

Chapter 20

AN ACT TO AMEND THE WORKERS' COMPENSATION ACT

(Assented to September 18, 2025)

Summary

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. This Act amends the *Workers' Compensation Act*.

2. Subsection 1(1) is amended

(a) in the definition of "compensation" as follows:

"compensation" means any medical aid, payment, money, ~~pension~~, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker's personal injury, disease or death; (*indemnité* or *indemnisation*)

(b) in the definition of "disability" as follows:

"disability" means, ~~except in section 54,~~ the condition of having ~~temporarily~~ reduced physical, functional, mental or psychological abilities, caused by the worker's personal injury or disease, while that worker is not at maximum medical recovery in respect of that personal injury or disease, that results in a loss of earning capacity; (*incapacité*)

(c) in the definition of "impairment" as follows:

"impairment" means the condition of having a ~~permanent~~ physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease, after the worker has reached maximum medical recovery in respect of that personal injury or disease; (*déficience*)

(d) in the definition of "net monthly remuneration" as follows:

"net monthly remuneration" means an amount equal to 1/12 of the net annual remuneration of the worker, determined under section 59, ~~for the year in which the personal injury, disease or death occurred;~~ (*rémunération mensuelle nette*)

(e) by repealing the definition of "pension"; and

(f) by adding the following definitions in alphabetical order:

"disability loss of earning capacity" means the amount determined in accordance with subsection 39(2); (*perte de capacité de gain en raison d'une incapacité*)

"economic loss benefit" means a benefit payable to a worker in accordance with section 41.1;
(*prestation pour perte financière*)

"impairment loss of earning capacity" means the amount determined in accordance with subsections 41.1(3) and (4); (*perte de capacité de gain en raison d'une déficience*)

"maximum medical recovery" means a point at which there is a plateau in recovery in respect of a personal injury or disease and any further improvement of function is expected to be negligible; (*rétablissement médical maximal*)

"non-economic loss benefit" means a benefit payable to a worker in accordance with section 41;
(*prestation pour préjudice moral*)

"partial disability" means a disability that results in a disability loss of earning capacity that is greater than 0% but less than 100%; (*incapacité partielle*)

"total disability" means a disability that results in a 100% disability loss of earning capacity;
(*incapacité totale*)

3. Paragraph 13(3)(a) is amended as follows:

- (a) the day the worker first becomes ~~is~~ disabled or impaired by the disease,
whichever occurs earlier;

4. Paragraph 14(5)(c) is amended as follows:

- (c) the exposure to the conditions referred to in paragraph (b) occurred at any time during the 12 months preceding the day the disease occurred
~~disability or impairment.~~

5. Subsection 14.1(3) is amended as follows:

Smokers

(3) Where the listed disease is primary site lung cancer, the presumption referred to in subsection (2) does not apply unless the worker has been a non-smoker before the day the disease occurred ~~date of the disability or impairment~~ for the minimum period prescribed in the regulations.

6. Subsection 15(1) is repealed and replaced by:

Definition: "eligible compensation"

15. (1) For the purposes of this section, "eligible compensation" means compensation payable under any of the following provisions, but does not include any other payment or benefit provided under this Act:

- (a) section 38;
- (b) section 39;

- (c) section 41;
- (d) section 41.1;
- (e) section 42;
- (f) paragraph 48(1)(a);
- (g) paragraph 48(1)(b).

7. Subsection 27(1) is amended as follows:

Conflicting medical opinions

27. (1) If the Commission receives conflicting opinions ~~respecting a worker's personal injury, disease or death~~ from a worker's health care provider and a medical advisor selected by the Commission respecting a worker's personal injury, disease or death or respecting whether the worker has reached maximum medical recovery, the Commission's medical advisor must ~~shall~~ contact the worker's health care provider and attempt to resolve the conflict.

8. Subsection 38(1) is amended as follows:

Compensation for total disability

38. (1) The compensation for a worker who is totally disabled is a monthly payment equal to 90% of the worker's net monthly remuneration for the year in which the personal injury or disease occurs, payable for the period of the total disability.

9. (1) Subsection 39(1) is amended as follows:

Compensation for partial disability

39. (1) The compensation for a worker who is partially disabled is a monthly payment equal to the amount payable under section 38 for a total disability multiplied by the Commission's estimate of the worker's disability loss of earning capacity ~~the percentage loss of the worker's earning capacity~~, payable for the period of the disability.

(2) Subsection 39(2) is repealed and replaced by:

Disability loss of earning capacity

(2) The Commission must estimate a worker's disability loss of earning capacity on the basis of the difference between the worker's net monthly remuneration for the year in which the disability began and the earning capacity of the worker during that disability.

Geographic restriction on estimate of earning capacity

(3) For the purposes of subsection (2), the Commission must limit its estimate of the worker's earning capacity to their earning capacity within the municipality or settlement in which they reside, unless it would be unreasonable to do so in the circumstances.

10. Subsection 40(1) is amended as follows:

Disability for days of work

40. (1) Despite sections 38 and 39, a worker suffering a total disability or partial disability is only entitled to be paid compensation under those sections for those days for which the worker would, in the usual course of ~~their~~ ~~his or her~~ employment, have received remuneration.

11. Sections 41 to 45 are repealed and replaced by:

Entitlement to non-economic loss benefit

41. (1) A worker who is impaired is entitled to a non-economic loss benefit.

Non-economic loss benefit

(2) The non-economic loss benefit payable under subsection (1) is a lump sum payment equal to the Year's Maximum Insurable Remuneration for the year in which the personal injury or disease occurs, multiplied by the percentage of the worker's impairment due to the personal injury or disease as determined in accordance with an impairment rating schedule established or adopted by a policy of the Governance Council.

Death before determination

(3) If a worker dies after reaching maximum medical recovery but before receiving the non-economic loss benefit, the Commission must pay the non-economic loss benefit to the deceased worker's estate.

Determination made on available evidence

(4) For the purposes of subsection (3), the Commission must use the records and information available to determine the percentage of a deceased worker's impairment, if the determination was not made prior to the worker's death.

Review at worker's request

(5) If a worker believes their percentage of impairment, due to the same personal injury or disease, has increased since the Commission's determination under subsection (2), the worker may request that the Commission review their percentage of impairment

- (a) at any time, if the worker has not previously requested a review under this subsection; or
- (b) not less than 24 months after the worker's most recent request for a review, if the worker has previously requested a review under this subsection.

Increase in percentage of impairment

(6) Following a review under subsection (5), if the Commission determines that a worker's percentage of impairment has increased, the worker is entitled to a supplementary non-economic loss benefit for the additional percentage of impairment that the worker is not already entitled to a non-economic loss benefit for.

Decrease in percentage of impairment

(7) Following a review under subsection (5), if the Commission determines that a worker's percentage of impairment has decreased, the worker remains entitled to the non-economic loss benefit calculated using the higher percentage of impairment.

Entitlement to economic loss benefit

41.1. (1) A worker is entitled to an economic loss benefit if

- (a) the worker is impaired;
- (b) the worker complies with section 35; and
- (c) the Commission determines that the worker is experiencing an impairment loss of earning capacity.

Economic loss benefit

(2) The economic loss benefit payable under subsection (1) is a monthly payment equal to 90% of the worker's impairment loss of earning capacity.

Impairment loss of earning capacity

(3) The Commission must estimate a worker's impairment loss of earning capacity on the basis of the difference between the worker's net monthly remuneration for the year in which the personal injury or disease occurs and the Commission's estimate of the worker's earning capacity after reaching maximum medical recovery, subject to subsection (4).

Pension Plan deductions

(4) In estimating a worker's impairment loss of earning capacity, the Commission must include half of any payment the worker is receiving or is entitled to receive under the Canada Pension Plan or the Quebec Pension Plan in respect of the personal injury or disease as wages that the worker is earning or is capable of earning.

Duration of economic loss benefit

(5) A worker ceases to be entitled to an economic loss benefit at the earlier of

- (a) the date the Commission determines the worker is no longer experiencing an impairment loss of earning capacity; and
- (b) the later of
 - (i) the date the worker reaches the minimum eligibility age for benefits in Part I of the *Old Age Security Act* (Canada), and
 - (ii) 24 months after the day of the personal injury or disease.

Extension

(6) Despite subparagraph (5)(b)(i), if the Commission is satisfied that a worker would have retired at a later date than provided for in that subparagraph, the Commission must extend the worker's entitlement to an economic loss benefit to the earlier of

- (a) the date that the worker would have retired; and
- (b) 24 months after the date referred to in that subparagraph.

Report by worker

(7) A worker receiving an economic loss benefit must notify the Commission of a material change in earnings as soon as practicable.

Geographic restriction on estimate of earning capacity

(8) For the purposes of subsection (3), the Commission must limit its estimate of a worker's earning capacity to their earning capacity within the municipality or settlement in which they reside, unless it would be unreasonable to do so in the circumstances.

Automatic reviews

- 41.2. (1) The Commission must review a worker's impairment loss of earning capacity
- (a) 2 years after the date the worker first receives the economic loss benefit payment; and
 - (b) 5 years after the date the worker first receives the economic loss benefit payment.

Powers on review

- (2) After completing a review under subsection (1), the Commission may
- (a) confirm the amount of the economic loss benefit payable;
 - (b) vary the amount of the economic loss benefit payable; or
 - (c) terminate the economic loss benefit.

Review at worker's request

41.3. (1) If a worker believes a material change in their impairment loss of earning capacity has occurred, the worker may request that the Commission review the amount of the economic loss benefit payable to the worker.

Material change required

(2) The Commission must conduct a review following a request under subsection (1) if the Commission is satisfied that a material change has occurred.

Powers on review

- (3) After completing a review under subsection (2), the Commission may
- (a) confirm the amount of the economic loss benefit payable;
 - (b) vary the amount of the economic loss benefit payable; or
 - (c) terminate the economic loss benefit.

Review at Commission's initiative

41.4. (1) The Commission may, on its own initiative and at any time, review the economic loss benefit payable to a worker.

Powers on review

- (2) After completing a review under subsection (1), the Commission may
- (a) increase the amount of the economic loss benefit payable if the worker's impairment loss of earning capacity has increased;

- (b) reduce the amount of the economic loss benefit payable if the worker's impairment loss of earning capacity has decreased;
- (c) suspend the economic loss benefit if the worker wilfully fails to comply with section 35; and
- (d) terminate the economic loss benefit if the Commission determines that
 - (i) the economic loss benefit would not be paid but for fraud or a misrepresentation of fact,
 - (ii) the worker's impairment loss of earning capacity is not related to the effects of the personal injury or disease, or
 - (iii) the worker ceases to be entitled to the economic loss benefit under subsection 41.1(5).

Powers applicable on death of worker

(3) If the Commission determines that the circumstances described in subparagraph (2)(d)(i) or (ii) are established, the Commission may terminate compensation payable on the death of a worker to

- (a) the beneficiary designated by the worker;
- (b) the worker's estate, where no beneficiary is designated; and
- (c) persons entitled to compensation under subsection 11(1).

Payment for loss of retirement income

42. (1) A worker who has received or is receiving an economic loss benefit is entitled to a retirement benefit.

Amount

(2) The retirement benefit is equal to 10% of each economic loss benefit payment made to the worker, multiplied by the product of all cost of living increases established by the Governance Council under subsection 53(1) between the year after that payment and the year the worker becomes entitled to the retirement benefit.

Entitlement to benefit

(3) A worker becomes entitled to the retirement benefit on the date referred to in paragraph 41.1(5)(b) or subsection 41.1(6), as the case may be.

Payment scheme

- (4) The Commission must pay the amount under subsection (2)
- (a) to the worker as a lump sum, if the amount of the benefit is less than or equal to the Year's Maximum Insurable Remuneration for the year in which the worker becomes entitled to the benefit; or
 - (b) to the provider of an annuity plan selected by the worker, in accordance with the regulations, if the amount of the benefit is greater than the Year's Maximum Insurable Remuneration for the year in which the worker becomes entitled to the benefit.

Death before entitlement or payment

(5) If a worker dies before becoming entitled to the retirement benefit under subsection (3) or before the Commission has paid the amount under subsection (4), the Commission must pay the retirement benefit to

- (a) the beneficiary designated by the worker, or
- (b) the worker's estate, where no beneficiary is designated.

Unclaimed benefit

(6) If the retirement benefit payable under this section is unclaimed for seven years after the date the worker becomes entitled to the benefit, the Commission is not liable to pay the retirement benefit under subsection (4) or (5), as the case may be.

Additional compensation

43. (1) The Commission may, by an amount and for a time that it considers just, increase the amount of the economic loss benefit that a worker is entitled to, if it considers the amount to be significantly inadequate because the worker's annual net remuneration before the personal injury or disease did not fairly represent the worker's probable earning capacity.

Other treatment or services

(2) The Commission must, in addition to any compensation payable under sections 41 and 41.1, provide a worker who is impaired with such other treatment or services as it considers necessary as a result of the personal injury or disease.

Deterioration while receiving economic loss benefit or after recovery

44. (1) A worker who is receiving or has received an economic loss benefit and experiences a deterioration in condition due to the same personal injury or disease, is entitled to

- (a) the economic loss benefit, if any, that they were entitled immediately before deterioration; and
- (b) disability compensation under section 38 or 39, as the case may be, for the disability loss of earning capacity caused by the deterioration.

Entitlement at subsequent maximum medical recovery

(2) If a worker referred to in subsection (1) subsequently reaches maximum medical recovery after deterioration, the worker is entitled to

- (a) a non-economic loss benefit, payable in accordance with section 41, for any additional percentage of impairment for which the worker is not already entitled to a non-economic loss benefit, following a review under subsection 41(5); and
- (b) an economic loss benefit, payable in accordance with section 41.1, determined using the worker's subsequent impairment loss of earning capacity, following a review under section 41.3.

Year of remuneration

(3) For the purposes of subsection (1), and despite subsections 38(1) and 39(2), the worker's disability compensation must be based on the greater of

- (a) the net monthly remuneration in the year in which the original personal injury or disease occurs, adjusted in accordance with subsection 53(2) with any necessary modifications, minus the amount of any economic loss benefit to which the worker is currently entitled; and
- (b) the net monthly remuneration in the year in which the worker experiences the deterioration in condition.

Multiple injuries or diseases

45. (1) A worker who is receiving or has received an economic loss benefit and experiences a subsequent disability due to a different personal injury or disease is entitled to the following until reaching maximum medical recovery in respect of that different personal injury or disease:

- (a) the economic loss benefit, if any, that they were entitled to immediately before the different personal injury or disease;
- (b) disability compensation under section 38 or 39, as the case may be, for the disability loss of earning capacity caused by the different personal injury or disease.

Total disability compensation reduced by economic loss benefit

(2) For the purposes of subsection (1), if a worker is receiving an economic loss benefit and is entitled to compensation for a total disability, the amount of compensation for the total disability is reduced by the amount of the economic loss benefit already being paid to the worker.

Additional compensation for impairment

(3) A worker referred to in subsection (1) who has reached maximum medical recovery in respect of the different personal injury or disease is entitled to

- (a) a non-economic loss benefit, payable in accordance with section 41, for any additional percentage of impairment for which the worker is not already entitled to a non-economic loss benefit, following a review under subsection 41(5); and
- (b) an economic loss benefit, payable in accordance with section 41.1, determined using the worker's subsequent impairment loss of earning capacity, following a review under section 41.3.

12. The portion of subsection 48(4) before paragraph (a) is amended as follows:

Multiple spouses

(4) ~~If there is more than one the application of section 7 results in more than one person being considered to be a surviving dependent spouse for the purposes of this Act,~~

13. (1) The following provisions are amended by replacing "pension" with "payment":

- (a) paragraph 48(1)(b);
- (b) subsection 50(1).

(2) The following provisions are amended by replacing "pension" with "compensation":

- (a) subsection 48(2);**
- (b) paragraph 48(4)(b);**
- (c) subsection 51(2).**

(3) Subsection 51(1) is amended by replacing "pension" with "periodic payment".

14. Subsection 52(1) is repealed and replaced by:

Frequency of payments

52. (1) The Commission may determine the frequency of periodic payments of compensation made under this Act if the frequency is not otherwise provided in this Act.

Idem

(1.1) Despite any provision of this Act specifying a frequency of periodic payments of compensation, the Commission may determine the frequency of periodic payments of compensation made under this Act

- (a) with the written consent of the claimant;
- (b) in the 12 months following an advance made to the claimant under section 55; or
- (c) during
 - (i) a state of emergency declared under subsection 11(1) of the *Emergency Measures Act* or a similar enactment of the Northwest Territories;
 - (ii) a state of public health emergency declared under subsection 40(1) of the *Public Health Act* or a similar enactment of the Northwest Territories; or
 - (iii) a public welfare emergency, public order emergency, international emergency or war emergency declared under the *Emergencies Act* (Canada).

No change to amount of compensation payable

(1.2) For greater certainty, nothing in this section affects the total amount of compensation payable to a claimant.

15. Subsection 53(2) is amended as follows:

Increases

(2) After January 1 of each year, the amount of any economic loss benefit or periodic compensation payable on the death of a worker under this Act ~~any pension~~ that commenced in a previous year must be increased for the current year by the cost of living increase established by the Governance Council under subsection (1).

16. Sections 55 and 56 are repealed and replaced by:

Advance payments

55. (1) The Commission may convert any disability compensation, economic loss benefit, or periodic compensation payable on the death of a worker into an advance, if

- (a) the claimant entitled to the compensation requests the advance;
- (b) the Commission is of the opinion that the interest of the claimant warrants it; and
- (c) the claimant agrees on the amount of the advance.

Amount

(2) The Commission must set the sum of an advance under subsection (1) in an amount not exceeding the amount that would otherwise become payable to the claimant as compensation over the following 12 months.

Amount chargeable

(3) A sum advanced under subsection (1) is chargeable against the compensation otherwise payable.

17. (1) Subsection 58(1) is amended as follows:

Annual remuneration

58. (1) A worker's annual remuneration for a year is the amount of remuneration that the worker would otherwise have earned during that the year ~~in which the personal injury, disease or death occurred~~, not exceeding the Year's Maximum Insurable Remuneration for that year.

(2) Subsection 58(4) is amended as follows:

Seasonal workers

(4) Despite subsection (1), if a worker's employment is seasonal, or is for only part of a year, and the worker suffers the personal injury or disease or experiences the deterioration in condition during that period, the Commission ~~must~~ shall, for the period that the seasonal or partial employment would have continued but for the injury, disease, or deterioration in condition ~~injury or disease~~, consider the worker's annual remuneration to be the higher of

- (a) the amount the worker would receive as annual remuneration if the worker were receiving remuneration during the entire year at the same rate as during the period of that employment; and
- (b) the amount calculated under subsection (1).

(3) Subsection 58(5) is amended as follows:

Determining period of employment

(5) For the purposes of determining the period that the worker's seasonal or partial employment would have continued but for the injury, disease, or deterioration in condition ~~injury or disease~~ referred to in subsection (4), the Commission ~~must~~ shall consider the period of time

that the worker was engaged in the same or similar employment in the previous three years and select the period of employment that is most favourable to the worker.

18. Section 59 is amended as follows:

Net annual remuneration

59. A worker's net annual remuneration for a year is the amount of the worker's annual remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations, for that year.

19. Subsection 61(1) is amended as follows:

Deductions from compensation

61. (1) In fixing the amount of compensation, the Commission may deduct any payment, allowance or benefit that the worker will receive from their ~~his or her~~ employer in respect of the period of the worker's disability or impairment ~~his or her disability~~, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

20. Paragraph 65(14)(c) is amended as follows:

- (c) the costs of the compensation, including the present value of any entitlement to periodic compensation in respect of a worker's impairment or death ~~any pension~~.

21. Subsection 91(2) is amended

(a) in paragraph (c.1) as follows:

- (c.1) whether an impairment exists because of a personal injury or disease, and the percentage of impairment ~~degree of the impairment~~;
- (b) by repealing and replacing paragraph (d) by:**
- (d) whether there has been a disability loss of earning capacity as a result of a personal injury or disease, and the percentage of that disability loss of earning capacity;
- (d.1) whether there has been an impairment loss of earning capacity as a result of a personal injury or disease, and the percentage of that impairment loss of earning capacity;

22. The following is added after paragraph 169(d):

- (d.1) the payment of the retirement benefit to an annuity plan provider as described in paragraph 42(4)(b);
- (d.2) the deductions to be used in calculating net annual remuneration;

TRANSITIONAL

23. (1) This section applies in respect of any personal injury, disease or death that occurred before section 11 of this Act comes into force.

(2) Whether a person is entitled to compensation and the nature of the compensation, if any, must be determined in accordance with the law in effect before the date that section 11 of this Act comes into force, except to the extent that the compensation or related rights are modified or revoked by express words in any subsequent enactment respecting workers' safety or compensation.

CONSEQUENTIAL AMENDMENT

Senior Citizens and Disabled Persons Property Tax Relief Act

24. Section 1 of the *Senior Citizens and Disabled Persons Property Tax Relief Act* is amended by repealing and replacing paragraph (a) of the definition of "disabled person" by:

- (a) is in receipt of a pension, allowance or economic loss benefit
 - (i) for an impairment of at least 25% under the *Workers' Compensation Act*,
 - (ii) for a severe and prolonged disability under the *Canada Pension Plan* (Canada), or
 - (iii) for a disability of at least 50% under the *War Veterans Allowance Act* (Canada) or the *Civilian War-related Benefits Act* (Canada), or

COMING INTO FORCE

25. This Act comes into force on a day to be fixed by order of the Commissioner in Executive Council.