

1979

c 114 The Workmen's Compensation Amendment Act, 1979

Ontario

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Bibliographic Citation

The Workmen's Compensation Amendment Act, 1979, SO 1979, c 114

Repository Citation

Ontario (1979) "c 114 The Workmen's Compensation Amendment Act, 1979," *Ontario: Annual Statutes*: Vol. 1979, Article 116.

Available at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1979/iss1/116

CHAPTER 114

**An Act to amend
The Workmen's Compensation Act**

Assented to December 20th, 1979

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

1.—(1) Clauses *a, c, d, e* and *f* of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 54, section 1, are repealed and the following substituted therefor: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 \$1,000;

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

(i) \$372, effective the 1st day of July, 1978, and

(ii) \$410, effective the 1st day of July, 1979;

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

(i) \$372 with an additional monthly payment of \$101 to be increased upon the death of the widow or widower to \$115 for each child under the age of sixteen years, effective the 1st day of July, 1978, and

(ii) \$410 with an additional monthly payment of \$112 to be increased upon the death of the widow or widower to \$127 for each child under the age of sixteen years, effective the 1st day of July, 1979;

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

(i) \$115, effective the 1st day of July, 1978, and

(ii) \$127, effective the 1st day of July, 1979;

(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) \$372 a month effective the 1st day of July, 1978, and

(ii) \$410 a month effective the 1st day of July, 1979.

Application

(2) Clause *a* of subsection 1 of section 36 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, 1979.

Idem

(3) Clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, 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 *c*, *d*, *e* and *f* of subsection 1 of the said section 36, 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 (7),
re-enacted

2.—(1) Subsection 7 of the said section 36, as re-enacted by the Statutes of Ontario, 1978, chapter 54, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(7) 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 6, is entitled to a lump sum of \$1,000.

Application

(2) Subsection 7 of section 36 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, 1979.

s. 41a,
re-enacted

3. Section 41a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 47, section 5, is repealed and the following substituted therefor:

41a.—(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 twelve 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 44. Adjustment of rate of compensation for temporary disability benefits

(2) Subsection 1 applies to payments accruing on and after the 1st day of July, 1979, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the twelve-month period referred to in subsection 1 and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection 1. Application

4. Subsection 8, as enacted by the Statutes of Ontario, 1974, chapter 70, section 3, subsections 8a and 8b, as enacted by the Statutes of Ontario, 1975, chapter 47, section 6, subsection 8c, as enacted by the Statutes of Ontario, 1978, chapter 54, section 3, subsection 9, as re-enacted by the Statutes of Ontario, 1978, chapter 54, section 3, and subsection 10, as enacted by the Statutes of Ontario, 1975, chapter 47, section 6, of section 42 of the said Act, are repealed and the following substituted therefor: s. 42 (8-10), re-enacted

(8) The amounts payable under this section shall be increased where the injury occurred on or before the 31st day of December, 1977, by adding thereto a factor of 2 per cent effective the 1st day of July, 1978. Increase in payments

(9) The amounts payable under this section shall be increased where the injury occurred during the period commencing the 1st day of January, 1978, and ending the 30th day of June, 1978, by adding thereto a factor of 8 per cent effective the 1st day of July, 1978. Idem

(10) The amounts payable under this section shall be increased where the injury occurred on or before the 30th day of June, 1979, by adding thereto a factor of 10 per cent effective the 1st day of July, 1979, 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 1 of section 44 effective on the 1st day of July, 1979, for amounts accruing on and after the 1st day of July, 1979. Idem

(11) Subsections 8, 9 and 10 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 b of section 43. Non-application of subss. (4, 6, 8-10), s. 43 (b)

s. 43,
re-enacted

5.—(1) Section 43 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 54, section 4, is repealed and the following substituted therefor:

Minimum
amount of
compensation

43. 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) \$117 a week where his average earnings were not less than \$117 a week for the period from the 1st day of July, 1978 to and including the 30th day of June, 1979,
- (ii) the amount of his earnings where his average earnings were less than \$117 a week for the period referred to in subclause i,
- (iii) \$129 a week where his average earnings were not less than \$129 a week, from the 1st day of July, 1979, and
- (iv) the amount of his earnings where his average earnings are less than \$129 a week from the 1st day of July, 1979,

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 42 and 44, but the amount of such pension shall not be less than,

(i) for permanent total disability,

- 1. \$519 a month for the period from the 1st day of July, 1978, to and including the 30th day of June, 1979, and
- 2. \$571 a month from the 1st day of July, 1979, 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 i of clause *b*, for permanent total disability the benefits which would have been payable from time to time under clauses *c*, *d* and *e* of subsection 1 of section 36 and under section 38, as if he had died from the injury.
- (2) Subclauses i and ii of clause *a* of section 43 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, 1978 and prior to the 1st day of July, 1979, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1978. ^{Application}
- (3) Subclauses iii and iv of clause *a* of the said section 43, as re-enacted by subsection 1 of this section, apply to accidents occurring on and after the 1st day of July, 1979, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1979. ^{Idem}
- (4) Clauses *b* and *c* of the said section 43, as re-enacted by subsection 1 of this section, apply to payments accruing on and after the 1st day of July, 1978, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1978. ^{Idem}
- 6.—(1) Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, 1975, chapter 47, section 10 and 1978, chapter 54, section 5, is further amended by striking out “\$16,200” in the amendment of 1978 and inserting in lieu thereof “\$18,500”. ^{s. 44 (1), amended}
- (2) Subsection 1 of section 44 of the said Act, as amended by subsection 1 of this section, applies to accidents occurring on and after the 1st day of July, 1979, and to benefits arising under subsection 1 of section 41*a* and subsection 10 of section 42 of the Act, as re-enacted by sections 4 and 5 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 4 of section 42, or to an award made under subsection 6 of section 42, or to an award under clause *b* of section 43 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, 1979. ^{Application}
- 7.—(1) Clause *b* of subsection 3 of section 51 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 54, section 6, is repealed and the following substituted therefor: ^{s. 51 (3) (b), re-enacted}
- (b) on application, an allowance not exceeding \$240 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 \$120 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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Application

(2) Clause *b* of subsection 3 of section 51 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, 1979, but nothing therein entitles any person to claim additional payment for any period before the 1st day of July, 1979.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is *The Workmen's Compensation Amendment Act, 1979*.