

**EXPLANATORY NOTES**  
**BILL**  
**No. 4**

**An Act to amend *The Workers' Compensation Act, 2013***

**Clause  
of Bill**

**1**      *The Workers' Compensation Amendment Act, 2024*

**2**      *The Workers' Compensation Act, 2013*

**3**      **Existing Provision**

**Interpretation**

**2(1)** In this Act:

(a) **“average weekly earnings”** means the average weekly earnings as determined pursuant to section 70;

(b) **“average weekly wage”** means the average weekly wage of the industrial composite for Saskatchewan as determined by the board for a year from information published by Statistics Canada;

(c) **“board”** means the Workers' Compensation Board continued pursuant to section 9;

(c.1) **“board of education”** or **“school board”** means a board of education as defined in *The Education Act, 1995*

(d) **“business day”** means a day other than a Saturday, Sunday or holiday;

(e) **“chief executive officer”** means the chief executive officer of the board appointed pursuant to subsection 16(1);

(f) **“child”** includes any child to whom the worker stands in the place of a parent;

(g) “**chiropractor**” means a chiropractor who is registered pursuant to *The Chiropractic Act, 1994*;

(h) “**compensation**” means compensation payable pursuant to this Act with respect to an injury;

(h.1) “**conseil scolaire**” means the conseil scolaire as defined in *The Education Act, 1995*;

(i) “**Consumer Price Index**” means the weighted average of the all-items Consumer Price Indices for Regina and Saskatoon, as released by Statistics Canada, where the weights to be used are those used by Statistics Canada in constructing the all Canada Consumer Price Index at the time of the release;

(j) “**dependant**” means a member of the family of a worker who:

(i) is wholly or partly dependent on the worker’s earnings at the time of the death or injury of the worker; or

(ii) but for the worker’s incapacity due to the injury, would have been dependent within the meaning of subclause (i);

(k) “**earnings**” means, subject to subsection (3):

(i) in the case of a worker who sustained an injury before September 1, 1985, the worker’s gross earnings from employment; or

(ii) in the case of a worker who sustained an injury on or after September 1, 1985, the worker’s gross earnings from employment less the probable deductions for:

(A) 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;

(B) the probable *Canada Pension Plan* premiums payable by the worker; and

(C) the probable employment insurance premiums payable by the worker;

(l) **“employer”** includes, subject to subsection (4), any person, association or body having in its service any worker engaged in any work in, about or in connection with an industry and includes:

(i) a trustee, receiver, liquidator, executor or administrator of an employer or any person who is appointed by a court or a judge to carry on the employer’s business;

(ii) the Crown in right of Saskatchewan and in right of Canada insofar as the latter in its capacity as an employer submits to the operation of this Act;

(iii) any board or commission of the Crown in right of Saskatchewan;

(iv) a municipality;

(v) a school board and the conseil scolaire and the SDLC;

(vi) commissions and boards having the management of any work or service operated for a municipality;

(vii) any person who authorizes or permits a learner to be in or about an industry; and

(viii) any other person prescribed in the regulations;

(m) **“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;

(n) **“employment”** means employment in the service of an employer whether the worker’s duties are performed at, near or away from the employer’s place of business;

(o) **“fund”** means the Injury Fund continued pursuant to section 114;

(p) **“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 practice any of the healing arts;

(q) **“industry”** means an industry to which this Act applies and includes an establishment, undertaking, trade and business;

(r) **“injury”** means all or any of the following arising out of and in the course of employment:

(i) the results of a wilful and intentional act, not being the act of the worker;

(ii) the results of a chance event occasioned by a physical or natural cause;

(iii) a disabling or potentially disabling condition caused by an occupational disease;

(iv) any disablement;

(s) **“labour organization”** means a labour organization as defined in Part VI of *The Saskatchewan Employment Act*;

(t) **“learner”** means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry similar to the hazards an employee in that industry faces for the purpose of undergoing training or probationary work as a preliminary to employment;

(u) **“maximum wage rate”** means the maximum wage rate as set out in section 37;

(v) **“medical aid”** means the provision of medical and surgical aid, of hospital and professional nursing services, of chiropractic and other treatment and of prosthetics or apparatus;

(w) **“medical review panel”** means a medical review panel constituted pursuant to section 62;

(x) **“member”** means a member of the board;

(y) **“member of the family”** means, with respect to a person, the person’s spouse, father, mother, grandparent, step-parent, child, grandchild, stepchild, brother, sister, half-brother and half-sister;

(z) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(aa) **“occupational disease”** means a disease or disorder that arises out of and in the course of employment and that results from causes or conditions that are:

(i) peculiar to or characteristic of a particular trade, occupation or industry; or

(ii) peculiar to a particular employment;

(bb) **“Occupational Health and Safety Branch”** means:

(i) the director of occupational health and safety appointed pursuant to section 3-3 of *The Saskatchewan Employment Act*; and

(ii) the employees of the ministry presided over by the member of the Executive Council responsible for the administration of *The Saskatchewan Employment Act* to whom the director mentioned in subclause (i) has delegated any powers or responsibilities;

(cc) **“occupational health and safety program”** means an occupational health and safety program carried out pursuant to *The Saskatchewan Employment Act*;

(dd) **“physician”** means a person registered pursuant to *The Medical Profession Act, 1981*, other than a person registered pursuant to section 42.1 of that Act, whose registration is not under suspension;

(ee) **“policy directive”** means a policy directive established pursuant to section 18;

(ff) **Repealed.** 2024, c11, s.3.

(ff.1) **“psychiatrist”** means a psychiatrist as defined in *The Mental Health Services Act*;

(ff.2) **“psychologist”** means:

(i) an individual who is a member of the Saskatchewan College of Psychologists and who holds a licence to practise issued pursuant to *The Psychologists Act, 1997*; or

(ii) an individual who is practising as a psychologist outside Saskatchewan and who is recognized as a psychologist by the licensing body of the jurisdiction in which the person practises;

(ff.3) “**SDLC**” means the Saskatchewan Distance Learning Corporation;

(gg) “**spouse**” means, with respect to a worker:

(i) the legally married spouse of the worker; or

(ii) a person who is or was cohabiting with the worker as a spouse as at the date of the worker’s death or injury and:

(A) the person has or had cohabited with the worker as a spouse continuously for a period of at least one year; or

(B) the person and the worker are parents of a child;

(hh) “**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 searches and assistance with job placement;

(ii) “**worker**” means, unless otherwise specified, a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes:

(i) a learner;

(ii) a member of a municipal volunteer fire brigade;

(iii) an executive officer of an employer, if that executive officer is carried on the employer’s payroll; and

(iv) any other person who, pursuant to this Act or any direction or order of the board, is deemed to be a worker;

(jj) “**workers’ advocate**” means a person appointed as a workers’ advocate pursuant to section 161.

(2) The board shall cause the average weekly wage as determined by the board in accordance with clause (1)(b) to be made public in any manner that the board considers appropriate.

(3) For the purposes of clause (1)(k), the board shall annually establish a schedule setting out a table of earnings and probable compensation from employment.

(4) For the purposes of clause (1)(l), if the services of a worker are temporarily let or hired to another person by the employer of the worker, the latter employer continues to be the employer for the period that the worker is working for that other person.

2013, c.W-17.11, s.2; 2016, c33, s.3; 2019, c 28, s.3; 2023, c24, s.8; 2024, c11, s.3.

(a) **Explanation**

The definition of “**chiropractor**” in clause (g) is amended to include practising chiropractors who are licensed in other jurisdictions.

(b) **Explanation**

The definition of “**health care professional**” in clause (p) is amended to include practising health care professionals who are licensed in other jurisdictions.

(c) **Explanation**

A new clause (cc.1) is added to define the term “**out-of-province worker**” which is referenced in section 34.

(d) **Explanation**

The definition of “**physician**” in clause (dd) is amended to include practising physicians who are licensed in other jurisdictions.

(e) **Explanation**

The definition of “**psychiatrist**” in clause (ff.1) is amended to include practising psychiatrists who are licensed in other jurisdictions.

#### **4**      **Existing Provision**

##### **Term of office**

**11(1)** Subject to subsection (2), the members of the board appointed pursuant to clause 9(3)(b):

(a) hold office for a period not exceeding four years and until a successor is appointed; and

(b) may be reappointed after consultation with:

(i) the employer associations mentioned in subsection 9(4), in the case of members who represent employers; and

(ii) the labour organizations mentioned in subsection 9(4), in the case of members who represent workers.

(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 after consultation with the employer associations and labour organizations mentioned in subsection 9(4).

2013, c.W-17.11, s.11.

##### **Explanation**

Subsections (3) and (4) are added to enable board members to continue hearing a matter after their term of appointment expires, if the hearing has already commenced.

#### **5**      **Existing Provision**

##### **Publication of appeal decisions**

**23.1** The board shall publish appeal decisions of members of the board mentioned in clause 9(5)(a) together with reasons in any manner that the board considers appropriate, including on the board's website.

2024, c11, s.6.

## Explanation

Section 23.1 is amended to add a regulation-making authority to specify the manner of publishing appeal tribunal decisions.

### **6** Existing Provision

**Presumption of certain occupational diseases re firefighters**

**28(1)** In this section and in section 187:

- (a) **“fire department”** means a fire department as defined in *The Fire Safety Act*;
- (b) **“listed disease”** means:
  - (i) a primary site brain cancer;
  - (ii) a primary site bladder cancer;
  - (iii) a primary site kidney cancer;
  - (iv) a primary non-Hodgkins lymphoma;
  - (v) a primary leukemia;
  - (vi) a primary site ureter cancer;
  - (vii) a primary site colorectal cancer;
  - (viii) a primary site lung cancer;
  - (ix) a primary site testicular cancer;
  - (x) a primary site esophageal cancer;
  - (xi) a primary site prostate cancer;
  - (xii) a primary site skin cancer;
  - (xiii) multiple myeloma;
  - (xiv) a primary site breast cancer;

- (xv) a primary site cervical cancer;
- (xvi) a primary site ovarian cancer;
- (xvii) a primary site penile cancer;
- (xviii) a primary site pancreatic cancer;
- (xix) a primary site thyroid cancer;
- (xx) a primary site soft tissue sarcoma;
- (xxi) a primary site mesothelioma;
- (xxii) a primary site laryngeal cancer; or
- (xxiii) an injury to the heart that manifests within 24 hours after attendance at an emergency response.

(2) Subject to subsection (3) and unless the contrary is proven, if a worker who is or has been a firefighter suffers a listed disease, that disease is presumed to be an occupational disease, the dominant cause of which is the employment as a firefighter.

(3) The presumption mentioned in subsection (2) applies:

(a) only to a worker who:

(i) has been a volunteer or full-time member of a fire department for the minimum period of employment prescribed in the regulations; and

(ii) has been regularly exposed to the hazards of a fire scene, other than a forest fire scene, throughout the period mentioned in subclause (i); and

(b) in the case of primary site lung cancer, only to a worker who has been a non-smoker before the date of injury for the minimum period prescribed in the regulations.

2013, c.W-17.11, s.28; 2015, c.F-15.11, s.68;  
2019, c 28, s.6; 2024, c11, s.7.

### **Explanation**

Clause (3)(a) is amended to expand workers' compensation coverage to wildland firefighters.

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### **Existing Provision**

#### **Injury outside Saskatchewan**

**34** Subject to the provisions of an agreement pursuant to section 33, a worker or a worker's dependants must be paid compensation pursuant to this Act if:

- (a) the worker is a resident of Saskatchewan or the usual place of the worker's employment is in Saskatchewan and the employment requires the performance of work both inside and outside Saskatchewan; and
- (b) the worker is injured while he or she is performing work outside of Saskatchewan.

### **Explanation**

Section 34 is amended to expand coverage to non-residents of Saskatchewan who are employed by Saskatchewan employers and are performing work outside of Saskatchewan.

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### **Existing Provision**

#### **Review of compensation at request of worker, etc.**

**100(1)** Any weekly or other periodic payment to a worker or a worker's dependent spouse payable out of the fund may be reviewed:

- (a) on the motion of the board; or
- (b) at the request of the worker, the worker's dependent spouse or the worker's employer.

(2) On a review pursuant to subsection (1), the board may terminate or diminish the payment or may increase the payment to an amount that does not exceed the maximum compensation set out in this Act.

(3) After conducting any review that the board considers proper, the board may withhold or suspend the payment of compensation to a worker or other person

receiving compensation for any period that the board considers advisable if the worker or other person is confined in:

(a) a correctional facility within the meaning of *The Correctional Services Act, 2012*;

(b) a penitentiary within the meaning of the *Corrections and Conditional Release Act (Canada)*;

(c) a prison or reformatory within the meaning of the *Prisons and Reformatories Act (Canada)*; or

(d) a place of open custody, a place of secure custody or a place of temporary detention as those terms are defined in *The Youth Justice Administration Act, 2019*.

(4) Notwithstanding section 99, if compensation to a worker or other person is withheld or suspended pursuant to subsection (3), the board may pay compensation to the worker's dependants or other person or to any other persons that the board considers advisable.

2013, c.W-17.11, s.100; 2019, c Y-3, s.15-8.

### **Explanation**

Clause (3)(a) is amended to extend to situations where an injured worker who is receiving workers' compensation moves to a different province or country and is imprisoned there.

## **9 Existing Provision**

### **Regulations**

**187(1)** After consultation with the board, the Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(a.1) for the purposes of clause 2(1)(l), prescribing persons as employers;

(a.2) for the purposes of clause 2(1)(ii), prescribing persons as workers;

(b) for the purposes of subsection 4(3), prescribing the amount of the annual earnings of a reeve or councillor;

(c) **Repealed.** 2024, c11, s.26.

(d) for the purposes of subsection 19(3), respecting reporting by the board to the minister;

(e) for the purposes of section 28:

(i) prescribing periods of employment and, for that purpose, may prescribe different periods of employment for different listed diseases; and

(ii) prescribing a minimum period for a worker to have been a non-smoker;

(e.1) for the purposes of section 28.1:

(i) prescribing occupations; and

(ii) prescribing an edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;

(e.2) for the purposes of clause 59(3)(c), prescribing what constitutes sufficient particulars;

(e.3) for the purposes of subsection 70(6), prescribing criteria;

(f) for the purposes of clause 122(2)(a), respecting payroll statements employers transmit to the board;

(g) for the purposes of section 152, prescribing a percentage of the unpaid amount mentioned in that section as a penalty;

(h) for the purposes of clause 166(3)(b), governing the manner of calculating the cost of complying with an attachment;

(h.1) for the purposes of section 178.1:

(i) prescribing other means in which a notice, order or other document may be served; and

(ii) prescribing the number of business days in which a notice, order or document is deemed to have been received;

(i) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(j) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(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.

2013, c.W-17.11, s.187; 2016, c33, s.5; 2024, c11, s.26.

**(a) Explanation**

Clause (1)(a.11) is added to provide a regulation-making authority to prescribe other out-of-province workers.

**(b) Explanation**

Clause (1)(d.1) is added to provide a regulation-making authority to specify the manner of publishing appeal tribunal decisions.

**10 Existing Provision**

This Act comes into force by order of the Lieutenant Governor in Council.

**Explanation**

These amendments come into force by order of the Lieutenant Governor in Council.