

1984

c 38 Workers' Compensation Amendment Act, 1984 (No. 1)

Ontario

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CHAPTER 38

An Act to amend the Workers' Compensation Act

Assented to June 27th, 1984

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

1.—(1) Clauses 36 (1) (a), (c), (d), (e) and (f) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 1, are repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the worker, not exceeding \$1,500;
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- (c) where the widow or widower is the sole dependant, a monthly payment of \$593, effective the 1st day of July, 1984;
- (d) where the dependants are a widow or widower and one or more children, a monthly payment of \$593 with an additional monthly payment of \$165 to be increased upon the death of the widow or widower to \$185 for each child under the age of sixteen years, effective the 1st day of July, 1984;
- (e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$185, effective the 1st day of July, 1984;
- (f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding, in the whole, \$593 a month effective the 1st day of July, 1984.

(2) Clause 36 (1) (a) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

(3) Clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing on or after the 1st day of July, 1984, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

(4) The amounts payable under clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, do not apply to a lump sum award or to payments due prior to the 1st day of July, 1984.

2.—(1) Subsection 36 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(6) In addition to any other compensation provided for, the widow or widower, or where the worker leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,500.

(2) Subsection 36 (6) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

3. Subsection 43 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 4, is repealed and the following substituted therefor:

Increase
in payments

(8) The amounts payable under this section shall be increased if the injury occurred on or before the 30th day of June, 1984 by adding thereto a factor of 5 per cent effective the 1st day of July, 1984.

Limitation
under this
section

(9) The amount of compensation to which a worker is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings of \$26,800 effective on the 1st day of July, 1984 for amounts accruing on and after the 1st day of July, 1984.

Application

(10) Subsections (8) and (9) do not apply to an award that was previously commuted or paid as a lump sum under subsection (4), an award under subsection (6) or an award under clause 44 (b).

4.—(1) Section 44 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 5, is repealed and the following substituted therefor:

44. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured worker is entitled shall not be less than, Minimum
amount of
compensation

(a) for temporary total disability,

(i) \$188 a week, where the worker's average earnings were not less than \$188 a week, from the 1st day of July, 1984, and

(ii) the amount of the worker's earnings, where the worker's average earnings are less than \$188 a week, from the 1st day of July, 1984,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,

(i) for permanent total disability, \$826 a month from the 1st day of July, 1984, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or

(c) alternatively to subclause (b) (i), for permanent total disability, the benefits which would have been payable from time to time under clauses 36 (1) (c), (d) and (e) and under section 38, as if the worker had died from the injury.

(2) Section 44 of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1984.

5.—(1) Subsection 45 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 6, is repealed and the following substituted therefor:

How average
earnings to
be computed

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the worker was remunerated but not so as in any case to exceed the rate of \$26,800 per annum.

(2) Subsection 45 (1) of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, to benefits arising under section 42 of the said Act and to benefits arising under section 43 of the said Act, as amended by section 3 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 43 (4) or to an award under subsection 43 (6) or to an award under clause 44 (b) of the said Act, and nothing in subsection (1) of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

6.—(1) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 7, is repealed and the following substituted therefor:

(b) on application, an allowance not exceeding \$350 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$175 a year in respect of an upper limb prosthesis where the lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

.

(2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection (1) of this section, applies to payments accruing on and after the 1st day of July, 1984, but nothing therein entitles any person to claim additional payment for any period prior to the 1st day of July, 1984.

Commence-
ment

7. This Act comes into force on the 1st day of July, 1984.

Short title

8. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.