

1993

## CHAPTER 63

### **An Act to amend *The Workers' Compensation Act, 1979***

(Assented to June 22, 1993)

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

#### Short title

1 This Act may be cited as *The Workers' Compensation Amendment Act, 1993*.

#### S.S. 1979, c.W-17.1 amended

2 *The Workers' Compensation Act, 1979* is amended in the manner set forth in this Act.

#### Section 2 amended

##### 3 **Section 2 is amended:**

(a) **by adding the following clause after clause (b):**

"(b.1) `**chiropractor**' means a chiropractor who is registered pursuant to *The Chiropractic Act*";

(b) **by adding the following clause after clause (f):**

"(f.1) `**employer association**' means an organization of employers, whether or not they are employers within the meaning of this Act, formed to address common concerns and achieve common goals of employers";

(c) **by adding the following clause after clause (h):**

"(h.1) `**health care professional**' means a physician, dentist, chiropractor, optometrist, psychologist, occupational therapist, physical therapist, nurse or any other person who is registered or licensed pursuant to any Act to practise any of the healing arts";

(d) **by striking out "and" after subclause (k)(ii) and substituting "or";**

(e) **by adding the following clause after clause (l):**

"(l.1) `**labour organization**' means a labour organization as defined in *The Trade Union Act*";

(f) **by adding the following clauses after clause (s):**

"(s.01) `**physician**' means a physician who is registered pursuant to *The Medical Profession Act, 1981*;

"(s.02) `**policy directive**' means any policy statement, practice or procedure of the board that forms the basis of decisions made pursuant to this Act"; **and**

(g) **by adding the following clause after clause (s.1):**

"(s.2) `**vocational rehabilitation**' means rehabilitation that is intended to return injured workers to suitable employment, and includes counselling, assessment, career planning, educational upgrading, education, training, on-the-job training, assistance with job search and assistance with job placement".

#### Section 13 amended

##### 4 **Subsection 13(1) is repealed and the following substituted:**

"(1) The Workers' Compensation Board is continued as a body corporate consisting of a maximum of five members, including a full-time chairperson and an even number of full-time members, half of whom represent employers and half of whom represent workers, appointed by the Lieutenant Governor in Council.

- “(1.1) The Lieutenant Governor in Council shall appoint:
- (a) each representative of employers from a list of names submitted by employer associations; and
  - (b) each representative of workers from a list of names submitted by labour organizations”.

Section 14 amended

- 5(1) Subsection 14(1) is amended by striking out “chairman” and substituting “chairperson”.**  
**(2) Subsection 14(2) is amended by striking out “chairman” wherever it occurs and in each case substituting “chairperson”.**  
**(3) Subsection 14(3) is repealed.**  
**(4) Subsection 14(4) is amended by striking out “chairman” and substituting “chairperson”.**

New section 15

6 Section 15 is repealed and the following substituted:

Term of office

- “15(1) Subject to subsection (2), the members of the board:
- (a) hold office for a period not exceeding four years and until a successor is appointed; and
  - (b) may be reappointed.
- (2) The chairperson of the board:
- (a) holds office for a period not exceeding five years and until a successor is appointed; and
  - (b) may be reappointed”.

Section 16 amended

**7 Subsection 16(1) is repealed and the following substituted:**

“(1) In the case of the death, resignation or other inability to act as a member or as chairperson, the Lieutenant Governor in Council shall appoint a person to complete the unexpired term and, in the case of a member, the appointment must maintain the balance of representation required by subsection 13(1) and must be made in the manner set out in subsection 13(1.1)”.

New section 21.1

**8 The following section is added after section 21:**

**“DUTIES OF THE BOARD**

Duties of board

- “21.1(1) The board shall:
- (a) treat workers and their dependants in a fair and reasonable manner;
  - (b) arrange to provide any medical aid or treatment that may be required in the circumstances as a result of injuries to workers;
  - (c) wherever appropriate, arrange to provide rehabilitation to workers or surviving dependent spouses; and
  - (d) consult and co-operate with workers and surviving dependent spouses in the development of rehabilitation plans intended to return workers or dependent spouses to positions of independence in suitable productive employment.
- (2) The board shall make its policy directives available to the public”.

New section 50

**9 Section 50 is repealed and the following substituted:**

Pre-existing conditions

“50 The board shall not reject the claim of a worker or a dependant for compensation or reduce the amount of compensation payable by reason of a pre-existing condition of the worker if the injury materially aggravates or accelerates the pre-existing condition to produce a loss of earnings or death”.

New section 51.1

**10 The following section is added after section 51:**

**"DUTIES OF WORKER**

Duties of worker

**"51.1 A worker shall:**

- (a) take all reasonable action to mitigate the loss of earnings resulting from an injury; and
- (b) where the circumstances require, co-operate with the board in the development of a rehabilitation plan that is intended to return the worker to a position of independence in suitable productive employment".

Section 53 amended

**11 Section 53 is amended by striking out "\$500" and substituting "\$1,000".**

Section 54 amended

**12 Section 54 is amended:**

- (a) by striking out "physician" and substituting "health care professional"; and**
- (b) by repealing clause (a) and substituting the following:**

**"(a) furnish, from time to time and in any form that the board may require, any reports with respect to the examination or treatment of the worker that are relevant to the injury for which compensation is claimed".**

Section 55 amended

**13 Section 55 is amended:**

- (a) by striking out "physician" and substituting "health care professional"; and**
- (b) by striking out "\$500" and substituting "\$1,000".**

## New section 56

**14 Section 56 is repealed and the following substituted:**

## Duties of health care professionals, hospital officials

"56 Every health care professional or hospital official who attends to, is consulted with respect to or has care of an injured worker:

- (a) shall furnish the board with any reports respecting the examination or treatment of the worker that are relevant to the injury for which compensation is claimed that the board may require; and
- (b) may charge a fee for a report furnished pursuant to clause (a) in an amount that the board may determine".

## Section 57 amended

15 Section 57 is amended by striking out "a medical consultant or consultants" **and substituting** "one or more health care professionals".

## Section 60 amended

16 **Subsection 60(2) is amended by adding "or chiropractor" after "physician".**

## Section 61 amended

17(1) **Subsection 61(1) is amended by striking out "chairman" wherever it occurs:**

- (a) in clause (a); and
- (b) in clause (b);

**and in each case substituting "chairperson".**

**(2) Subsection 61(3) is amended by striking out "chairman" and substituting "chairperson".**

## Section 62 amended

18(1) **Subsection 62(1) is repealed and the following substituted:**

"(1) On receipt of a request pursuant to section 60, the board shall immediately mail or deliver to the worker or person requesting the review:

- (a) one or two lists setting out the names of all physicians who practise in the city named in the request and who are specialists in the classes of injuries for which compensation has been claimed, excluding:
  - (i) the name of a physician who provided a certificate mentioned in subsection 60(2); and
  - (ii) the names of the physicians who have provided a recorded opinion adverse to the opinion stated in the certificate; or
- (b) on the request of the worker:
  - (i) one list of specialists as described in clause (a); and
  - (ii) one list setting out the names of all chiropractors who practise in the city named in the request, excluding:
    - (A) the name of a chiropractor who provided a certificate mentioned in subsection 60(2); and
    - (B) the names of the chiropractors who have provided a recorded opinion adverse to the opinion stated in the certificate".

**(2) Clause 62(2)(b) is amended by adding "or chiropractor" after "specialist".**

**(3) Subsection 62(3) is amended:**

- (a) by striking out "specialists" wherever it occurs and in each case substituting "persons"; and
- (b) by striking out "chairman" and substituting "chairperson".

**(4) Subsection 62(4) is amended by striking out "specialist" wherever it occurs and in each case substituting "person".**

Section 63 amended

**19(1) Subsection 63(1) is amended:**

**(a) by striking out "specialists" and substituting "persons"; and**

**(b) by striking out "chairman" wherever it occurs and in each case substituting "chairperson".**

**(2) Subsection 63(3) is amended by adding "or chiropractor" after "physician" wherever it occurs.**

Section 64 amended

**20 Subsection 64(1) is amended by striking out "chairman" and substituting "chairperson".**

Section 68 amended

**21(1) Subsections 68(1) and (2) are repealed and the following substituted:**

"(1) Where injury to a worker results in a loss of earnings beyond the day of the injury, the board shall determine the loss of earnings resulting from the injury and shall ensure compensation to the worker:

(a) in the case of a worker who sustains an injury prior to September 1, 1985, in an amount equal to 75% of that loss;

(b) in the case of a worker who sustains an injury on or after September 1, 1985, in an amount equal to 90% of that loss.

"(2) Compensation pursuant to subsection (1) is payable as long as the loss of earnings continues or until the worker attains the age of 65, whichever occurs first".

**(2) Subsection 68(3) is amended:**

**(a) by striking out "the date this subsection comes into force" wherever it occurs:**

**(i) in clause (a); and**

**(ii) in clause (b);**

**and in each case substituting "September 1, 1985"; and**

**(b) by repealing subclause (b)(i) and substituting the following:**

"(i) the probable income tax payable by the worker calculated by using only the worker's earnings from employment as his or her income, and using only the worker's basic personal exemption, exemption for dependants and employment-related tax credits, as at the date of the worker's injury and each anniversary date, as the worker's deductions".

Section 69 amended

**22 Subsection 69(1) is amended:**

**(a) by striking out "earning capacity" and substituting "earnings"; and**

**(b) by repealing clause (b) and substituting the following:**

"(b) the earnings that the worker is receiving from employment".

Section 71 amended

**23 Section 71 is amended:**

**(a) by striking out "Where" and substituting "Notwithstanding subsection 68(2), where"; and**

**(b) by striking out "date of the injury" and substituting "date of the commencement of the loss of earnings".**

Section 77.01 amended

**24(1) Subsection 77.01(1) is amended by striking out "on the day this section comes into force" and substituting "on January 1, 1983".**

**(2) Subsection 77.01(2) is amended by striking out "on the anniversary date of his injury".**

Section 82 amended

**25(1) Clause 82(2)(a) is amended by striking out "\$3,500" and substituting "a fixed sum determined in accordance with subsection (3)".**

**(2) The following subsection is added after subsection 82(2):**

"(3) The amount of the fixed sum mentioned in clause (2)(a) is \$5,000 in 1993 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index".

Section 83 amended

**26(1) Subsection 83(4) is amended:**

**(a) by adding "and subject to section 104," after "subsection (1) or (2)";**

**(b) by repealing clause (b) and substituting the following:**

"(b) the earnings that the dependent spouse is earning from employment"; and

**(c) by striking out "dependant spouse" in the portion that follows clause (b) and substituting "dependent spouse".**

**(2) Subsection 83(6) is amended by striking out "dependant spouse" and substituting "dependent spouse".**

**(3) Clause 83(7)(a) is amended by striking out "dependant spouse" and substituting "dependent spouse".**

Section 85 amended

**27(1) Subsection 85(1) is repealed and the following substituted:**

"(1) Subject to subsections (1.1), (1.2) and (2), there is payable to each dependent child of a deceased worker who is at least 18 years of age and in full-time attendance at a secondary or post-secondary institution:

- (a) a monthly allowance in an amount determined in accordance with subsections (1.3) and (1.4);
- (b) in the case of attendance at a post-secondary institution, the cost of tuition and other required fees; and
- (c) the cost of any required books.

"(1.1) No amount is payable pursuant to subsection (1) after the later of:  
(a) the day on which the dependent child attains the age of 25 years; and  
(b) the last month in the school term in which the dependent child's twenty-fifth birthday occurs.

"(1.2) The amounts described in subsection (1) are payable for a maximum of three years.

"(1.3) Subject to subsection (1.4), the amount of the monthly allowance mentioned in clause (1)(a) is \$250 per month in 1993 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index.

"(1.4) Where the board is paying an allowance pursuant to subsection (1), the board may increase the monthly allowance to an amount that it considers fair and just".

**(2) Subsection 85(2) is amended by striking out "set out in" and substituting "payable pursuant to".**

Section 86 amended

**28 Subsection 86(1) is amended by striking out "a monthly allowance in the amount" and substituting "an allowance in the amounts".**

Section 86.1 repealed

**29 Section 86.1 is repealed.**

Section 87 amended

**30(1) Subsection 87(1) is repealed and the following substituted:**

"(1) Where the only dependants of a worker are children, a monthly allowance for each child under the age of 18 years shall be paid in an amount determined by the board in accordance with subsection (1.1).

"(1.1) The amount of the monthly allowance mentioned in subsection (1) is \$259.01 per month in 1992 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index".

**(2) Subsection 87(2) is amended by striking out "16" and substituting "18".**

**(3) Subsection 87(4) is repealed.**

Section 97 amended

**31 Subsection 97(2) is amended:**

- (a) by striking out "surviving" and substituting "dependent"; and**
- (b) by adding "dependent" after "to assist the".**

Section 98.1 amended

**32 Subsection 98.1(3) is amended by striking out "the amount that would have been payable to the worker with respect to whom the spouse is entitled to compensation if the worker had attained the age of 65 years" and substituting "\$630 per month".**

Section 104 amended

**33(1) Subsection 104(1) is amended:**

- (a) by adding "or a dependent spouse of a worker" after "payment to a worker"; and**
- (b) by adding ", dependent spouse" after "request of the worker".**

**(2) Subsection 104(2) is repealed and the following substituted:**

"(2) The board may, after due investigation, withhold or suspend the payment of compensation to a worker or other person receiving compensation for any period that the board considers advisable where the worker or other person is confined in:

- (a) a correctional facility within the meaning of *The Corrections Act*;
- (b) a penitentiary within the meaning of the *Penitentiary Act* (Canada);
- (c) a prison or reformatory within the meaning of the *Prisons and Reformatories Act* (Canada); or



(d) a place or facility of open custody or a place or facility of closed custody within the meaning of the *Young Offenders Act* (Canada).

"(3) Where compensation to a worker or other person is withheld or suspended pursuant to subsection (2), the board may pay compensation to dependants of the worker or other person or to any other persons that the board considers advisable.

"(4) The board may terminate or reduce payment to a worker of any compensation based on the worker's loss of earnings:

(a) where the worker's loss of earnings is not related to the effects of the injury; or

(b) without limiting the generality of clause (a), if:

(i) without good reason, the worker is not available or declines to accept a bona fide offer of employment in an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging;

(ii) without good reason, the worker fails to co-operate in, or is not available for, a medical or vocational rehabilitation program that has as its objective returning the worker to suitable productive employment;

(iii) in consultation with the worker, the board has designed and provided to the worker, at the expense of the board, a vocational rehabilitation program, and the worker has been allowed a reasonable time to obtain employment after completing the program;

(iv) the worker voluntarily:

(A) accepts employment in an occupation that has a lower rate of pay than an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging; or

(B) withdraws from the labour force for reasons other than the effects of the injury; or

(v) the worker fails to comply with section 51.1.

"(5) Subsection (4) applies, with any necessary modification, to a dependent spouse after the expiration of entitlement to compensation pursuant to subsection 83(1) or (2)".

Section 106 amended

**34(1) Clause 106(1)(b) is repealed and the following substituted:**

"(b) any other treatment by a health care professional".

**(2) Subsection 106(2) is amended by striking out "direct or".**

Section 107 repealed

**35 Section 107 is repealed.**

Section 108 amended

**36 Subsection 108(1) is repealed and the following substituted:**

"(1) The fees for medical aid furnished by any health care professional shall be determined by the board".

Section 109 amended

**37 Subsection 109(2) is amended by striking out "\$500" and substituting "\$1,000".**

Section 125 amended

**38 Section 125 is amended by striking out "\$500" and substituting "\$1,000".**

Section 130 amended

**39 Subsection 130(2) is amended by striking out "\$500" and substituting "\$1,000".**

Section 133 amended

**40 Subsection 133(1) is amended by adding "pursuant to this Act with respect to that work" after "contribute to the fund".**

Section 135 amended

**41(1) Subsection 135(1) is amended by striking out 'The board shall' and substituting 'Subject to subsection (4), the board shall'.**

**(2) The following subsection is added after subsection 135(3):**

"(4) Where, in any year, the board proposes to assess and levy on the employers in a class of industry an assessment that exceeds the assessment levied on those employers in the preceding year by more than 10.5 per cent:

(a) the board shall, before making the assessment:

(i) send a notice of the proposed assessment to the employers in the class; and

(ii) cause the notice to be published in *The Saskatchewan Gazette*; and

(b) the employers in the class may, within 30 days after the date of publication of the notice in *The Saskatchewan Gazette*, make representations to the board with respect to the proposed assessment'.

New section 139.1

**42 The following section is added after section 139:**

## Forwarding information re accident records

139.1 The board may forward to the Occupational Health and Safety Division of the Department of Labour any information respecting the accident record of an employer or any class of employers that the board considers appropriate for the purpose of improving occupational health and safety.

## Section 158 amended

43 **Subsection 158(2) is amended by striking out "\$500" and substituting "\$1,000".**

## Section 162 amended

44(1) **Subsection 162(1) is amended by striking out "upon any matters concerning this Act and the regulations that the Lieutenant Governor in Council may specify" and substituting "on all matters concerning this Act, the regulations and the administration of this Act and the regulations".**

**(2) Clause 162(2)(a) is amended by striking out "chairman" wherever it occurs and in each case substituting "chairperson".**

**(3) Subsection 162(5) is amended by striking out "chairman" wherever it occurs and in each case substituting "chairperson".**

## Section 164 amended

45 **Subsection 164(2) is amended by striking out "\$500" and substituting "\$1,000".**

## Section 171 amended

46 **Subsection 171(2) is amended by striking out "\$500" and substituting "\$1,000".**

## Section 171.1 amended

47 **Subsection 171.1(1) is amended by striking out "that is obtained on or after the date this section comes into force".**

## Section 177 amended

48 **Section 177 is amended by striking out "\$500" and substituting "\$1,000".**

## Section 181 amended

49 **Section 181 is amended:**

**(a) by renumbering it as subsection 181(1);**

**(b) by striking out "Subject to the approval of the Lieutenant Governor in Council, the board" in subsection (1) and substituting "The Lieutenant Governor in Council, after consultation with the board,"; and**

**(c) by adding the following subsection after subsection (1):**

**"(2) The Lieutenant Governor in Council may make regulations setting out guidelines for the making of decisions by the board, and a regulation made pursuant to this subsection supersedes any policy directive of the board that conflicts with it".**

**New section 183.1**

50 **The following section is added after section 183:**

## Transitional

**"183.1(1) In this section:**

**(a) "amendment date" means the day on which a section of *The Workers' Compensation Amendment Act, 1993* comes into force;**

**(b) "relevant amending section" means, with respect to a section of this Act, the section of *The Workers' Compensation Amendment Act, 1993* that amends the section of this Act.**

**(2) Notwithstanding *The Workers' Compensation Amendment Act, 1993*:**

**(a) sections 68, 69 and 104 as they existed immediately before the amendment date of the relevant amending sections apply with respect to injuries that occurred before the amendment date of the relevant amending sections; and**

(b) sections 82 and 83 as they existed immediately before the amendment date of the relevant amending sections apply with respect to deaths that occurred before the amendment date of the relevant amending sections.

(3) Where a dependent child is receiving benefits pursuant to section 85 or 87 as those sections existed prior to the amendment dates of the relevant amending sections, the child is entitled to receive benefits calculated in accordance with those sections as amended by the relevant amending sections, but only with respect to the period commencing on the amendment date”.

Coming into force

51 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.