

1985

## c 3 Workers' Compensation Amendment Act, 1985 (No. 1)

Ontario

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## CHAPTER 3

### An Act to amend the Workers' Compensation Act

*Assented to July 12th, 1985*

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

**1.—(1) Section 36 of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is amended by adding thereto the following subsection:**

(16) The amounts payable under this section as periodic payments shall be increased if the worker's death occurred on or before the 30th day of June, 1985 by adding thereto a factor of 5 per cent effective the 1st day of July, 1985, but the total periodic payments after the application of this subsection shall not exceed 90 per cent of the net average earnings of the deceased worker at the time of injury, calculated as if the worker's average earnings were \$31,500 per annum. Adjustment

(2) Subsection 36 (16) of the said Act, as enacted by subsection (1) of this section, does not apply where payments will be increased under subsection 42 (4), (5) or (6), as amended by section 2 of this Act.

2. Subsections 42 (3), (4), (5) and (6) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, are amended by striking out "\$10,500" wherever that amount appears and inserting in lieu thereof in each instance "\$11,025".

**3.—(1) Section 45 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by adding thereto the following subsection:**

(13) The amounts payable under this section shall be increased if the worker's injury occurred on or before the 30th day of June, 1985 by adding thereto a factor of 5 per cent effective the 1st day of July, 1985, but the total payments after Adjustment

the application of this subsection shall not exceed 90 per cent of the net average earnings of the worker, calculated as if the worker's average earnings were \$31,500 per annum.

**(2) Subsection 45 (13) of the said Act, as enacted by subsection (1) of this section, does not apply where payments will be increased under subsection 42 (3), as amended by section 2 of this Act.**

**4. Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 38, section 6, is repealed and the following substituted therefor:**

- (b) on application, an allowance not exceeding \$368 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 \$184 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,

**5. Section 133 of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37, is amended by adding thereto the following subsections:**

Idem

(4) Where a worker who was in receipt of temporary disability benefits on the 1st day of April, 1985, and who was in receipt of such benefits on the 1st day of July, 1985 received an increase in benefits under subsection (3) that was less than 5 per cent, the Board shall adjust the rate of compensation by adding thereto an additional amount effective the 1st day of July, 1985, such that the increase in the rate under this subsection when combined with the increase under subsection (3) is equal to 5 per cent, but the compensation rate resulting from the adjustment shall not exceed the maximum established by sections 39 and 45, as continued by section 132, as if the maximum average earnings set out in the said section 45 were \$28,200 per annum.

Idem

(5) Where a worker was in receipt of temporary disability benefits on the 1st day of July, 1985, and the average earnings of the worker computed under section 45, as continued by section 132, were equal to or greater than \$26,800 per annum, the Board shall adjust the rate of compensation effective the 1st day of July, 1985, by adding thereto an additional 5 per cent, but the compensation rate resulting from the adjustment

shall not exceed the maximum established by sections 39 and 45, as continued by section 132, as if the maximum average earnings set out in the said section 45 were \$28,200 per annum.

(6) Subsection (5) does not apply to a worker who receives an adjustment under subsection (4). Non-application

**6. The said Act is amended by adding thereto the following section:**

**133a.** Clauses 36 (1) (c), (d), (e) and (f) of this Act, as continued by section 132, are repealed and the following substituted therefor: s. 36 (1)  
(c-f),  
re-enacted

- (c) where the widow or widower is the sole dependant, a monthly payment of \$641, effective the 1st day of July, 1985;
- (d) where the dependants are a widow or widower and one or more children, a monthly payment of \$641 with an additional monthly payment of \$179 to be increased upon the death of the widow or widower to \$200 for each child under the age of sixteen years, effective the 1st day of July, 1985;
- (e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$200, effective the 1st day of July, 1985;
- (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, \$641 a month effective the 1st day of July, 1985.

**7. Section 136 of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37, is amended by adding thereto the following subsection:**

(2) Subsections 43 (8), (9) and (10) of this Act, as continued by section 132, are repealed and the following substituted therefor: s. 43 (8-10),  
re-enacted

(8) The amounts payable under this section shall be increased if the injury occurred on or before the 31st day of Increase  
in payments

March, 1985 by adding thereto a factor of 5 per cent effective the 1st day of July, 1985.

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 \$28,200.

Non-  
application

(10) Subsections (8) and (9) do not apply to an award under clause 44 (b).

**8. The said Act is further amended by adding thereto the following section:**

s. 44,  
re-enacted

**136a.** Section 44 of this Act, as continued by section 132, is repealed and the following substituted therefor:

Minimum  
amount of  
compensation

**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,

- (a) for temporary total disability,
  - (i) \$198 a week, where the worker's average earnings were not less than \$198 a week, from the 1st day of July, 1985, and
  - (ii) the amount of the worker's earnings, where the worker's average earnings are less than \$198 a week, from the 1st day of July, 1985,

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, \$868 a month from the 1st day of July, 1985, 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.

**9.** Section 137 of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37, is amended by adding thereto the following subsection:

(2a) Section 52 of this Act, as amended by section 4 of the *Workers' Compensation Amendment Act, 1985*, being chapter 3, applies to this Act, as continued by section 132. Idem

**10.** Increases in amounts payable under the said Act, as a result of the enactment of this Act, apply to payments accruing on or after the 1st day of July, 1985, and nothing in this Act entitles any person to claim additional compensation for any period before the 1st day of July, 1985 or with respect to any award commuted or paid as a lump sum before that day. Transition

**11.** This Act shall be deemed to have come into force on the 1st day of July, 1985. Commence-  
ment

**12.** The short title of this Act is the *Workers' Compensation Amendment Act, 1985*. Short Title

