and from an embalmer for the purpose of embalming,

3. These amendments will increase the amount of compensation payable in respect of an accident resulting in death. Section 37(1), (a), (b), (c), (2) and (4) presently read:

37. (1) Where an accident happens on or after January 1, 1974, and death results from the accident, the amount of the compensation payable shall be

(a) the sum of \$500 to a dependent widow or widower as a contribution to the additional expense occasioned consequent upon the death of the deceased worker;

(b) the necessary expenses of the burial, cremation or memorial service of the worker, not exceeding \$450;

(c) where the death occurred away from the worker's usual place of residence and it seems to the Board that transportation of the body is desirable, the necessary expense, not exceeding \$100, of

(i) transporting the body from the place of death

(A) to the usual place of residence of the worker, or

(B) if the usual place of residence is outside Alberta, to the boundary of Alberta,

and

(ii) transporting the body to and from an embalmer for the purpose of embalming,

and where a funeral coach is used for transporting the body, the expense of such transportation shall be computed at the rate of 35 cents per mile travelled by the coach or at \$10, whichever amount is the greater;

(2) The compensation payable under subsection (1), clause (d) shall continue to be paid until the dependent widow or widower dies or remarries.

(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, or

(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,

until the child has, subject to section 39, attained the age of 18 years or died before attaining that age.

plus any additional amount in respect of transportation of the body that the Board considers appropriate.

and

(d) as to subsection (4) by adding at the end of clause (c) the word "or" and by adding after clause (c) the following clause:

(d) where the accident occurred on or after July 1, 1977, in the amount of \$345 per month, together with an additional sum of \$90 per month in respect of each child so maintained,

4. Section 38 is amended

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

(d) a sum equal to 12 times the amount of monthly compensation specified under section 40, subsection (2), where the remarriage takes place on or after July 1, 1977.

and

(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) the accident occurred prior to January 1, 1974,

5. Section 40 is amended

(a) by adding after subsection (1.1) the following subsection:

(1.2) 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 July 1, 1977 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) \$436 per month, or

4. This amendment will increase the amount of termination payments payable to widows who remarry. Section 38 presently reads:

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, or

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

(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. These amendments will increase the amount of additional compensation payments payable under the Act. Section 40(2) and (3) presently read:

(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,

(b) \$290 per month commencing April 1, 1975, and

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

(b) the amount of pension that person would otherwise receive plus 7½ per cent of that amount.

(b) as to subsection (2)

(i) by striking out the word “and” at the end of clause (b) and by adding the word “and” at the end of clause (c), and

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

(d) \$345 per month commencing July 1, 1977.

and

(c) as to subsection (3)

(i) by striking out the word “and” at the end of clause (b) and by adding the word “and” at the end of clause (c),

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

(d) \$345 per month commencing July 1, 1977.

6. Section 47, subsection (1) is amended by adding the word “, or” at the end of clause (c) and by adding after clause (c) the following clause:

(d) \$15,000 per year where the accident occurred on or after July 1, 1977.

7. Section 50, clause (a) is amended by adding the word “or” at the end of subclause (iii) and by adding after subclause (iii) the following subclause:

(iv) \$436 per month where the accident occurred on or after July 1, 1977,

(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,*
- (b) \$290 per month commencing April 1, 1975, and*
- (c) \$320 per month commencing July 1, 1976.*

6. This amendment will increase the maximum insurable earnings ceiling. Section 47(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

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

7. This amendment will increase the minimum compensation level for permanent disability. 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*
 - (i) \$275 per month, where the accident occurred on or after January 1, 1974, or*

8. Section 52, subsection (1) is amended by striking out the figure “\$100” and by substituting therefor the figure “\$150”.

9. Section 53 is amended by adding after subsection (1.2) the following subsection:

(1.3) On and after July 1, 1977, 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) \$436 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 (1.2) plus 7½ per cent of that amount.

10. Section 64, subsection (3) is amended by striking out the figure “\$14,500” and by substituting therefor the words “the current amount of maximum yearly earnings specified by section 47, subsection (1)”.

11. Section 67, subsection (2) is amended by striking out the figure “\$14,500” and by substituting therefor the words “the current amount of maximum yearly earnings specified by section 47, subsection (1)”.

(ii) \$365 per month, where the accident occurred on or after April 1, 1975, or

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

and

(b) for permanent partial disability, shall not be less than a proportionate monthly amount calculated according to the percentage of disability assessed.

8. This amendment will increase the amount of the annual clothing allowance. Section 52(1) presently reads:

52. (1) The Board may, on the application of a worker, pay an allowance not exceeding \$100 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of an upper or lower limb prosthesis or appliance supplied by the Board.

9. This amendment will increase the amount of previous permanent disability awards.

10. Section 64(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 \$14,500 for that year, every such excess shall be deducted from the amount of the payroll before it is used as a basis for assessment.

11. Section 67(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

12. Section 94, subsection (2) is amended by striking out the figure "1976" and by substituting therefor the figure "1977".

13. This Act comes into force on July 1, 1977.

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 \$14,500 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.

12. Section 94(2) presently reads:

(2) Claims in respect of accidents occurring prior to July 1, 1976 shall be administered under and in accordance with the law in effect at the time the accident occurred.