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c 30 Workmen's Compensation Amendment Act, 1981

Ontario

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CHAPTER 30

An Act to amend the Workmen's Compensation Act

Assented to July 3rd, 1981

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(d), (e) and (f) of the *Workmen's Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: s. 36 (1) (a, c, d, e, f), re-enacted

(a) the necessary expenses of the burial or cremation of the employee, not exceeding \$1,200;

(c) where the widow or widower is the sole dependant, a monthly payment of,

(i) \$447, effective the 1st day of July, 1980, and

(ii) \$492, effective the 1st day of July, 1981;

(d) where the dependants are a widow or a widower and one or more children, a monthly payment of,

(i) \$447 with an additional monthly payment of \$123 to be increased upon the death of the widow or widower to \$139 for each child under the age of sixteen years, effective the 1st day of July, 1980, and

(ii) \$492 with an additional monthly payment of \$136 to be increased upon the death of the widow or widower to \$153 for each child under the age of sixteen years, effective the 1st day of July, 1981;

(e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of,

(i) \$139, effective the 1st day of July, 1980, and

(ii) \$153, effective the 1st day of July, 1981;

(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,

(i) \$447 a month effective the 1st day of July, 1980, and

(ii) \$492 a month effective the 1st day of July, 1981.

Application

(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, 1981.

Idem

(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 after the effective dates but nothing therein entitles any person to claim additional compensation for any period prior to the effective dates.

Idem

(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 effective dates.

s. 36 (6),
re-enacted

2.—(1) Section 36 (6) of the said Act 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 employee leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,200.

Application

(2) Section 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, 1981.

s. 42,
amended

3. Section 42 of the said Act is amended by adding thereto the following subsections:

(3) Notwithstanding subsection (1), where the employee is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding twenty-four months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 10 per cent of the compensation rate being paid but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 45. ^{Further adjustment}

(4) Subsection (3) applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the twenty-four month period referred to in subsection (3) and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection (3). ^{Application}

4. Section 43 of the said Act is amended by adding thereto the following subsections: ^{s. 43, amended}

(8) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1980, by adding thereto a factor of 9 per cent effective the 1st day of July, 1980. ^{Increase in payments}

(9) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1981, by adding thereto a factor of 10 per cent effective the 1st day of July, 1981, but the amounts of compensation to which an employee is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 45 (1) effective on the 1st day of July, 1981, for amounts accruing on and after the 1st day of July, 1981. ^{Idem}

(10) Subsections (8) and (9) do not apply to a lump sum award previously made by the Board under this Part, including 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). ^{Non-application of subss. (8, 9)}

(11) For paying compensation for accidents occurring on or before the 30th day of June, 1980, the maximum established by subsection 45 (1) shall be \$20,200 for the purposes of subsection (8). ^{Maximum established}

5.—(1) Section 44 of the said Act is repealed and the following substituted therefor: ^{s. 44, re-enacted}

Minimum
amount of
compensation

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

(a) for temporary total disability,

(i) \$156 a week where his average earnings were not less than \$156 a week, from the 1st day of July, 1981, and

(ii) the amount of his earnings where his average earnings are less than \$156 a week from the 1st day of July, 1981,

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,

1. \$623 a month for the period from the 1st day of July, 1980, to and including the 30th day of June, 1981, and

2. \$686 a month from the 1st day of July, 1981, 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 he had died from the injury.

Application

(2) Subclauses 44 (a) (i) and (ii) of the said Act, as re-enacted by subsection (1) of this section, apply to accidents occurring on and after the 1st day of July, 1981, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1981.

Idem

(3) Sub-subclause 1 of subclause 44 (b) (i), subclause 44 (b) (ii) and clause 44 (c) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing on and after

the 1st day of July, 1980, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1980.

- 6.—(1) Subsection 45 (1) of the said Act is amended by striking out ^{s. 45 (1),} “\$18,500” in the fourth line and inserting in lieu thereof ^{amended} “\$22,200”.
- (2) Subsection 45 (1) of the said Act, as amended by subsection ^{Application} (1) of this section, applies to accidents occurring on and after the 1st day of July, 1981, and to benefits arising under subsection 42 (1) and subsection 43 (9) of the Act, as enacted by section 4 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 made under subsection 43 (6), or to an award under clause 44 (b) of the 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, 1981.
- 7.—(1) Clause 52 (3) (b) of the said Act is repealed and the following ^{s. 52 (3) (b),} substituted therefor: ^{re-enacted}
- (b) on application, an allowance not exceeding \$290 per annum 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 \$145 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,
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- (2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection ^{Application} (1) of this section, applies to payments accruing on and after the 1st day of July, 1981, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1981.
8. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}
9. The short title of this Act is the *Workmen's Compensation* ^{Short title}
Amendment Act, 1981.

