

1980 BILL 93

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 93

**THE WORKERS' COMPENSATION AMENDMENT ACT,
1980**

HON. BILL W. DIACHUK

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

Bill 93

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1980

THE WORKERS' COMPENSATION AMENDMENT ACT, 1980

(Assented to _____, 1980)

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

- 1 *The Workers' Compensation Act is amended by this Act.*
- 2 *Section 32(1) and (2) is repealed and the following is substituted:*

32(1) If the only dependants are persons other than those mentioned in section 30, 37(1) or 39, the compensation payable as the result of an accident occurring on or after January 1, 1981, 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 of the worker, but not so as in any case to make the total compensation exceed the amounts set out in section 47(1).

(2) On and after January 1, 1981, a dependant, other than a person mentioned in section 30, 37(1) or 39, receiving compensation under this Act or any predecessor of this Act in respect of the death of a worker, if the date of the award under or because of which the compensation is payable, or of the accident that occasioned the award, is prior to January 1, 1981, may be granted an additional payment of compensation to be determined by the Board as reasonable and proportionate to the pecuniary loss to that dependant occasioned by the death of the worker, but not so as in any case to make the total compensation exceed the amounts set out in section 47(1).

- 3 *Section 37 is amended*
 - (a) *in subsection (2.1)*

Explanatory Notes

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

2 Section 32 presently reads in part:

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, 1979 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 \$105 per month to a parent or parents or \$157.50 per month in total payments to all such dependants.

(2) On and after July 1, 1979, 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 \$105 per month in the case of a parent or parents or \$157.50 per month in total payments to all such dependants.

3 Section 37 presently reads in part:

(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

(i) in clause (a) by striking out “\$600” and substituting “\$1000”;

(ii) in clause (b) by striking out “\$600” and substituting “\$1200”;

(iii) by repealing clause (c) and substituting the following:

(c) if 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 of transportation, not exceeding \$400.

(b) in subsection (4) by adding “or” at the end of clause (f) and by adding the following after clause (f):

(g) where the accident occurred on or after January 1, 1981, in the amount of \$615 per month, together with an additional sum of \$126 per month in respect of each child so maintained,

(c) in subsection (6) by striking out “\$50” and substituting “\$60”.

4 Section 38 is repealed and the following is substituted:

38(1) If a dependent spouse who is receiving or is entitled to receive a pension as a result of an accident

(a) remarries on or after the coming into force of this section, or

(b) enters into a common law relationship, whether before or after the coming into force of this section, and cohabits

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,

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

(4) Where the worker dies as a 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

(f) where the accident occurred on or after July 1, 1979, in the amount of \$510 per month, together with an additional sum of \$105 per month in respect of each child so maintained,

(6) Where a worker leaves no widow or widower or where a surviving widow or widower subsequently dies or is confined to a jail, prison or institution, the Board may make from time to time such additional payments, not exceeding \$50 monthly, to a dependent child under the age of 18 years or to a dependent invalid child as in the discretion of the Board appear necessary to adequately maintain and support such child.

4 Section 38 presently reads in part:

38(1) Upon a dependent widow or widower remarrying on or after July 1, 1979, the Board shall

(a) cease paying to that widow or widower periodic amounts as compensation, and

(b) pay to that widow or widower a lump sum termination payment in the amount of \$6120.

with the common law spouse for a period of at least

- (i) 5 years, if there is no child of the common law relationship, or
- (ii) 2 years, if there is a child of the common law relationship,

and the 5 or 2 year period ends on or after the coming into force of this section,

the pension shall terminate and a lump sum termination payment shall be paid to the dependent spouse in an amount that is equivalent to pension payments for 36 months at the monthly rate payable at the time of remarriage or the end of the 5 or 2 year period, as the case may be.

(2) If, in the case of an accident occurring prior to January 1, 1974, the amount of the termination payment that was authorized to be paid to the dependent spouse of the deceased worker at the time of the accident is less than the amount of the termination payment authorized under subsection (1), the difference shall be paid to the Accident Fund out of the General Revenue Fund.

5 *Section 39(1) is amended by adding “or” at the end of clause (b.3) and by adding the following after clause (b.3):*

(b.4) \$126 per month, where the death or remarriage occurs on or after January 1, 1981,

6 *Section 40 is amended*

(a) *in subsection (1)*

(i) *by striking out “July 1, 1979” and substituting “January 1, 1981”;*

(ii) *in clause (a) by striking out “\$510” and substituting “\$615”;*

(iii) *in clause (b) by striking out “10%” and substituting “20%”;*

(b) *in subsection (2) by striking out “\$510” and substituting “\$615”;*

(c) *in subsection (4) by striking out “and” at the end of clause (b.2), by adding “and” at the end of clause (b.3) and by adding the following after clause (b.3):*

(2) *Where*

(a) *a dependent widow or widower remarries,*

(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), and*

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

the amount of such difference shall be paid to the Accident Fund out of the General Revenue Fund. Bill 93

5 Section 39(1) presently reads in part:

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

(b.3) \$105 per month, where the death or remarriage occurs on or after July 1, 1979,

6 Section 40 presently reads in part:

40(1) A dependent widow or widower or a foster-parent receiving compensation under this Act in respect of an accident that occurred on or after January 1, 1974 but prior to July 1, 1979 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent widow or widower or to the foster-parent, as the case may be, to the greater of

(a) \$510 per month, or

(b) the amount of pension that person would otherwise receive plus 10% of that amount.

(2) A dependent widow or widower or foster-parent receiving compensation under any predecessor of this Act in respect of an accident that occurred prior to January 1, 1974 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent widow or widower or to the foster-parent, as the case may be, to \$510 per month.

(b.4) \$126 per month commencing January 1, 1981,

7 *Section 47(1) is amended*

(a) *by striking out* “in industries to which the Act applies at the time of the accident” *and substituting* “at the time of the accident from all sources of employment, whether or not in an industry to which this Act applies”,

(b) *by adding* “or” *at the end of clause (f) and by adding the following after clause (f):*

(g) \$22 000 per year, where the accident occurred on or after January 1, 1981.

8 *Section 50(a) is amended by adding* “or” *at the end of subclause (vi) and by adding the following after subclause (vi):*

(vii) \$615 per month, where the accident occurred on or after January 1, 1981,

9 *Section 52(1) is amended by striking out* “\$150” *and substituting* “\$180”.

10 *Section 53 is amended by adding the following after subsection (1.5):*

(1.6) On and after January 1, 1981, 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) \$615 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 (1.5) plus 20% of that amount.

(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

(b.3) \$105 per month commencing July 1, 1979.

7 Section 47(1) presently reads in part:

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

(f) \$18 250 per year, where the accident occurred on or after July 1, 1979.

8 Section 50(a) presently reads in part:

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

(vi) \$510 per month, where the accident occurred on or after July 1, 1979.

9 Section 52(1) presently reads:

52(1) The Board may, on the application of a worker, pay an allowance not exceeding \$150 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.

10 Section 53 presently reads in part:

(1.5) On and after July 1, 1979, 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) \$510 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 (1.4) plus 10% of that amount.

11 The following is added after section 53:

53.1(1) Notwithstanding section 53, on and after January 1, 1981, an injured person receiving compensation for

(a) permanent total disability, or

(b) permanent partial disability, if the degree of disability in aggregate is at least 50%,

shall, until he reaches the age of 65 years, be granted an additional supplement that, together with any other compensation to which he is entitled, will provide a monthly amount equal to that which would have been payable had the scale of compensation in force in 1980 been in effect at the time the accident for which he is receiving compensation occurred.

(2) The amount of a supplement, if any, to which a person is entitled under subsection (1) shall be considered to be part of the compensation he is receiving for the purposes of determining the additional payment, if any, to which he is entitled under section 53(1.6).

(3) In respect of an accident occurring prior to January 1, 1974, the cost of any increases in compensation on or after January 1, 1981 which result from the effect of section 53(1.6) on the supplement referred to in subsection (1) of this section shall be paid to the Accident Fund out of the General Revenue Fund.

12 Section 94(2) is amended by striking out “July 1, 1979” and substituting “January 1, 1981”.

13(1) This Act, except section 4, comes into force on January 1, 1981.

(2) Section 4 comes into force on the day upon which this Act is assented to.

11 Additional supplement.

12 Section 94(2) presently reads:

(2) Claims in respect of accidents occurring prior to July 1, 1979 shall be administered under and in accordance with the law in effect at the time the accident occurred.