

1985

## c 17 Workers' Compensation Amendment Act, 1985 (No. 2)

Ontario

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## CHAPTER 17

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

*Assented to December 20th, 1985*

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

**1.—(1)** Subsection 11 (2) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out "44" in the fourth line and inserting in lieu thereof "42".

(2) Subsection 11 (3) of the said Act is amended by striking out "39 and 45" in the third line and inserting in lieu thereof "41 and 44".

**2.** Subsection 86b (4) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is repealed.

**3.** Subsection 105 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of a worker who has been paid more than the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41, the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced.

Deduction  
from payroll

**4.** Subsection 122 (6) of the said Act is amended by striking out "45" in the third line and inserting in lieu thereof "43" and by striking out "the rate provided by subsection 45 (1)" in the twelfth and thirteenth lines and inserting in lieu thereof "the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41".

**5.** The said Act is amended by adding thereto the following Part:

## PART IV

1986  
adjustment

**138.**—(1) Subject to subsections (2) and (3), on the 1st day of January, 1986, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying an indexing factor of 1.7 per cent; and
- (b) adjust average earnings by applying an indexing factor of 1.7 per cent and the Board shall make the consequential changes to the compensation payable under this Act and under provisions continued by section 132.

Exception

(2) On the 1st day of January, 1986, the amounts set out in clauses 36 (1) (c), (d), (e) and (f), as continued by section 132, are increased by 11.9 per cent.

Basis of  
calculation

(3) For the purposes of this Part, the amounts set out in clauses 42 (1) (a) and (b) shall be deemed to have been amended immediately before the making of the adjustment required by clause (1) (a) of this section to read as "\$11,025" and not as "\$10,500".

Increases  
prospective

(4) Nothing in this section entitles a person to claim additional compensation for any period before the 1st day of January, 1986 or with respect to any award commuted or paid as a lump sum before that day.

Calculation  
of  
average  
earnings

(5) For the purpose of calculating the adjustment under clause (1) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the 31st day of December, 1985.

Indexing  
factor

**139.**—(1) On the 1st day of January in each year, beginning in 1987, an indexing factor shall be determined, based on the percentage change in the Consumer Price Index for Canada for all items, for the twelve month period ending the 31st day of October of the previous year, as published by Statistics Canada.

Annual  
adjustments

(2) On the 1st day of January in each year, beginning in 1987, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying the

indexing factor to the amount as adjusted under this Part on the preceding 1st day of January; and

- (b) adjust average earnings by applying the indexing factor to the average earnings as adjusted under this Part on the preceding 1st day of January and the Board shall make consequential changes to the compensation payable under this Act and under provisions continued by section 132.

(3) For the purpose of calculating the adjustment under clause (2) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the day preceding the day on which the adjustment is to be made.

Calculation  
of  
average  
earnings

(4) Nothing in this section entitles a person to claim additional compensation for any period before the effective date of an increase as a result of subsection (2) or with respect to any award commuted or paid as a lump sum before the effective date.

Increases  
prospective

**140.** This Part does not apply to dollar amounts set out in section 86 or 116 or to fines set out in this Act.

Exceptions

**141.**—(1) Where a person is receiving the minimum amount of compensation payable under subsection 42 (1), (3), (4), (5) or (6) of this Act or under section 44 as continued by section 132 and that amount is increased under this Part, no other increase applies.

Where  
minimum  
received

(2) Where a maximum amount under section 41 of this Act or under subsection 133 (3), (4), (5) or 43 (9) as continued by section 132 is adjusted under this Part and the adjusted amount is not divisible by 100 without remainder, the Board shall increase the adjusted amount to the next amount divisible by 100 without remainder.

Maximum  
amounts  
rounded

**142.**—(1) On the 1st day of January in each year, beginning in 1986, the Board shall redetermine the net average earnings of a worker under section 44 for payments accruing after the date of redetermination by deducting from the earnings of a worker,

Annual re-  
determination  
of net  
average  
earnings

- (a) the probable income tax payable by the worker on the worker's earnings for the current year;
- (b) the probable Canada Pension Plan premiums payable by the worker for the current year; and

- (c) the probable unemployment insurance premiums payable by the worker for the current year.

**Idem** (2) The table established by subsection 44 (2) shall set out the redeterminations calculated under subsection (1).

**Commence-  
ment** **6.—(1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

**Idem** (2) Sections 1, 3 and 4 shall be deemed to have come into force on the 1st day of April, 1985.

**Idem** (3) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

**Short title** **7. The short title of this Act is the *Workers' Compensation Amendment Act, 1985* (No. 2).**