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CHAPTER W-7.1

WORKERS COMPENSATION ACT

GENERAL REGULATIONS

Made by the Workers Compensation Board and approved by the Lieutenant Governor in Council under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1:

1. In these regulations

Definitions

(a) “Act” means the *Workers Compensation Act* R.S.P.E.I. 1988 Cap. W-7.1; Act

(b) “non-resident employer” includes a body corporate or firm,
(i) the head office of which is not in the province,
(ii) the chief place of business of which is not in the province, or
(iii) the payroll or wages records of which with respect to work done in the province are not kept in the province. (EC831/94) non-resident employer

1.1 In the Act or these regulations, “Canada Pension Plan” or “CPP” means the Canada Pension Plan established by the *Canada Pension Plan Act*. (EC331/02; 494/04) Canada Pension Plan or CPP

2. The following workers and industries are excluded from the application of the Act except where the occupation is carried on as a part of an industry to which the Act applies: Excluded workers and industries

- (a) artists, entertainers or performers;
- (b) circus operations, travelling shows and trade shows;
- (c) clergy;
- (d) demonstrating and exhibiting;
- (e) employment by a person in respect of a function in the private residence of that person;
- (f) carriers employed in delivering newspapers or other publications;
- (g) peddling or door-to-door sales;
- (h) salespersons who are not restricted to selling goods for one manufacturer or supplier;
- (i) selling or similar canvassing on streets;
- (j) sports professionals, sports instructors, players and coaches;
- (k) volunteer workers;
- (l) outworkers, being persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in their own home or on other premises

not under the control and management of the person who gave out the articles or materials;

(m) elected officials of a city, town or municipality;

(n) presidents, vice-presidents, directors and other officers of a company unless such person is admitted under section 3 of the Act and in that event the officer shall be deemed to be a worker for the purposes of the Act;

(o) transportation by taxi;

(p) revoked by EC93/16; and

(q) fishing. (EC831/94; 93/16)

Inclusion of worker or industry	<p>3. (1) A worker or industry excluded from the application of the Act under section 2 shall cease to be so excluded if,</p> <p>(a) the Board, by order, so determines;</p> <p>(b) the Board authorizes an assessment to be made with respect thereto;</p> <p>(c) a notice of assessment is mailed to the employer.</p>
Admission upon application	<p>(2) Upon an application of the employer pursuant to subsection 2(3) of the Act, the admission of a worker or industry excluded from the Act shall have effect from the date specified in the order of the Board. (EC831/94)</p>
Assessment	<p>4. Unless otherwise ordered by the Board, the minimum assessment of an employer resident in the province is \$50 and of a non-resident employer is \$100. (EC831/94)</p>
Safety, duty of employer	<p>5. (1) Every employer shall maintain his place or places of employment in such a manner and shall take every precaution that is reasonable in the circumstances to ensure that the safety of workers employed therein is not likely to be endangered.</p>
Increase in assessment for non-compliance	<p>(2) Where an employer acts in a manner inconsistent with subsection (1) or disregards the recommendations of a safety officer or other person authorized by the Board to inspect the ways, works, machinery and appliances for the safety of workers at their place of employment, the Board may increase the assessment of that employer according to the hazards identified and may restrain him from carrying on operations until the hazards are removed to the satisfaction of the Board.</p>
First Aid	<p>(3) Every employer shall comply with the first-aid requirements of the Board in respect of his premises and the first-aid appliances and services required by the board shall at all times be within easy access of the workers.</p>
Industrial disease	<p>6. Revoked by EC356/95.</p>

7. (1) Every person who contravenes any regulation made by the Board for which no penalty is otherwise provided is liable to a penalty not exceeding \$1,000 as determined by the Board. Penalties

(2) An employer who fails to comply with subsection 72(1) of the Act is liable to a penalty of not less than \$50 or more than \$500 as determined by the Board. *Idem*

(3) Every person who contravenes subsection 72(3) of the Act is liable to a penalty not exceeding \$500 as determined by the Board. *Idem*

(4) An employer who contravenes subsection 72(4) of the Act is liable to a penalty of not less than \$100 or more than \$1,000 as determined by the Board. *Idem*

(5) If an assessment is not paid within the time mentioned in the notice of assessment the defaulting employer shall pay an additional amount equal to 1½% of the amount unpaid and, if default in payment continues for longer than one month after the expiration of the time stated in the notice of assessment, an additional 1½% of the amount unpaid for each month or fraction thereof that such default continues in addition to any penalty for which the employer may otherwise be liable. *Idem*

(6) The penalty for the filing of a frivolous appeal under subsection 56(25) of the Act is \$250. *Idem*

(7) The penalty for being in default in payment of assessment under subsection 73(1) of the Act is the amount of 10% of the unpaid assessment. *Idem*

(8) The penalty for refusal or neglect to make or transmit any payroll return or statement or to pay an assessment or to report any payroll estimate under subsection 73(2) of the Act is the amount of \$100 for each week that the return, payment or report is not made. (EC831/94) *Idem*

8. (1) The following are the amounts prescribed for payments to be made under sections 37 and 38 of the Act, subject to adjustments under this section: Compensation for death of worker

(a) for burial expenses under clause 37(1)(a), an amount not to exceed \$7,500;

(b) for the monthly payment to a surviving spouse who is a sole dependent under clause 37(1)(b)

(i) where the accident occurred before January 1, 1992, the amount of \$650 per month payable for life,

(ii) subject to subsection (4), where the accident occurred after December 31, 1991, an amount equal to 70% of the wage loss benefits that would have been payable to the worker under the

- Act, less an amount equal to the percentage amount of CPP survivor benefits that are payable to the spouse, as determined under subsection (3);
- (c) for the monthly payment to a surviving spouse and dependent children under the age of 18 years under clause 37(1)(c)
- (i) for the surviving spouse an amount as provided in clause (b),
 - (ii) for dependent children under the age of 18 years
 - (A) for accidents that occurred before January 1, 1992, the amount of \$250 per month payable until the child reaches age 18; or until the child reaches age 22, if the child continues to be enrolled full time in an educational institution recognized by the Board,
 - (B) for accidents that occurred after December 31, 1991, for each dependent child an amount equal to 10% of the wage loss benefits that would have been payable to the worker under sections 40 to 42 of the Act until the dependent child reaches age 18; or age 22 if the child continues to be enrolled full time in an educational institution recognized by the Board; provided that the total payment for all dependent children shall not exceed 30% of the wage loss benefits that would have been payable to the worker under sections 40 to 42 of the Act;
- (d) for the monthly payment to the guardian of dependent children under the age of 18 years without a parent or without parents under clause 37(1)(e)
- (i) for accidents that occurred before January 1, 1992, the amount of \$250 per dependent child but not to exceed \$1,000 in total for all dependent children under the age of 18 years in the custody of a guardian,
 - (ii) for accidents that occurred after December 31, 1991, an amount equal to 20% of the wage loss benefits that would have been payable to the worker under sections 40 to 42 of the Act for each dependent child under the age of 18 years but not to exceed 60% in total of the wage loss benefits that would have been payable to the worker under sections 40 to 42 of the Act;
- (e) for the monthly payment to other dependents under clause 37(1)(f) of the Act, an amount proportionate to the pecuniary loss to the dependents but not to exceed \$250 per month for any dependent or \$500 per month in total for all dependents;
- (f) the payments provided to surviving spouses and dependents under clauses (b), (c) (d) and (e) will be adjusted on July 1, 1995 and on the first day of July in each year thereafter until and including July 1, 2013, in accordance with the formula contained in subsection 50(2) of the Act.

(1.1) The maximum amount prescribed in clause (1)(a) and the payments provided under clauses (1)(b), (c), (d) and (e) shall be adjusted on July 1, 2014, and on the first day of July in each year thereafter by an amount equal to the lesser of

Adjustment

- (a) 80% of the percentage change in the Consumer Price Index for Charlottetown and Summerside for all items for December of the previous year and December one year earlier, as determined by the Board on the basis of reports published by Statistics Canada; and
- (b) 4%.

(2) For the purpose of subsection (1), the wage loss benefits that would have been payable to the worker but for his or her death shall be calculated without the application of the waiting period in subsection 40(1.2) of the Act or subsection 40.1(3) of the Act, as the case may be.

Wage loss benefit calculation

(3) For the purposes of subclause (1)(b)(ii), the percentage amount of CPP survivor benefits that shall be deducted is

Idem

- (a) 100%, in respect of a monthly payment for the period before July 1, 2002; and
- (b) 50%, in respect of a monthly payment for the period after June 30, 2002.

(4) The amount determined under subclause (1)(b)(ii) shall be payable until the spouse reaches age 65 or the worker would have reached age 65, whichever is later. (EC831/94; 331/02; 675/09; 186/14)

Payable until age 65

9. The schedule for lump sum impairment awards payable to a worker under section 49 of the Act shall be as follows:

Impairment awards

- (a) the minimum impairment awards shall be \$500;
- (b) the maximum impairment awards shall not be set more than the maximum annual earnings, as established under section 47 of the Act, in effect on the day of the accident;
- (c) impairment awards will be based on the percentage of total body impairment as established by the Board Medical Consultant or another qualified medical practitioner designated by the Board using the version of the AMA Guides to Evaluation of Permanent Impairment as approved by the Board;
- (d) the impairment awards will be equal to 1/100 of the maximum annual earnings in effect on the day of the accident for each one per cent of total body impairment under the AMA Guides. (EC831/94; 331/02)

10. Revoked by EC494/04. (EC331/02; 494/04)

Board approval of pain management program