

1981 BILL 61

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Third Session, 19th Legislature, 30 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 61**

**WORKERS' COMPENSATION AMENDMENT ACT, 1981**

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HON. MR. DIACHUK

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 61*

## **BILL 61**

1981

### **WORKERS' COMPENSATION AMENDMENT ACT, 1981**

*(Assented to \_\_\_\_\_, 1981)*

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

*1 The Workers' Compensation Act, 1981 is amended by this Act.*

*2 Section 1(1)(v)(i)(B) is amended by striking out "employer" and substituting "person".*

*3 Section 5 is amended by striking out "Edmonton, Calgary or any other place the Board directs" and substituting "any place the Board considers appropriate".*

*4 Section 10(2) is repealed and the following is substituted:*

*(2) If approval of an application under this section is delayed by inadvertence of the Board, the Board may make its approval effective from the date the application would otherwise have been approved.*

## Explanatory Notes

**1** This Bill will amend chapter W-16 of the Statutes of Alberta, 1981.

**2** Section 1(1)(v)(i)(B) presently reads:

*1(1) In this Act,*

*(v) "proprietor" means*

*(i) an individual who owns and operates a business*

*(A) the intangible assets of which, including goodwill but excluding any value associated with and attributable solely to the individual, are not negligible, or*

*(B) the general business activity of which generally involves working for more than 1 employer, and*

*(ii) any other individual who is deemed by a direction or order of the Board to be a proprietor;*

**3** Section 5 presently reads:

*5 The office of the Board shall be situated at Edmonton and meetings of the Board shall be held in Edmonton, Calgary or any other place the Board directs.*

**4** Section 10(2) presently reads:

*(2) If the Board's approval of an application under this section is delayed by inadvertence, the Board may make its approval effective from the date the application would otherwise have been approved.*

5 *Section 17(5)(d) is amended by striking out “required to be paid”.*

6 *Section 20 is amended*

*(a) in subsection (1) by striking out “If an accident does not disable a worker for longer than the day of the accident,” and substituting “If an accident disables a worker for all or part of the day of the accident,”;*

*(b) by repealing subsection (2) and substituting the following:*

(2) If an accident disables a worker for longer than the day of the accident,

(a) the employer shall pay compensation to the worker in respect of the day of the accident in accordance with subsection (1)(a), and

(b) the Board shall pay compensation to the worker in respect of every day after the day of the accident to which he is entitled under this Act to receive that compensation, excluding any day on which he would not have worked in the normal course of his employment, or for which he would not have been paid.

*(c) in subsections (3), (4) and (5) by adding “or (2)(a)” after “(1)(a)”.*

7 *Section 33(3) is amended by adding “to the extent that they are not paid for under the Alberta Health Care Insurance Act” after “costs of the investigation”.*

**5** Section 17(5)(d) presently reads:

*(5) If money is received by the Board because it is subrogated to the rights of a worker, his legal personal representatives or his dependants,*

*(d) if the balance of the money remaining in the Board's hands after payment of all legal costs incurred in recovering the money and after payment of the amounts, if any, required to be paid under clauses (b) and (c), exceeds the costs of the accident to the Board, including the capital cost of any pension award, the excess shall be paid over to the worker, his legal personal representatives or his dependants, as the case may be.*

**6** Section 20 presently reads:

*20(1) If an accident does not disable a worker for longer than the day of the accident,*

*(a) the employer shall, by the end of the next regularly scheduled pay period after that day, pay compensation to the worker for that day in an amount equal to the minimum normal net wage the worker would have received for that day if he had not been disabled and had been available for work in the normal course, and*

*(b) the Board is not responsible for providing compensation to the worker, other than medical aid, for that day.*

*(2) If an accident disables a worker for longer than the day of the accident, the Board shall pay compensation to the worker from and including the day following that day but excluding any day on which the worker would not have worked in the normal course of his employment or for which he would not have been paid.*

*(3) An employer may refuse to make a payment under subsection (1)(a) until the worker provides to him a report from a physician of the worker's choice stating that the injury resulting from the accident was the cause of the consequent absence of the worker from work.*

*(4) No employer shall deduct sick pay entitlement or otherwise reduce the usual benefits to which the worker is entitled by reason of the employer having to make a payment under subsection (1)(a).*

*(5) If an employer contravenes subsection (1)(a), the Board*

*(a) may pay to the worker the amount due under that subsection, and in that case the employer is liable to repay to the Board the amount so paid, and*

*(b) may impose a fee of not more than \$100 on the employer each time the Board makes a payment under clause (a).*

**7** Section 33(3) presently reads:

*(3) If a worker claims compensation under this Act the Board, in order to assist it in determining the worker's entitlement to compensation, may*

8 *Section 51 is amended*

*(a) in subsection (8)(a) and (b) by striking out “\$615” and substituting “\$675”;*

*(b) in subsection (9) by adding “the greater of” after “be”, and by striking out “or” and substituting “and”.*

9 *Section 52(1) is amended*

*(a) in clause (a) by striking out “\$615” wherever it occurs and substituting “\$675”;*

*(b) in clause (b) by striking out “1980” and substituting “1981” and by striking out “20%” and substituting “10%”.*

10 *Section 65 is amended by striking out “\$126” and substituting “\$139”.*

11 *Section 66 is amended by striking out “\$60” and substituting “\$66”.*

12 *Section 68 is amended by striking out “\$126” and substituting “\$139”.*

13 *Section 69 is amended*

*(a) require that a medical investigation be conducted in respect of the worker in the manner it considers necessary, or*

*(b) accept the results of a medical investigation already conducted in respect of that worker,*

*and, in either case, the Board may pay the costs of the investigation.*

**8** Section 51 presently reads in part:

*(8) Compensation for permanent total disability and permanent partial disability is payable to the worker during his lifetime and shall not be less than*

*(a) in the case of permanent total disability, \$615 per month, and*

*(b) in the case of permanent partial disability, a proportionate part of \$615 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.*

*(9) Compensation for temporary total disability and temporary partial disability is payable to the worker for only as long as the disability lasts, and compensation for temporary total disability shall be*

*(a) the bi-weekly equivalent of the amount that he would have received under subsection (7) had he been permanently totally disabled, or*

*(b) his average bi-weekly net earnings, if they are less than the sum referred to in subsection (8)(a).*

**9** Increase in monthly pension.

**10** Increase in monthly payment to child.

**11** Increase in additional monthly payment to child.

**12** Increase in monthly payment to child.

**13** Increase in monthly payment.

- (a) in subsection (1)(a) by striking out “\$615” and substituting “\$675”;
- (b) in subsection (1)(b) by striking out “1980” and substituting “1981” and by striking out “20%” and substituting “10%”;
- (c) in subsection (2) by striking out “\$615” and substituting “\$675”;
- (d) in subsection (3) by striking out “\$126” and substituting “\$139”.

14 Section 72 is amended by striking out “or” at the end of clause (a) and substituting “and” and by striking out “, or both (a) and (b)”.

15 Section 73 is repealed and the following is substituted:

**73(1)** All questions as to the necessity, character and sufficiency of any medical aid provided to a worker who suffers an accident, whether that medical aid is in the form of

- (a) basic health services as defined in the *Alberta Health Care Insurance Act*,
- (b) insured services provided for under the *Alberta Hospitals Act*, or
- (c) additional medical aid provided for under subsection (2),

shall be determined by the Board.

(2) Notwithstanding that a worker who suffers an accident receives or is entitled to receive

- (a) basic health services as defined in the *Alberta Health Care Insurance Act*, or
- (b) insured services provided for under the *Alberta Hospitals Act*,

or both, the Board may provide to the worker and pay for any additional medical aid that it considers necessary if it considers



**14** Section 72 presently reads:

*72 If a worker dies as a result of an accident for which compensation is payable, the Board shall, subject to the maximum amounts prescribed in the regulations, pay*

*(a) a sum of money to assist the dependent spouse in defraying costs resulting from the death of the worker, or*

*(b) the necessary expenses for burial or cremation, including the reasonable cost of transporting the body,*

*or both (a) and (b).*

**15** Section 73 presently reads:

*73(1) If, in the opinion of the Board, it is in the best interests of an injured worker, in order to cure and relieve him from the effects of the injury, to provide a special surgical operation or other special treatment, the Board may provide that operation or treatment.*

*(2) If the Board is of the opinion that an injury would be alleviated by the supplying of any apparatus usually provided in such cases, it shall supply the apparatus to the worker.*

*(3) The Board shall provide for the repair, maintenance or renewal of any apparatus provided by the Board that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear for as long as the disability in respect of which the apparatus was supplied continues.*

(c) that the additional medical aid is not provided for or sufficiently provided for under either of the Acts referred to in clauses (a) and (b), and

(d) that the provision of the additional medical aid is in the best interests of the worker in order to diagnose or cure the injury or to relieve the worker from the effects of the injury.

(3) The Board shall provide for the repair, maintenance and renewal of any apparatus provided by the Board under subsection (2) that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear for as long as the disability in respect of which the apparatus was supplied continues.

*16 Section 75 is repealed and the following is substituted:*

**75** The Board shall determine the amount payable to any person in respect of additional medical aid provided under section 73(2) and no action lies against

(a) any person other than the Board for the recovery of any money in connection with that medical aid, or

(b) the Board for any money in excess of the amount determined by it under this section to be payable.

*17 Section 79 is amended by striking out “medical aid under this Part” and substituting “additional medical aid”.*

*18 Section 81 is amended by adding “, insured services provided for under the Alberta Hospitals Act” before “or additional”.*

**16** Section 75 presently reads:

*75(1) In addition to basic health services as defined in The Alberta Health Care Insurance Act that are provided to a worker who suffers an accident, the Board may, at the time of the accident and through the period of disability, provide to the worker any additional medical aid it considers reasonably necessary to diagnose, cure or give relief from the effects of the injury.*

*(2) All questions as to the necessity, character and sufficiency of basic health services or additional medical aid provided under subsection (1) shall be determined by the Board.*

*(3) The Board shall determine the amount payable to any person in respect of additional medical aid provided under subsection (1) and no action lies against*

*(a) any person other than the Board for the recovery of any money in connection with that medical aid, or*

*(b) the Board for any money in excess of the amount determined by it under this subsection to be payable.*

**17** Section 79 presently reads:

*79 If a worker requires medical aid under this Part, the Board may, if it considers it appropriate, permit the worker to select the physician of his choice.*

**18** Section 81 presently reads:

*81 Medical aid to which a worker is entitled under this Part, whether in the form of basic health services as defined in The Alberta Health Care Insurance Act or additional medical aid for which the Board is responsible, shall be provided to or in respect of the worker at no cost to him.*

19 Section 123(1) is amended by adding “, including the Crown,” after “person”.

20 Section 124(1) is amended by striking out “Board may issue its” and substituting “secretary may issue a”.

21 Section 147(1)(l) is amended by striking out “prescribing” and substituting “governing”.

22 Section 151 is amended by adding the following after subsection (1):

(1.1) *The Alberta Health Care Insurance Act is amended in section 2(1) by striking out “The Workers’ Compensation Act or” and by striking out “workmen’s” and substituting “workers”.*

(1.2) *The Alberta Hospitals Act is amended*

(a) *in section 49(1)(b) by striking out “workmen’s compensation statute of any province” and substituting “law of any jurisdiction outside of Alberta relating to workers’ compensation”;*

(b) *in section 52 by adding the following after subsection (7):*

(8) *This section is subject to sections 16, 17 and 18 of the Workers’ Compensation Act, 1981.*

23 *This Act comes into force on January 1, 1982.*

**19** Section 123(1) presently reads:

*123(1) Where any work is performed by a contractor for any person (in this section called the "principal"),*

*(a) both the principal and the contractor are liable for the amount of any contribution pursuant to an assessment relating to that work, and*

*(b) that amount may, in the discretion of the Board, be collected from either of them, or partly from one and partly from the other,*

*but in the absence of any term in the contract to the contrary, the contractor is, as between himself and the principal, liable for that amount.*

**20** Section 124(1) presently reads:

*124(1) Where default is made in the payment of all or part of a contribution owing pursuant to an assessment or any other money due to the Board under this Act, the Board may issue its certificate or certified statement setting out the basis of the payment to be made, the amount remaining unpaid and the person by whom it is payable and directing the payment of the amount by that person.*

**21** Section 147(1)(l) presently reads:

*147(1) The Lieutenant Governor in Council may make regulations*

*(l) prescribing the legal costs and fees payable for the purposes of sections 17(3) and 29(2);*

**22** Additional consequential amendments.