

1990 BILL 15

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Second Session, 22nd Legislature, 39 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 15

**WORKERS' COMPENSATION AMENDMENT ACT, 1990**

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HON. MR. TRYNCHY

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 15*

## **BILL 15**

1990

### **WORKERS' COMPENSATION AMENDMENT ACT, 1990**

*(Assented to \_\_\_\_\_, 1990)*

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 3.1(a) is amended by adding "and" at the end of  
subclause (ii), striking out "and" at the end of subclause (iii) and  
repealing subclause (iv).*

*3 Section 7(1)(b) is amended by striking out "where the subject  
matter of the decision consists only of a direction of the Board under  
section 89(2)".*

## Explanatory Notes

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

**2** Section 3.1(a) presently reads:

*3.1 The board of directors*

*(a) shall*

*(i) determine the Board's compensation policy,*

*(ii) review and approve the programs and operating policies of the Board,*

*(iii) consider and approve annual operating and capital budgets of the Board, and*

*(iv) hear appeals under section 117 from decisions of the assessment review committee,*

**3** Section 7(1)(b) presently reads:

*7(1) Subject to section 8(7), the Appeals Commission has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act and the regulations in respect of*

*(b) appeals from decisions of the assessment review committee under section 116 where the subject matter of the decision consists only of a direction of the Board under section 89(2),*

4 *Section 42(5) is repealed.*

5 *Section 51 is amended*

(a) *in subsection (4) by adding “or a larger amount prescribed by order of the Board” after “\$40 000”;*

(b) *by adding the following after subsection (4):*

(4.1) An order referred to in subsection (4)

(a) does not have any effect unless it is approved by the Lieutenant Governor in Council, and

(b) applies to workers who have the accident on or after the coming into force of the order.

(c) *in subsection (6) by striking out “\$730” wherever it occurs and substituting “\$900”.*

6 *Section 52 is amended*

(a) *in subsection (1)*

(i) *by adding “or under this Act or receiving a supplement under section 59” after “this Act”;*

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

(c) on and after January 1, 1990, the greater of

(i) \$900 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$900 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and

4 Section 42(5) presently reads:

*(5) In the case of a lump sum payment in respect of an accident that occurred before January 1, 1974, the difference between*

*(a) the amount of the lump sum payment actually paid, and*

*(b) the lump sum payment that would have been payable had it been computed on the basis of the rate of compensation payable at the time of the accident*

*shall be paid to the Accident Fund out of the General Revenue Fund.*

5 Section 51(4) and (6) presently read:

*(4) In computing net earnings for the purposes of this Act, no regard shall be taken of the aggregate gross annual earnings of the worker in excess of \$40 000.*

*(6) 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, \$730 per month, and*

*(b) in the case of permanent partial disability, a proportionate part of \$730 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.*

6 Section 52 presently reads:

*52(1) A worker receiving compensation for permanent total disability or permanent partial disability under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that person to,*

*(a) on and after January 1, 1982, the greater of*

*(i) \$675 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$675 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and*

*(ii) the amount of pension that worker would otherwise receive under section 53 of the former Workers' Compensation Act as at December 31, 1981, plus 10% of that amount;*

(ii) the amount of pension that worker would otherwise receive under clause (b) plus 10% of that amount, not to exceed an amount equal to the maximum pension payable under section 51.

(b) *by repealing subsection (2).*

7 *The following is added after section 53:*

**53.1(1)** The Board may by order, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amounts payable as compensation to persons who are receiving compensation under this Act or any predecessor of this Act in respect of permanent total disability, permanent partial disability or death of a worker.

(2) An order referred to in subsection (1) does not have any effect unless it is approved by the Lieutenant Governor in Council.

(3) An adjustment authorized by an order referred to in subsection (1) may not be used to increase a pension above the maximum pension payable under section 51.

8 *Section 60(1) is amended by striking out "partial disability" and substituting "permanent partial disability".*

9 *Section 65 is amended by striking out "\$150" and substituting "\$165".*

(b) *on and after July 1, 1986, the greater of*

(i) *\$730 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$730 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and*

(ii) *the amount of pension that worker would otherwise receive under clause (a) plus 8% of that amount, not to exceed an amount equal to the maximum pension payable under section 51.*

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

7 Cost of living adjustments.

8 Section 60(1) presently reads:

*60(1) In the case of an accident causing partial disability, if the Board is satisfied that the worker's net earnings after the accident together with any compensation he is receiving with respect to that accident are less than his net earnings calculated under section 51 the Board may, in addition to the compensation payable under that section, pay compensation in an amount up to 90% of the earnings loss, according to what percentage of the earnings loss is, in the Board's opinion, caused by the residual disability.*

9 Section 65 presently reads:

*65 Notwithstanding any payment to a dependent spouse under section 64, the Board may pay compensation to a dependent child of the deceased worker who is not residing with the dependent*

*10 Section 66 is amended by striking out "\$75" and substituting "\$83".*

*11 Section 68 is amended by striking out "\$150" and substituting "\$165".*

*12 Section 69 is amended*

*(a) in subsection (1) by adding the following after clause (b):*

*(c) on and after January 1, 1990, the greater of*

*(i) \$900 per month, and*

*(ii) the amount of pension that person would otherwise receive under clause (b) plus 10% of that amount, not to*



*spouse at the time of the worker's death in an amount not exceeding \$150 per month.*

**10** Section 66 presently reads:

*66 If a worker dies as a result of an accident and leaves no spouse, or if a surviving spouse subsequently dies or is confined to an institution, prison or correctional institution, the Board may make additional payments of not more than \$75 per month to a dependent child of the worker to assist in his maintenance and support.*

**11** Section 68 presently reads:

*68 If, with respect to an accident that occurs before January 1, 1982, the dependent spouse of the worker, on or after January 1, 1982,*

*(a) dies,*

*(b) marries, or*

*(c) enters into a common law relationship and cohabits with the common law spouse for a period of*

*(i) at least 5 years, or*

*(ii) at least 2 years, if there is a child of that common law relationship,*

*the Board shall pay to each dependent child of the worker who is not being maintained pursuant to section 69(3), compensation at the rate of \$150 per month*

*(d) until the child reaches the age of 18 years, or*

*(e) 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.*

**12** Section 69 presently reads:

*69(1) A dependent spouse or a foster-parent receiving compensation under the former Workers' Compensation Act in respect of an accident that occurred on or after January 1, 1974 but prior to January 1, 1982 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent spouse or the foster-parent, as the case may be, to,*

exceed an amount equal to the maximum pension payable under section 51.

*(b) in subsection (2) by striking out "\$730" and substituting "\$900";*

*(c) in subsection (3) by striking out "\$150" and substituting "\$165".*

*13 Section 71 is repealed.*

*14 The following is added after section 85:*

**85.1** To offset the cost of compensation paid in respect of accidents that occurred prior to January 1, 1974, the following amounts shall be paid to the Accident Fund out of the General Revenue Fund during the following fiscal years of the Government:

(a) \$13 800 000 in 1990/91;

(a) on and after January 1, 1982, the greater of

(i) \$675 per month, and

(ii) the amount of pension that person would otherwise receive under the former Workers' Compensation Act as at December 31, 1981, plus 10% of that amount;

(b) on and after July 1, 1986, the greater of

(i) \$730 per month, and

(ii) the amount of pension that person would otherwise receive under clause (a) plus 8% of that amount, not to exceed an amount equal to the maximum pension payable under section 51.

(2) A dependent spouse 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 spouse or to the foster-parent, as the case may be, to \$730.

(2.1) If more than 1 person is acting as a foster-parent, the Board shall divide any amount payable under subsection (1) or (2) proportionately among those persons according to the number of children in respect of whom they are acting as foster-parents.

(3) A dependent child receiving compensation under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that dependent child to the sum of \$150.

**13** Section 71 presently reads:

*71 The cost of any additional amounts of compensation paid under section 69 or 70(2) in respect of accidents occurring prior to January 1, 1974 shall be paid to the Accident Fund out of the General Revenue Fund.*

**14** Payments from General Revenue Fund.

(b) \$10 900 000 in 1991/92;

(c) \$8 200 000 in 1992/93;

(d) \$5 500 000 in 1993/94;

(e) \$2 750 000 in 1994/95.

*15 Section 89(3) is repealed and the following is substituted:*

(3) For the purposes of this Act, the experience account of the employer of the worker shall not take into consideration earnings from other employment that the worker had at the time of the accident.

*16 Section 98 is amended by adding “, or such larger amount established under section 51(4),” after “\$40 000”.*

*17 Section 117 is repealed.*

*18 Section 126(2) is amended by striking out “mortgages” and substituting “security interests as defined in the Personal Property Security Act”.*

**15** Section 89(3) presently reads:

*(3) For the purposes of this Act, the experience account of an employer shall not take into consideration earnings of workers of that employer received from a source other than that employer.*

**16** Section 98 presently reads:

*98 Where the assessment is based on the payroll of the employer and the payroll shows in a year gross earnings in respect of any worker in excess of \$40 000 for that year, the excess amount shall be deducted from the amount of the payroll before it is used as a basis for assessment.*

**17** Section 117 presently reads:

*117(1) If an interested party is dissatisfied with a decision of the assessment review committee, other than a decision referred to in section 7(1)(b), he may appeal to the board of directors in accordance with the regulations.*

*(2) In considering an appeal from the assessment review committee the board of directors shall consider the records and information available to the assessment review committee relating to the matter under consideration and shall give all interested parties an opportunity to be heard and present any new or additional evidence.*

*(3) The board of directors may confirm, reverse or vary the decision appealed from.*

**18** Section 126(2) presently reads:

*(2) Subject to subsection (3) and section 127, the charge created by subsection (1) is payable in priority over all writs, judgments, debts, liens, charges, mortgages, rights of distress, assignments (including assignments of book debts) and other claims or encumbrances of whatever kind of any person, including the Crown, whether legal or equitable in nature, whether absolute or not, whether specific or floating, whether crystallized or otherwise perfected or not and whenever created or to be created.*

19 *Section 126.1(2) is amended*

*(a) by repealing that portion following clause (b) and preceding clause (c) and substituting the following:*

any security interest as defined in the *Personal Property Security Act* that is created by the employer

*(b) by repealing that portion following clause (d) and substituting the following:*

is void as against the Board to the extent of money that has not, at the time of default, been paid under the security interest to the holder of it regardless of whether the security interest is created before or after the date the contribution or other money becomes due or the default occurs.

20 *The following is added after section 127:*

**127.1** The Board may, in respect of a charge created by section 126(1), register a financing statement in the Personal Property Registry under the *Personal Property Security Act*.

21 *Section 141(3) is amended by striking out “or 41” and “or 117”.*

**19** Section 126.1(2) presently reads:

*(2) When an employer in an industry to which this Act applies defaults in the payment of*

*(a) all or part of a contribution owing pursuant to an assessment, or*

*(b) all or part of any other money due to the Board under this Act,*

*any charge, whether specific or floating, that is contained in a debenture and any mortgage that is contained in a bill of sale as defined in the Bills of Sale Act that is created by the employer*

*(c) on his personal property in Alberta, or*

*(d) on any other personal property in Alberta that is used by the employer in or in connection with, or produced by him in, the industry with respect to which he is assessed or the money becomes due*

*is void as against the Board to the extent of money that has not, at the time of default, been paid under the charge or mortgage to the holder of it regardless of whether the charge or mortgage is created before or after the date the contribution or other money becomes due or the default occurs.*

**20** Registration under Personal Property Security Act.

**21** Section 141(3) presently reads:

*(3) Notwithstanding subsections (1) and (2) and section 29(3), where a matter is being reviewed or appealed under section 40 or 41 or 116 or 117,*

*(a) the worker, or the worker's personal representative or dependant in the case of the death or incapacity of the worker, or the agent of any of them, and*

*(b) the employer or his agent*

*are entitled to examine all information in the Board's files that is relevant to the issue under review or appeal, and those persons shall not use or release that information for any purpose except for the purpose of pursuing the review or appeal.*

*22(1) Sections 5(c), 6(a), 9, 10, 11 and 12 are deemed to have come into force on January 1, 1990.*

*(2) Sections 18 to 20 come into force on October 1, 1990.*



**22** Coming into force.