

Bill No. 101 of 1952.

A BILL TO AMEND THE WORKMEN'S
COMPENSATION ACT, 1948.

NOTE.

This Bill amends *The Workmen's Compensation Act, 1948*, being chapter 5 of the Statutes of Alberta, 1948.

During the year 1951 a Special Legislative Committee investigated the operation and administration of *The Workmen's Compensation Act, 1948*. The recommendations of the Committee with respect to changes in principle and payments form the substantive amendments in this Bill.

Certain amendments relating to the administration of the Act were suggested to the Committee by the Board and form the larger part of the Bill in point of quantity.

Rearrangement of sections of the Act for the purposes of clarification, or better arrangement and altering sections to conform with substantive changes in other parts of the Act, or to correct references, or to remove provisions now obsolete, form the third type of amendments found in the Bill.

Section 2 is amended. Paragraph (a) is amended. This presumption is taken from section 42 relating to industrial diseases which are now taken care of by the extension of this paragraph which defines "accident". Schedule 3, enumerating industrial diseases, is being retained so that the extended definition of "accident" and Schedule 3 and the presumption provided by section 19, subsection (5) as amended provides for all industrial diseases.

Paragraph (e) of section 2 is amended to bring the definition of "child" into conformity with the definition of "member of a family" found in paragraph (q).

A new paragraph (e1) defining the term "common law wife" is added to section 2 as it is proposed to bring a common law wife within the scope of the Act. This proposal follows Saskatchewan where common law wives are already within the scope of their Act.

Paragraph (i) of section 2 is amended to give the Board a greater facility for ascertaining whether a person was or was not an employer.

Paragraph (k) of section 2 is struck out as this paragraph defined the term "industrial disease" which is now taken care of by the extended definition of "accident" found in paragraph (a) of section 2.

The term "industry" as defined by paragraph (*l*) is amended to conform to the amendment to section 13 which relates to the right of the Board to add further industries to the Schedules.

As "learners" are to be brought within the scope of the Act a new paragraph (*m1*) is added to section 2 defining this term. This amendment corresponds with a provision in the Manitoba Act.

Paragraph (*p*) of section 2 defining "medical aid" is amended. Heretofore there was an overlapping of this definition with section 43, which authorizes the Board to provide medical aid. This paragraph and section 43 are each amended for the purpose of defining the term itself and giving the board authority to provide such medical aid.

Paragraph (*aa*) of section 2 is amended twice. Firstly it is amended to make it clear that in so far as workmen's compensation is concerned it is only in industries to which the Act applies that a "contract for service or apprenticeship" makes a person a "workman" and secondly it is amended to bring "learners" within the definition of "workman" and therefore within the scope of the Act.

Section 2 is further amended by adding a definition of the term "year". This is necessary because the expression "year" does not always mean the calendar year, for instance, where it means the Board's "lumber year", which is from November 1st to October 31st following.

Section 4 is amended by striking out subsections (2) and (3) and by substituting four new subsections. The new subsection (2) is the former subsection (1) of section 5 and the new subsection (5) is the former subsection (3) of section 5. These subsections have been rearranged to give a more orderly arrangement of sections. The effect of the amendment in subsection (3) is that if there is, in the opinion of the Legislature, sufficient cause for removal of a commissioner it may remove him. Subsection (4) provides for suspension for cause prior to the Legislature meeting. The proposed change in the term of office is considered advisable to provide a greater security in the term of office and thereby make it more attractive to good men.

Section 5 is struck out and a new section 5 is substituted. Subsection (1) is the former subsection (2) of section 4 revised for greater certainty with respect to the temporary nature of the substitutional appointment. Subsection (2) is the former subsection (3) of section 4 with no change.

Section 13 is amended by substituting a new subsection (1) and by adding a new subsection (4). Subsection (1) is merely a rearrangement of the subsection to incorporate into it the authority to "add to or withdraw" any part of any industry. The only new feature in this proposed amendment is in the new paragraph (*b*) which enables the Board to add or withdraw any part of an industry. It has been the

practice to consider volunteer fire fighters as workmen to whom the Act applied and the new subsection (4) is intended to make this clear.

A new subsection (3a) is added to section 15. Under this section an employer may be required not only to remedy the faulty condition of the working premises complained of, but to advise the Board of his having done so. If he does not do so the Board may then have an inspection of the premises made and when such an inspection is made the cost of it is charged to the employer.

Section 18 is amended to permit the Board to assume duties or tasks in the nature of referee, umpire or arbitrator of claims by workmen for compensation where the same are referred to the Board by a public authority.

Section 19 is amended by adding a new subsection (4a) and by amending subsection (5). The new subsection (4a) continues the presumption formerly provided by section 42, subsection (1) with respect to an industrial disease which is repealed. The effect of the amendment to subsection (5) eliminates the waiting period of three days after the day of the accident.

Section 20 is struck out and a new section is substituted. This section is re-enacted to implement the recommendations of the Committee with respect to increasing the presumed annual wage of members of the employer's family. Subsection (1) remains the same. Subsection (2) increases the coverage for an employer's family from twenty-five hundred dollars to three thousand dollars and from twelve hundred dollars to eighteen hundred dollars, respectively. Under subsection (3) employers are obliged to furnish to the Board, each year before the 20th of January, a statement of their payroll for the preceding year and an estimate of their payroll for the forthcoming year and there is a form of application on the statement form upon which the employer may make an application for coverage or renewal of coverage, as the case may be, for himself and such of the members of his family or his family that he may desire to have brought or retained under the protection of the Act, but as the statement (with the form of application) need not and may not reach the Board until the 20th of January there is a period of nineteen or twenty days between the expiry of the preceding year's coverage and the renewal. It has been the practice of the Board to allow such coverage where an application for a continuation of coverage is received by the said date and allowed by the Board and this amendment is for the purpose of removing any question as to the validity of the coverage so granted. Subsection (4) provides that where assessments are based on production, such as in the lumber industry, where there is no assessment on earnings if and when a claim for compensation is made it is made necessary that it be shown that the applicant was a *bona fide* employee. Subsection (5) is a revision of the former subsection (4) of section 20 with no change in sub-

stance except in the basis of assessment and compensation which have been increased from twenty-five hundred to three thousand dollars as to maximum and from twelve hundred dollars to eighteen hundred dollars as to minimum. Subsection (6) provides for the bringing of employers within the Act as workmen and is substantially the same as the former provision in that regard, except that employers in industries in which the assessments are based upon production and not upon payroll, an employer does not have to make application for his own coverage as he is covered for compensation automatically without further levy. Subsection (7) increases the maximum and minimum amounts to be stated as the basis for assessments and compensation which increase is a result of the recommendation of the Committee. There is no substantive change in subsection (8). Subsection (9) increases the maximum and minimum sums upon which assessments and compensation are based. Subsection (10) is a revision of the former subsection (6) of section 20 and is extended to cover other corporate bodies as well as municipal districts. Subsection (11) is similar to the former subsection (7) of section 20. Subsection (12) is the same as the former subsection (8).

Sections 21 and 22 are amended. These sections are re-drafted as they formerly overlapped. Subsection (1) of both sections is struck out and an amalgamation of both sections re-enacted as subsections (1) and (2) of section 21. Subsections (2) and (4) of section 21 are amended for purposes of clarification. Minor amendments are made to subsections (2) and (3) of section 22 which are required because of the rearrangement. Subsection (4) of section 22 is struck out.

Section 24 is amended. Subsection (3) is amended and is the same as the former subsection (3) except that it does not now refer to a power which the Board had, and which was never used, to determine whether a plaintiff's action was one which was taken away by section 24. Paragraph (a) of the new subsection (5) is a revision of the former subsection (7) of section 24; paragraph (b) is in effect the same as the former subsection (5); paragraph (c) provides indemnification to the workman for costs or damages incurred by the Board in acting in his behalf. Subsection (3) of section 22 formerly provided indemnification for costs. Paragraph (d) of subsection (5) is similar to the former subsection (8) of section 24. Subsection (6) is a new provision and provides that where in cases in which the Board is subrogated to the rights of the workman against a third party and moneys have been paid into court either by way of tender or in satisfaction of a judgment, the clerk of the court shall not pay the moneys out except with the consent of the Board. Subsection (7) provides for service of notice of the Board's subrogation. Subsection (8) is a revision of the former subsections (7), (8) and (9) and provides,—

(a) that the Board may settle a claim for damages;

- (b) damages awarded in any such action for the workman's pain and suffering shall be paid to the workman in any event;
- (c) that the Board may pay to or allow the workman a portion of the moneys recovered, whether the Board is fully reimbursed or not.

Subsection (9) is a revision of the former subsection (6) and provides further that in the case of a charge of the cost of an accident to another classification the Board will have the right, where the responsibility for the injury to the workman is in two or more employers, to proportion the cost of the accident to the employers involved in the same degree as their respective responsibility for the accident. This amendment stems from the recommendation of the Committee with respect to contributory negligence. Subsection (10) provides that there is no right of action against an employer or fellow workman giving assistance or first aid to an injured workman except for gross negligence.

Section 25, subsection (7) is amended. Under subsection (5) of this section employers are required to report to the Board accidents that happen to their workmen within twenty-four hours after the accident comes to their knowledge or notice. The workman, when reporting his accident, gives the name of the employer and the claims officer writes the person stated to be the employer who is required to make a report. The employer is liable for the costs incurred because of any failure to report or advise the Board of the accident.

A new subsection (4) is added to section 26 which provides for medical investigation and permits the Board to pay compensation to the workman for the period of time taken in such investigation.

Subsection (1) of section 27 is amended. If a workman makes any one of the objections set out in either paragraphs (a), (b), (c) or (d), the Board is obliged to proceed with an appeal as in the section provided whether the workman wishes it or not. The workman may want merely a review of his case by the Board or an examination by a medical board notwithstanding which, the Board, under the provision as it was, would have to proceed with the machinery of appeal. The proposed amendment makes it permissible but not obligatory to investigate, until the workman makes "a request in writing" to the Board when it becomes obligatory.

Section 30, subsection (5) is amended. The necessity for "objective symptoms of personal injury" in this section makes the provision too restrictive. The Board, although satisfied that a claim for breakage is quite legitimate but because of there being no objective symptoms of personal injury, is unable to accept the claim. This amendment would remedy that situation and the Board's findings are made entirely upon the facts of the case.

Section 33 is amended. Paragraph (a) of subsection (1) is amended to increase the allowance for expense of burial from one hundred and seventy-five to two hundred dollars. This results from a recommendation of the Special Legislative Committee. A new paragraph (bb) is added to subsection (1) which provides for an allowance toward the transportation of the body of the deceased workman where transportation is advisable. This was also recommended by the Committee. Paragraph (d) of subsection (1) is amended to provide for a decrease in the age to which compensation is payable to dependent children and an increase of ten dollars a month in the rate of compensation payable to dependent children is also provided for. Paragraph (e) is amended for the same purpose. Paragraph (g) of subsection (1) is amended to make it less restrictive with respect to illness of dependants. The amendment to paragraph (h) makes this paragraph as it applies to ill dependent children or ill invalid children less restrictive. Paragraphs (i) to (p) inclusive of subsection (1) are struck out and replaced as sections 33a to 33j inclusive. Paragraph (b) of subsection (2) is amended to remove superfluous words which appear in the Act of 1948 from the previous Act. The effect of the amendment to paragraph (c) of subsection (2) is that where a child is no longer entitled to pension payments, the foster-mother ceases to function as a foster-mother.

Section 33a increases the pensions payable to widows and invalid widowers up to fifty dollars under the conditions stated, as recommended by the Special Legislative Committee.

Section 33b is new and provides for the recognition for compensation of the common law wives of fatally injured workmen. This follows a provision in the Saskatchewan Act.

Section 33c provides for an extension of two years during which compensation may be paid to dependent children for further education where, in the opinion of the Board, it is advisable.

Section 33d is the former paragraph (j) of section 33 without change.

Sections 33e and 33f are taken from the former paragraphs (k) and (l) of section 33 and are merely a rearrangement with a view to a more orderly arrangement.

Section 33g prevents a duplication of pensions in cases such as, for instance, where a child dependant becomes entitled to a pension because of the death of his father and subsequently would be entitled to a further award upon the death of a step-father.

Section 33h, together with the amendment of section 51, subsection (1), paragraph (h), takes the place of the former paragraph (n) of subsection (1) of section 33.

Section 33*i* re-enacts paragraph (*o*) of subsection (1) of section 33.

Section 33*j* re-enacts paragraph (*p*) of subsection (1) of section 33.

Section 33*k* is new and enacts provisions now found in the Statutes of Saskatchewan, Manitoba, New Brunswick, Ontario and Prince Edward Island with respect to compensation payable to a person who is not a resident of Canada. These provisions were recommended by the Special Legislative Committee.

The amendment to section 34 provides for an increase in the rate of compensation for total disability from 66 $\frac{2}{3}$ % of average weekly earnings to 75%. This is a recommendation of the Special Legislative Committee. The amendment to Section 35 provides for the same increase in case of permanent partial disability and the amendment to section 36 provides for the same increase in cases of temporary total disability. Section 37 is similarly amended to provide for the same increase in cases of temporary partial disability. The amendment to section 38 was made necessary by the increased rate of compensation.

Section 39, subsection (1) is amended for purposes of clarification. The amendment to subsection (3) is necessitated by the increase in the compensation basis. Subsection (4) is also amended. Under the former section it would appear that where a man had more than one disability he would be entitled to an aggregate sum of two-thirds of twenty-five hundred dollars, or three thousand dollars now, irrespective of his actual earnings which might well be less. The intention of the amendment and the practice followed by the Board is to give him in the aggregate two-thirds of his average weekly earnings, subject to the maximum and minimum earnings in the aforesaid sums and the amendment would warrant and authorize the practice.

Subsection (1) of section 40 is amended to provide that the minimum compensation be twenty-five dollars per week rather than fifteen dollars for total temporary or permanent disability. This is a recommendation of the Commission. Subsection (5) is amended to provide a method of arriving at an increased rate of wages of a workman suffering an injury during his minority where but for the accident increases in his rate of pay might reasonably have been expected from time to time until it had reached adult pay.

Subsections (1), (2), (3) and (4) of section 42 are struck out and the remaining subsections (5) to (9) inclusive are renumbered as subsections (1) to (5) respectively. These amendments are necessary because of the extended definition of "accident" which now includes disablement from any cause arising out of and in the course of the employment, which includes industrial diseases. However, the "enumeration of industrial diseases" is retained and the presumption

formerly contained in subsection (1) of section 42 is retained as section 19, subsection (4), paragraph (b). The amendment to subsection (3), formerly subsection (7), corrects a cross-reference. Subsection (9), now renumbered as subsection (5), is amended to enable the Board to deal with silicosis cases that might not otherwise come within the provisions of the Act.

Section 43 is struck out and a new section substituted. Subsection (1) authorizes the furnishing of medical aid to injured workmen, adding to the other features of medical aid, "diagnosis". Subsections (2) and (3) are the former subsections (2) and (3) of section 44 which have been placed in this section as they are more properly part of section 43. Subsection (4) provides for an increased subsistence allowance from two dollars and fifty cents to five dollars, subject to the conditions therein stated. This was recommended by the Committee. Subsections (5) and (6) are a re-enactment of the provisions of section 43. Subsection (7) is a re-enactment of the provisions of the former subsection (6) of section 44. Subsection (8) is a re-enactment of subsection (7) of section 44. Subsections (9) and (10) provide for a scale of payments to doctors which is designed to speed up the rendering of medical accounts. This amendment follows to an extent the Ontario provision in the same regard. Subsection (11) validates payments of hospital accounts heretofore made by the Board.

Subsections (2) to (9) inclusive of section 44 are struck out as the provisions formerly contained in these subsections are now found in section 43.

Section 49 is struck out and a new section substituted. It gives the Board authority to invest moneys of the Board in securities authorized by law and follows the Nova Scotia Act in that regard.

The new section 49*a* which is added to the Act provides the Board with power to borrow by way of overdraft.

Section 50, subsection (2) is amended to give the Board sufficient time, after the completion of the Provincial audit, to prepare the report to the Lieutenant Governor in Council. The new subsection (4) added to this section provides for an actuarial evaluation of the Board's pension accounts every five years, or sooner if the Lieutenant Governor in Council so desires.

Section 51, subsection (1), paragraphs (c) to (g) are amended for purposes of clarification and two new paragraphs are added. The new paragraph (h) provides that the Board may assess employers for a special reserve for the payment of claims arising out of enhanced disabilities, and into this reserve is to be paid the balance standing to the credit of reserves created under the former paragraph (n) of subsection (1) of section 33. The new paragraph (i) gives the Board power to create special reserves in order to meet special situations as and when they arise.

Section 52, subsection (3) is amended. Because of the new definition of "year" the word "calendar" in this subsection is superfluous. A further amendment to this subsection is required because of the increased maximum earnings permitted.

Section 54 is amended. In subsection (1) the word "calendar" is now superfluous because of the definition of "year". The provisions of subsection (2) are made to apply to a corporation. This subsection could be defeated by fixing a wage or salary of a dollar a year and it is amended to include token or nominal salaries. Subsection (2) is further amended to make it conform to the increased maximum earnings provided for elsewhere. Subsection (3) is amended to require notice of the granting of a building permit involving an expenditure of over one hundred dollars to be given the Board within three days instead of one day. Subsection (5) is amended to prevent cases where building permits are not ordinarily issued or made use of unless and until an accident occurs and then only in that particular case and for the sole purpose of bringing the case within the scope of the Act. The result was that the permittee then became an employer and subject to assessment only when there was an accident to take care of without the usual counterbalance of assessments from the other employers in the industry.

Section 55, subsection (4) is amended for purposes of clarification. The Board is not always able to form an opinion as to whether or not an owner of an establishment is an employer within the meaning of the Act and the amendment provides that the Board may now enter an establishment to enable it to determine the liability of the employer to contribute to the Accident Fund. Subsection (12) of the same section is amended to extend the provisions of the subsection to other provinces with respect to the divulging of information.

Section 59, subsection (1) is amended to make it conform to similar phraseology in subsection (1) of section 54.

Subsection (3) of section 65 is amended to remove any question as to whether or not money owing the employer is the property of the employer upon which the amount of assessments owing the Board may be charged. Subsection (6) is amended to remove certain meaningless words.

Section 61 is struck out and a new section substituted. The effect of the amendment is that where work is undertaken for, or equipment or operators are supplied to a principal, then unless the person supplying the equipment or undertaking the work has made a return for the year under section 54, subsection (1), the persons undertaking the work or supplying the equipment and the operators of the equipment become workmen and the principal is liable to assessment. If, however, the person supplying equipment and operators, or the person undertaking to perform work

for the principal, has made a return under section 54, subsection (1), then his operators or assistants or employees become his workmen and he pays the assessment. Subsection (4) provides that the principal, that is the person for whom the equipment is ultimately supplied, or for whom the work is ultimately done, is liable to pay to the Board any sum which the person supplying him with equipment and operators, or who has undertaken to perform work for him, is liable to pay the Board under subsections (2) or (3), and thereupon shall be entitled to be indemnified. Subsection (5) is a re-enactment of the former subsection (2). Subsection (6) is for the purpose of exempting the Department of Public Works, its suppliers of equipment and operators, and the persons undertaking to perform work for that Department from the operation of this section.

Three new subsections are added to section 66. The new subsection (2a) provides that a person buying lumber may reimburse himself out of the price of the lumber, the moneys which he was obliged to pay on the vendor's assessment to the Board. The new subsection (2b) provides that moneys deducted from the purchase price of lumber for payment of or on account of assessment due the Board by the vendor would be treated as moneys of the Board. The new subsection (6) provides that men working together as partners in industries where assessment is based on production would have protection as workmen and the partnership, as the employer, would pay the assessment.

Section 67 is amended. Subsection (1) is amended to make the section applicable to any and all moneys due the Board and to clarify the provision with respect to its meaning. Subsection (5) is amended to make it clear that the sheriff or other person charged with the execution of the warrant has the right to fix an upset price at the auction as he has under *The Seizures Act*. A new subsection (6a) is added which clarifies the extent of the title given by the forced sale for unpaid assessment and the provision is similar to section 36 of *The Seizures Act*. The new subsection (9a) which is added ensures that an execution creditor obtaining a certificate of the subsisting executions in the hands of the sheriff under section 5 of *The Execution Creditors Act* would, upon receipt of such certificate, be informed also of the debtor's liability to the Board.

Three new subsections are added to section 70. The new subsection (4a) is for the purpose of making it known to the workmen that their employer has not paid and is not paying his assessments and that they in consequence are not protected for compensation. The new subsection (4b) provides that compensation shall not be payable to any workman for injury after the expiration of ten days from the posting of the notice ordering the employer to discontinue employing workmen. Subsection (4c) provides that the Board may relieve from the effect of subsection (4b) in proper or deserving cases, or in any case.

Subsection (2) of section 71 is amended to conform with subsection (1) which refers to “regulations or orders”.

Section 72, subsection (1) is amended for the purpose of preventing conflict between this section and section 13 and to make it clear that this section would not apply to such additions, withdrawals or rearrangements that the Board may have made or may make under the provisions of section 13.

Schedules 1 and 2 are struck out and new Schedules substituted. This is done for greater clarity of expression. Schedule 3 is amended because these enumerated ailments, together with others, are included in the term “pneumoconiosis” and therefore unnecessary.

This Bill comes into force on assent.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 101 of 1952.

An Act to amend The Workmen's Compensation Act, 1948.

(Assented to _____, 1952.)

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

1. *The Workmen's Compensation Act, 1948*, being chapter 5 of the Statutes of Alberta, 1948, is hereby amended.

2. Section 2 is amended,—

Section 2
amended

- (a) by adding at the end of paragraph (a) the words “, and where the disablement is caused by disease the date of the accident shall be deemed to be the date of the disablement”;
- (b) by adding at the end of paragraph (e) the words “as well as any other child to whom the workman stood in *loco parentis*”;
- (c) by adding immediately after paragraph (e) the following new paragraph:
 - “(e1) ‘Common law wife’ includes any woman who although not legally married to him lives and cohabits with a man as his wife and is known as such in the community in which they have lived;”;
- (d) by adding immediately after the word “having”, where it occurs in paragraph (i), the words “, or deemed by the Board or by this Act to have,”;
- (e) by adding immediately after paragraph (j) the following new paragraph:
 - “(j1) ‘Fatal accident’ means the death of a workman from injury or disease under circumstances which would entitle his dependants, if any, to compensation;”;
- (f) by striking out paragraph (k);
- (g) by striking out paragraph (l) and by substituting the following:
 - “(l) ‘Industry’ means any establishment, undertaking, trade or business included in the Schedules hereto or otherwise coming within the scope of the Act whether the same be carried on in conjunction with other occupations or separately;”;
- (h) by adding immediately after paragraph (m) the following new paragraph:

“Common
law wife”

“Fatal
accident”

“Industry”

"Learner"	<p>"(m1) 'Learner' means any person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of this Act for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment and in the event of a learner suffering injury in such circumstances as would entitle him to compensation such compensation shall be based upon the wages paid to beginners in the trade or business in which he is a learner;"</p>
"Medical aid"	<p>(i) by striking out paragraph (p) and by substituting the following:</p> <p>"(p) 'Medical aid' includes medical and other services by all those licensed to practice the healing art in the Province and nursing, hospitalization, drugs, dressings, X-ray treatment, special treatment, transportation and other matters and things as the Board may authorize or provide;"</p> <p>(j) by relettering the present subparagraph (iv) of paragraph (aa) as subparagraph (v) ;</p> <p>(k) by adding immediately after subparagraph (iii) of paragraph (aa) the following new subparagraph:</p> <p>"(iv) a learner; and";</p> <p>(l) by adding immediately after paragraph (aa) the following new paragraph:</p>
"Year"	<p>"(bb) 'Year' means a calendar year except as the Board may otherwise direct."</p>
Section 4 amended	<p>3. Section 4 is amended by striking out subsections (2) and (3) and by substituting the following:</p>
Term of office of Chairman and commissioners	<p>"(2) The Chairman and the other commissioners shall each hold office from the date of their respective appointments until they shall have attained the age of seventy years.</p>
Suspension of commissioner	<p>"(3) A commissioner may be removed for cause on address of the Legislative Assembly.</p> <p>"(4) A commissioner may be suspended for cause by the Lieutenant Governor in Council subject to his removal from office on address of the Legislative Assembly at the next subsequent session of the Legislature and failing such removal the suspension shall automatically terminate.</p> <p>"(5) No commissioner shall engage in any other business or employment for remuneration."</p>
Section 5 amended	<p>4. Section 5 is struck out and the following is substituted:</p>
Illness or absence of commissioner	<p>"5. (1) In the case of illness or absence from the Province of a commissioner or his inability to act from any cause, the</p>

Lieutenant Governor in Council may appoint an acting commissioner for the duration of such illness, absence or inability, who for the period of his appointment shall have all the powers and shall perform all the duties of a commissioner.

“(2) In the case of a vacancy in the office of the Chairman of the Board or in the office of a commissioner, the Lieutenant Governor in Council may appoint some person to act *pro tempore* in the office of the Chairman or commissioner and the person or persons so appointed shall have all the powers and perform all the duties of the Chairman of the Board or of a commissioner, as the case may be.”.

Vacancies

5. Section 13 is amended,—

Section 13
amended

- (a) by striking out subsection (1) and by substituting the following:

“**13.** (1) the Board may,—

Board may
add to or
withdraw
industries in
Schedule

“(a) add further industries to the Schedules hereto and withdraw or rearrange any of the industries therein;

“(b) withdraw from or add to an industry any part thereof;

“(c) divide any industry into one or more classes and any class into one or more subclasses.”;

- (b) by adding immediately after subsection (3) the following new subsection:

“(4) The Board may bring within the scope of this Act volunteer employments undertaken in the public interest and wherein the remuneration, if any, is nominal, on such terms and conditions as the Board may direct.”.

Board may
bring
volunteer
employments
within scope
of Act

6. Section 15 is amended by adding immediately after subsection (3) the following new subsection:

Section 15
amended

“(3a) When the employer, having been so ordered, fails to notify the Board within the time fixed by the order for so doing, of his having complied with the order, the Board may, at such time or times as it deems advisable, inspect or have inspected the premises of the employer and ascertain whether or not the order has been complied with and the Board may charge the cost of the inspection to the employer who shall be liable to the Board therefor.”.

Inspection of
premises

7. Section 18 is struck out and the following is substituted:

Section 18
amended

“**18.** The Lieutenant Governor in Council by order may refer or assign to the Board,—

Administra-
tive powers
of Board

“(a) the administration of any other Act;

“(b) the performance of any duty or task;

“(c) the performance of any task or duty in connection with the administration of a statute or ordinance relating to workmen's compensation of a public

authority in Canada that may be requested of it by the proper authority in that regard;

and notwithstanding anything contained in this Act, the Board shall have all the powers, authorities and functions expressed or provided in the Act referred to it for administration or necessary to the proper carrying out of a duty or task assigned to it under this section".

Section 19
amended

8. Section 19 is amended,—

- (a) by adding immediately after subsection (4) the following new subsection:

When
disease
deemed due
to nature of
employment

"(4a) Where a workman suffers disablement from or because of any of the diseases enumerated in Schedule 3 hereto and at some time during the twelve months previous to the disablement was employed in a process appearing in the second column of the Schedule and the disease contracted is the disease in the first column of the said Schedule set opposite to the description of such process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.";

- (b) by striking out subsection (5) and by substituting the following:

Compensa-
tion based on
duration of
disablement

"(5) If the injury does not disable the workman longer than the day of the accident, no compensation other than medical aid shall be paid, but if the injury disables the workman longer than the day of the accident compensation shall be payable from and including the day following the day of the accident.".

Section 20
amended

9. Section 20 is struck out and the following is substituted:

Application
to bring
employer's
family
within scope
of Act

"**20.** (1) Members of the family of an employer employed by him and dwelling in his house shall not be deemed to be workmen within the scope of this Act and compensation shall not be payable out of the Accident Fund to them unless application to have them brought within the scope of this Act has been received and approved by the Board.

"(2) The application shall be made by the employer and shall contain the names of all the members of his family employed by him, together with the estimated amount of their wages for the current year or balance thereof or in cases where no regular wage is paid or received or if paid and received is less than one thousand eight hundred dollars per annum, a stated sum in lieu of wages not exceeding three thousand dollars and not less than one thousand eight hundred dollars for or in respect of each member of his family named in the application.

Approval of
application
by Board

"(3) Upon the application being approved by the Board, the members of the family of the employer included in the Board's approval shall, while so employed, be deemed to be workmen for and during the balance of the then current year and if it is the desire of the employer to continue to

have deemed as workmen for the next forthcoming year such members of his family who remain within his employ and he applies to the Board therefor, before the twentieth day of the first month of the succeeding year, and the application is accepted and approved by the Board, the members of the employer's family for whom the further application is made shall be deemed to have been workmen in the interim between the end of the preceding year and the date of the approval of the application.

"(4) In industries where assessments are based upon the employer's production, such approval shall be void *ab initio* in respect of such members of the family who were not in the *bona fide* regular full-time employment of the employer.

"(5) In all cases where an application has been made under the provisions of subsection (2), assessments on the employer in respect of the employment of such member of his family shall be levied upon the said estimates or stated sum, as the case may be, and compensation shall be based upon such member's average weekly earnings which shall be deemed to be the weekly equivalent of annual earnings equal to the estimate or stated sum set out in the said application in respect of such member of the family, except that in industries where assessments are based upon the employer's production the weekly equivalent annual earnings of one thousand eight hundred dollars per year shall be deemed to be the average weekly earnings of each such member of the family. Assessments

"(6) Compensation shall not be payable to an employer unless application to come within the scope of this Act has been received and approved by the Board, except that in industries in which assessments are based upon the employer's production no such application shall be required and in such case the statement of the employer's estimated production for the then current year when filed with the Board shall be deemed to be his application for the purposes of this subsection and of subsections (8) and (9). Compensation not payable unless approved by Board

"(7) The application shall be made by the employer and shall contain the stated sum for which compensation coverage is desired in an amount not exceeding three thousand dollars and not less than one thousand eight hundred dollars, and such assessment as the Board may fix in respect of such application shall be levied on such sum for the then current year or balance thereof, as the case may be. Application for compensation

"(8) Upon the application being approved by the Board, the employer shall be deemed to be a workman for and during the balance of the then current year and if at the end of that year it is the wish of the employer to continue to be deemed a workman for the following year and he makes application to the Board to come within the scope of the Act before the twentieth day of the first month of the succeeding year and the application is accepted and approved by the Board, such employer shall be deemed to have been a workman in the interim between the end of the preceding year and the date of the approval of the application. Employer deemed to be workman

Compensation based on earnings	<p>“(9) Compensation payable to an employer shall be based upon his average weekly earnings which shall be deemed to be,—</p> <p>“(a) in industries wherein assessments are based upon the employer’s production, the weekly equivalent of annual earnings equal to one thousand eight hundred dollars;</p> <p>“(b) in all other industries, the weekly equivalent earnings equal to the sum stated as provided by subsection (7).</p>
Application to bring council of city, etc., within scope of Act	<p>“(10) The council of any incorporated city, town, village, county or municipal district may apply by resolution to have the members of the council brought within the scope of this Act and upon the approval of any such application by the Board the members of the council shall be deemed to be workmen of the corporate body concerned, whilst actually engaged in the business of such corporate body which shall be deemed to be the employer.</p>
Revocation of approval of application by Board	<p>“(11) Notwithstanding the foregoing provisions of this section, the Board may revoke its approval of an application made under the provisions of this section at any time and upon the making of such a revocation by the Board the person referred to in the revocation shall cease to be a workman within the scope of the Act as of the date of such revocation.</p>
Notice of revocation mailed to employer	<p>“(12) Notice of any revocation made pursuant to the provisions of subsection (11) shall be forwarded by the Board by ordinary mail to the employer.”.</p>
Section 21 amended	<p>10. Section 21 is amended,—</p> <p>(a) by striking out subsection (1) and by substituting the following:</p>
Accident elsewhere than in Province	<p>“21. (1) Where an accident which would entitle the workman or his dependants to compensation under this Act if the accident had happened in the Province happens while he is employed elsewhere than in the Province, the workman or his dependants shall be entitled to compensation under this Act,—</p> <p>“(a) if the workman is a resident of the Province or his usual place of employment is in the Province; and</p> <p>“(b) if the nature of the employment is such that in the course of the work or service which the workman performs, the work or service is required to be performed both within and without the Province; and</p> <p>“(c) if the employment out of the Province has immediately followed employment by the same employer within the Province; and</p> <p>“(d) if the employment out of the Province has lasted less than twelve months.</p>
Extension of coverage while employed outside Province	<p>“(1a) Where the operation in which the workman is and has been employed elsewhere than in the Province continues or is likely to continue beyond the period of twelve months and the workman con-</p>

tinues or is likely to continue to be employed therein, the said period of twelve months may, upon application by the employer, be extended by the Board for a further period of twelve months or such lesser period as the Board may order and on further applications by the employer may be further extended by the Board from time to time as it may see fit;”;

- (b) by adding immediately after the word “given”, where it occurs in subsection (2), the words “within the time hereinafter provided”;
- (c) by adding immediately after the words “presumed that”, where they occur in subsection (2), the words “he or”;
- (d) by adding at the end of subsection (4) the words “, and for the purpose of avoiding a duplication of assessments”.

11. Section 22 is amended,—

Section 22
amended

- (a) by striking out subsections (1) and (4);
- (b) by renumbering the present subsections (2) and (3) as subsections (1) and (2) respectively;
- (c) by striking out the words “this section”, where they occur in subsection (2) now renumbered as subsection (1), and by substituting the word and figures “section 21”;
- (d) by adding immediately after the word “action”, where it occurs in subsection (2) now renumbered as subsection (1), the words “in a place other than the Province of Alberta”.

12. Section 24 is amended,—

Section 24
amended

- (a) by striking out subsection (3) and by substituting the following:

“(3) Any party to an action may, upon notice to the other party or parties thereto, apply to the Board for adjudication and determination of the question of the plaintiff’s right to compensation under this Act and such adjudication and determination shall be final and conclusive.”;

Application
to Board for
adjudication
of plaintiff’s
rights

- (b) by striking out subsections (5) to (9) inclusive and by substituting the following:

“(5) Where the Board has become subrogated to the rights of a workman or his legal personal representative or his dependants under the provisions of this section,—

Where Board
subrogated
to rights of
workman,—

- “(a) no payment or settlement shall be made to or with the workman or his legal personal representative or dependants for or in respect of such rights or for or in respect of any claim, cause of action or judgment therefor or arising thereout, without the consent of the Board and any payment or settlement made in con-

no payment
without con-
sent of
Board

action may
be taken
with consent
of Board

if action
taken work-
man relieved
of costs

Board may
effect settle-
ment of
claim

Board's con-
sent required
to payment
out of court
when Board
subrogated

Notice to
court of
subrogation

Where Board
receives
moneys by
reason of
subroga-
tion,—

Board may
accept
settlement
and
give release

travention hereof, shall be entirely null and void and of no effect against such workman or his legal personal representative or dependants;

“(b) action against any person in respect of a claim arising out of injury to or death of a workman may, with the consent of the Board, be taken by the workman or his legal personal representative or his dependants or may be taken by the Board in the name of the workman or his legal personal representative or his dependants, as the case may be, without the consent of the person in whose name the action is taken;

“(c) if action is taken by the Board it shall indemnify and save harmless the workman his legal personal representative or his dependants from and against all costs or damages incurred in respect of such action, including costs or damages awarded by the court to the defendant but not including such costs as may have been incurred by the workman, his legal personal representative or his dependants without authority of the Board;

“(d) the Board may at any time whether or not action has been taken by the Board or the workman or his legal personal representative or his dependants and whether or not judgment has been given in any action effect a settlement of the claim for such amount as it may deem advisable.

“(6) Where in any action in which the Board under this section is subrogated to the rights of the workman, his legal personal representative or dependants, payment into court is made pursuant to the Rules of the Supreme Court of Alberta, the clerk of the court, upon receipt of notice by the Board of its subrogation in the matter shall not make payment out of court except with the consent of the Board.

“(7) Notice to the clerk of the court under subsection (6) may be made in the same manner as is provided in the Rules of the Supreme Court for service by registered mail.

“(8) Where moneys are received by the Board by virtue of it being subrogated to the rights of a workman or his legal personal representative or his dependants under the provisions of this section,—

“(a) the Board may accept the same and give a receipt therefor and where such moneys are accepted in full settlement may release the person paying the moneys or on whose behalf the same are paid from liability in respect of the personal injury to or death of the workman resulting from the accident;

- “(b) if the judgment of the court or terms of settlement under which the moneys are received clearly indicate that a portion of the judgment or settlement is for pain and suffering or disfigurement suffered by the workman and resulting from the injury, the Board may pay to the workman from the moneys remaining in its hands after payment of all legal costs incurred in recovering the same, an amount which bears the same proportion to the moneys remaining in its hands as the portion of the judgment or settlement which is attributable to pain and suffering or disfigurement bears to the total judgment or settlement; Board may make proportionate settlement where portion of judgment covers pain, etc.
- “(c) if the moneys are received as a result of action taken or negotiations carried on by the workman or his legal personal representative or his dependants, the Board may pay to the workman or his legal personal representative or his dependants, as the case may be, from the moneys remaining in its hands after payment of all legal costs incurred in recovering the same, an amount equal to twenty-five per cent of the gross amount received by the Board, but in any case where payment is made to the workman under the provisions of paragraph (b) payment to the workman under the provisions of this paragraph shall be made only to the extent by which twenty-five per cent of the moneys received exceeds the payment made to the workman under the provisions of paragraph (b); Board may pay percentage of amount received as result of action
- “(d) if the moneys remaining in the Board's hands after payment of all legal costs incurred in recovering the same and after payment of such amounts, if any, required to be paid under the provisions of paragraphs (b) and (c) are in excess of the costs of the accident to the Board, including the capitalized cost of any pension award, the excess may be retained by the Board as part of the Accident Fund or may be paid over to the injured workman or his legal personal representative or his dependants, as the case may be, upon the Board receiving from such injured workman or his legal personal representative or his dependants, as the case may be, a release from any further claim upon the Board in respect of the accident for or on account of which compensation was or is being received, in which case the workman or his legal personal representative or his dependants, as the case may be, shall not thereafter be entitled to receive any further medical aid from, or be paid any further compensation by Board may retain excess moneys received as result of action or make payment to workman upon receiving release

the Board for or in respect of injury or death arising out of such accident.

Right of
action

“(9) Where an accident happens to a workman in the course of his employment entitling him or his dependants to compensation under this Act, neither the workman, his dependants nor his legal personal representative nor the employer of the workman shall have any right of action in respect of or arising out of the personal injury suffered by or the death of the workman as a result of the accident against an employer in any industry within the scope of this Act, and in any case where it appears to the satisfaction of the Board that a workman of an employer in any class is injured or killed owing to the negligence of an employer or the workman of an employer in another class, the Board may direct that the compensation awarded in such case shall be charged against the last mentioned class except that where it appears to the satisfaction of the Board that the injury to or death of the workman is due to the negligence of two or more persons, one of whom may be the workman, the Board may direct that the compensation awarded in such case shall be charged against the classes to which the employers who, or whose workmen, were negligent belong in proportion to the degree of negligence of each person involved and where the Board is of the opinion that it cannot establish different degrees of negligence, the compensation awarded shall be charged equally to the classes involved.

If injury or
death caused
by negli-
gence com-
pensation
awarded is
charged to
classifica-
tions involved

Right of
action
against
person
giving
assistance
or first aid

“(10) Where an accident happens to a workman in the course of his employment entitling him or his dependants to compensation under this Act and assistance or first aid treatment is given to the workman at or following the accident by an employer or the workman of an employer in any industry within the scope of this Act, neither the workman nor his legal personal representative nor his dependants shall have any right of action against the person giving such assistance or first aid for or in respect of damage or injury for which the workman is entitled to compensation arising out of the giving of the assistance or first aid, excepting only where such damage or injury is caused by gross negligence or wilful and wanton misconduct.”.

Section 25
amended
Board may
make special
investiga-
tion if
employer
fails to
report
accident

13. Section 25 is amended by striking out subsection (7) and by substituting the following:

“(7) In case an employer or a person who, in the opinion of the Board, is or may be an employer of an injured person fails to make the report required by this section or any reply to the Board's communication in regard to such injured per-

son within thirty days of the date of such communication, the Board may make a special investigation of the injury and of the facts and circumstances surrounding it and the cost to the Board of such investigation may be charged by the Board to such employer or other person so investigated and he shall be liable to the Board therefor.”.

14. Section 26 is amended by adding immediately after subsection (3) the following new subsection: Section 26
amended

“(4) Where a workman claims compensation under this Act, the Board may require him to submit to such medical investigation as the Board deems necessary to assist it in determining whether or not the workman is entitled to compensation or the Board may approve of any medical investigation already carried out upon reports being submitted to the Board satisfactory to it for the purpose, and in either case the Board may pay the costs of such medical investigation and the workman shall be entitled to payment computed on the same basis as compensation for the period determined by the Board as being necessary for the purpose of the investigation.”. Medical
investiga-
tion

15. Section 27, subsection (1) is amended by adding immediately before the words “the Board after consultation” the words “and makes to the Board a request in writing for an examination under the provisions of this section,”. Section 27
amended

16. Section 30, subsection (5) is amended by striking out the words “, if such breakage is accompanied by objective symptoms of personal injury” and by substituting the words “and subsection (4) of section 19 shall not apply”. Section 30
amended

17. Section 33 is amended,— Section 33
amended

(a) by striking out the words “one hundred and seventy-five”, where they occur in paragraph (a) of subsection (1), and by substituting the words “two hundred”;

(b) by adding immediately after paragraph (b) of subsection (1) the following new paragraph:

“(bb) where the death occurred away from the workman’s usual place of residence and in the opinion of the Board the transportation of the body seems desirable,— Transporta-
tion of body

“(i) the necessary expense of transporting the body from the place of death to the usual place of residence up to but not exceeding one hundred dollars; or

“(ii) the expense necessarily incurred for such of the transportation that takes place within the Province up to but not exceeding one hundred dollars, where the usual place of residence of the workman is outside the Province and it is proposed to transport the body to that place;”;

- (c) by striking out the word "eighteen", wherever it occurs in paragraph (d) of subsection (1), and by substituting the word "sixteen";
- (d) by striking out the word "fifteen", where it occurs in paragraph (d) of subsection (1), and by substituting the words "twenty-five";
- (e) by striking out the word "fifteen", where it occurs in paragraph (e) of subsection (1), and by substituting the words "twenty-five";
- (f) by striking out the words "during the duration of such illness", where they occur in paragraph (g) of subsection (1), and by substituting the words "for such period as may to the Board seem appropriate by reason of the illness";
- (g) by striking out paragraph (h) of subsection (1) and by substituting the following:
 - "(h) to a dependent child or a dependent invalid child such additional amount because of illness as the Board may see fit up to but not exceeding ten dollars per month for such period as may to the Board seem appropriate by reason of the illness.";
- (h) by striking out paragraphs (i) to (p) inclusive of subsection (1);
- (i) by striking out the words ", and in such case the children's part of the payments shall be in lieu of the monthly payments which they would otherwise have been entitled to receive" where they occur in paragraph (b) of subsection (2);
- (j) by striking out paragraph (c) of subsection (2) and by substituting the following:
 - "(c) all payments to foster-mothers under the provisions of this section shall cease when all the dependent children who constitute the 'existing household' have ceased to be entitled to compensation from the Board."

Additional
payment to
child
because
of illness

Duration of
payments to
foster-
mothers

New sections
33a to 33k
inclusive

Additional
compensa-
tion pay-
ments
effective
April 1, 1952

When addi-
tional com-
pensation
payments
cease

18. The following new sections are added immediately after section 33:

"33a. (1) On and after the first day of April, 1952, a dependent widow or a dependent invalid widower receiving compensation under any preceding *Workmen's Compensation Act* of the Province, irrespective of the date or time of the award under or because of which the compensation is payable, or of the accident which occasioned the award, shall be granted an additional payment of compensation sufficient to bring the monthly payments of compensation to the dependent widow or dependent invalid widower up to the sum of fifty dollars per month.

"(2) An additional payment of compensation made pursuant to subsection (1) shall cease when the dependent widow or dependent invalid widower becomes eligible to

receive assistance, allowance or pension benefits under *The Old Age Assistance Act* (Canada), *The Old Age Security Act* (Canada), *The Blind Persons Act* (Canada), *The Widows' Pensions Act* (Alberta) or any similar social legislation of Canada, Alberta or any Province of Canada.

"(3) Notwithstanding the provisions of subsection (2), where a dependent widow or dependent invalid widower is in receipt of assistance, allowance or pension benefits and if the aggregate amount of the monthly compensation payment and the monthly payment of assistance, allowance or pension does not total fifty dollars a month, the dependent widow or dependent invalid widower shall receive such additional payment of compensation as will make the aggregate amount of compensation and assistance, allowance or pension payments total fifty dollars per month.

"(4) For the purposes of this section, a dependent widow or dependent invalid widower shall be deemed to be eligible to receive assistance, allowance or pension benefits when she or he would be eligible to receive such benefits by reason of age and, where there is a means test applied, by reason of monthly income exclusive of the additional monthly compensation payment made under subsection (1).

"33b. (1) Where a workman for the seven years immediately preceding his death cohabited with a dependent common law wife, by whom he had one or more children and leaves no dependent widow, the compensation to which a dependent widow would have been entitled under this Act may, in the discretion of the Board, be paid to such common law wife until such time as she marries.

Compensation payable to common law wife

"(2) A dependent common law wife receiving or entitled to receive compensation under the provisions of this Act may not be paid compensation for acting or claiming to act as a foster-mother to the children of the deceased workman.

"33c. (1) Where a dependent child approaching the age of sixteen years is attending an academic, technical or vocational school and making progress satisfactory to the Board, the Board may, in its discretion, continue the payments of compensation in respect of the dependent child until such time as the dependent child,—

Extension of compensation for dependent child attending academic, technical or vocational school

"(a) fails to make satisfactory progress at the school; or

"(b) ceases to attend school; or

"(c) attains the age of eighteen years.

"(2) Where a dependent child who is receiving payments under subsection (1) attains the age of eighteen years during a school year the Board may extend the payments of compensation to the end of the then current school year.

"33d. Where the only dependants are persons other than those mentioned in subsection (1) of section 33, section 33b or section 33c, the compensation shall be a sum to be determined by the Board, reasonable and proportionate to the pecuniary loss to such dependants occasioned by

Compensation for other dependants

the death, but not exceeding fifty dollars per month to a parent or parents and not exceeding in the whole eighty-five dollars per month.

Payment to
parent or
other
person for
child

"33e. Any payment to or for a child may be made to the parent of the child or the Board may direct that the payment be made to such other person or be applied in such manner as it may deem best for the advantage of the child.

Lump sum
paid when
widow
remarries

"33f. If a dependent widow remarries, the monthly payments to her shall thereupon cease but she shall be paid a lump sum of six hundred dollars within one month after the date of her remarriage, provided that if such dependent widow is subsequently in necessitous circumstances by reason of the death of her husband or his confinement to gaol, prison or other institution, the Board may recommence the payments to her in such amount not exceeding fifty dollars monthly as the Board considers proper in the circumstances and pay the same for such period or periods as the Board may see fit, provided further that no such payments to a dependent widow shall be recommenced sooner than one year after the date of remarriage.

Only one
pension
payable

"33g. Where a person is receiving or is entitled to receive a pension because of the death of a workman and subsequently becomes entitled to a pension because of the death of another workman such person shall not receive both pensions but shall be paid the greater of the two.

"Year"
further
defined

"33h. (1) In this section 'year' means, in industries other than the industries in Class 13-2, the calendar year and, in industries in Class 13-2, the period from November first to October thirty-first.

Charge to
Accident
Fund

"(2) The cost of all capitalized awards arising out of a fatal accident shall be apportioned equally between all fatal accidents occurring in the same year as the one out of which the award arose and the amount so apportioned to each fatal accident shall be charged and dealt with as an award arising out of that fatal accident in the same manner as an award arising out of that fatal accident would have been charged and dealt with were it not for the provisions of this subsection.

"(3) This section applies to all industries coming under the Act other than the employments in Schedule 2, and in respect to industries to which it applies other than the industries in Class 13-2 it applies to all fatal accidents occurring after December thirty-first, 1951, and in respect to the industries in Class 13-2 it applies to all fatal accidents occurring after October thirty-first, 1951.

Pension
payments
into Accident
Fund

"33i. In the case of pension payments which have been suspended by the Board under the provisions of the *War Measures Act*, being chapter 206 of the Revised Statutes of Canada, 1927, or regulations thereunder, and such further pension payments as may for the same or similar reasons be suspended, they shall, subject to the provisions of section 33j, be paid into the Accident Fund.

“33j. In any case where payment is resumed of a pension, payment of which was suspended or withheld pursuant to the provisions of the *War Measures Act* and regulations, the Board, in its sole discretion, may pay to the pensioner an amount equal to the amount of the suspended or withheld payments or such lesser amount as the Board deems just and proper, provided that no such payment shall be made in any case where it appears to the Board that the pensioner was during the period his pension was suspended, an enemy alien within the meaning of the Defence of Canada Regulations.

Resumption
of pension
payment

“33k. (1) Where a dependant is not a resident of Canada, he shall not be entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country, if resident in Canada, would be entitled to compensation, and where such dependants would be entitled to compensation under such law, the compensation to which the non-resident dependant shall be entitled under this Act shall not be greater than the compensation payable in the like case under that law.

Dependant
not resident
of Canada

“(2) Notwithstanding the provisions of subsection (1), the Board may award such compensation or sum in lieu of compensation to any such non-resident dependant as may be deemed proper and may pay the same out of the Accident Fund.”

19. Section 34 is amended by striking out the words “sixty-six and two-thirds” and by substituting the words “seventy-five”.

Section 34
amended

20. Section 35, subsection (1) is amended by striking out the words “sixty-six and two-thirds” and by substituting the words “seventy-five”.

Section 35
amended

21. Section 36 is amended by striking out the words “sixty-six and two-thirds” and by substituting the words “seventy-five”.

Section 36
amended

22. Section 37 is amended by striking out the words “sixty-six and two-thirds” and by substituting the words “seventy-five”.

Section 37
amended

23. Section 38 is amended by striking out the words “sixty-six and two-thirds” and by substituting the words “seventy-five”.

Section 38
amended

24. Section 39 is amended,—

Section 39
amended

- (a) by adding immediately at the beginning of subsection (1) the words “Subject to subsection (9) of section 20,”;
- (b) by striking out the words “twenty-five hundred”, where they occur in subsection (3), and by substituting the words “three thousand”;

- (c) by striking out the words "at a rate in excess of a rate computed on the basis of sixty-six and two-thirds per cent of annual earnings of twenty-five hundred dollars", where they occur in paragraph (a) of subsection (4), and by substituting the words "in excess of that payable for total disability".

Section 40
amended

25. Section 40 is amended,—

- (a) by striking out the word "fifteen" wherever it occurs in subsection (1) and by substituting the words "twenty-five";
- (b) by striking out subsection (5) and by substituting the following:

Compensa-
tion payable
when work-
man becomes
21

"(5) Where the workman was at the date of the accident under twenty-one years of age the compensation payable to such workman may, upon his attaining the age of twenty-one years, be paid on the basis of the earnings at the time of the accident of workmen of the age of over twenty-one years employed in an occupation similar to that in which the workman was employed at the time of the accident."

Section 42
amended

26. Section 42 is amended,—

- (a) by striking out the heading "Industrial Diseases." immediately preceding section 42;
- (b) by striking out subsections (1), (2), (3) and (4);
- (c) by renumbering the present subsections (5), (6), (7), (8) and (9) as subsections (1), (2), (3), (4) and (5) respectively;
- (d) by striking out the words "and subsection (1) of this section", where they occur in subsection (7) now renumbered as subsection (3);
- (e) by striking out subsection (9) now renumbered as subsection (5) and by substituting the following:

Inclusion
of provision
in 1943 Act

"(5) For the purpose of dealing with any claim due to silicosis where the disablement first arose prior to the coming into force of *The Workmen's Compensation Act, 1948*, subsection (6) of section 42 of *The Workmen's Compensation Act*, being chapter 4 of the Statutes of Alberta, 1943, shall be deemed to have included therein a provision as follows:

- "(3) Nothing in this subsection shall prevent the allowance of any claim due to silicosis which the Board feels in justice should be allowed."

Section 43
amended

27. Section 43 is struck out and the following is substituted:

Medical aid

"**43.** (1) The Board may furnish or provide for the injured workman such medical aid as it may deem reasonably

necessary at the time of the injury and thereafter during the disability to diagnose, cure and relieve from the effects of the injury, and the Board may adopt rules and regulations with respect to the furnishing of and the payment for medical aid to injured workmen.

“(2) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished shall be determined by the Board.

“(3) When the Board provides or is liable to pay for medical or other remedial attention as hereinbefore provided, the amount payable to any person in respect of medical or other remedial attention or any attention shall be as the Board shall direct and no action shall lie against the Board for or in respect of any amount greater than that fixed by it, nor in any event against the injured workman, his employer or any other person in respect of such attention, except, however, that when the Board provides or is liable to pay for hospital services, the amount shall be at such rates as have been mutually agreed upon by the Board and the hospital authority.

Amount of
medical aid

Hospital
services

“(4) The Board may make a *per diem* allowance of five dollars on account of his subsistence to an injured workman when under its direction he is undergoing treatment at a place other than wherein he resides, but if and when the Board is providing the workman with any of his meals and with lodging or with either or both in a hospital, clinic or other place, the aforesaid *per diem* allowance may be reduced proportionately as the Board may deem proper in the circumstances.

Subsistence
allowance

“(5) The Board may,—

“(a) contract with doctors, nurses and hospitals or any other institutions for any medical aid required;

Contracts
for medical
aid and
hospitaliza-
tion

“(b) construct, equip, maintain and conduct one or more hospitals at one or more points in the Province as may, in the opinion of the Board, be necessary or advisable for the purpose of providing medical aid;

Power to
maintain
hospitals

“(c) construct, equip, maintain and conduct clinics for the treatment and rehabilitation of injured workmen.

Power to
maintain
therapeutic
clinics

“(6) Upon the establishment of a hospital or clinic under the authority of subsection (5), the Board may extend the services of a hospital so established to persons other than those entitled to medical aid under the provisions of this Act, to such extent and on such terms and conditions as it may see fit.

“(7) Without in any way limiting the power of the Board under this section to supervise and provide remedial aid, in every case where the Board is of the opinion that the exercise of such power is expedient, the Board may permit the injured workman to select as his medical attendant such duly qualified and competent physician as he may desire.

Selection of
doctor by
workman

Transportation of injured workman	“(8) Every employer shall, at his own expense, furnish to any workman injured in his employment who is in need of it, immediate conveyance and transportation to a hospital or to a physician or to the workman’s home or to such other place as, in the opinion of the Board, the condition of the workman requires him to be sent, and any employer failing to do so shall be liable by order of the Board to pay for such conveyance and transportation as may be procured by the workman or by anyone for him, or as may be provided by the Board.
Accounts for medical services	“(9) Accounts for medical services or other features of medical aid rendered to, for or in respect of injured workmen for which the Board is liable to pay, shall be rendered to the Board within three months from the date of the conclusion of the treatment of the workman to whom the services or other features of medical aid were furnished or provided or from the date it first became known to the physician or other person furnishing the medical services or other feature of medical aid that they were services for which the Board was liable to pay.
Penalty for late filing of medical accounts	“(10) Accounts not received by the Board within the three month period provided for in subsection (9), if received within three months from the expiration of that period may be paid by the Board in an amount equal to seventy-five per cent of the amount which would have been paid if it were not for the provisions of this subsection and if received after three months but within six months from the expiration of that period may be paid in an amount equal to fifty per cent of the amount which would have been paid were it not for the provisions of this subsection and no such account or any part thereof shall be recognized by the Board or be recoverable unless rendered to and received by the Board within twelve months from the date of the conclusion of the treatment or the date it first became known to the physician or other person furnishing the medical services or other feature of medical aid that they were services for which the Board was liable to pay.
Payments to hospitals	“(11) Payments heretofore made by the Board to hospitals for and in respect of the hospitalization of and services to injured workmen are validated and confirmed and are declared to have been legal and valid and the same shall not be open to question.”.
Section 44 amended	28. Section 44 is amended by striking out subsections (2), (3), (4), (5), (6), (7), (8) and (9).
Section 49 amended	29. Section 49 is struck out and the following is substituted:
Board may invest funds	“49. The Board shall have power, and shall be deemed always to have had power, from time to time, to invest any funds arising under any provisions of this Act or under its control, in any securities authorized for the investment of trust funds and to sell and dispose of any such securities

and to reinvest the proceeds of such sale in securities authorized as aforesaid, or to use such proceeds for any of the purposes authorized by this Act.”.

30. The following new section is added immediately after section 49: New
section 49a

“**49a.** The Board may borrow by way of overdraft from a chartered bank or treasury branch.”. Borrowing
by Board

31. Section 50 is amended,—

Section 50
amended

- (a) by striking out the words “thirty-first day of March”, where they occur in subsection (2), and by substituting the words “thirtieth day of April”;
- (b) by adding immediately after subsection (3) the following new subsection:

“(4) Commencing with the year 1953, the Board shall have an actuarial evaluation of its pension accounts made every five years or in such lesser period as the Lieutenant Governor in Council may direct, by an independent duly qualified actuary whose report shall be made to the Board and laid before the Legislature in the same manner as an annual report under subsection (3).”.

Pension
account
report to be
laid before
Legislature

32. Section 51, subsection (1) is amended,—

Section 51
amended

- (a) by adding immediately after the word “provide”, where it occurs in paragraphs (c), (d), (e), (f) and (g), the words “and maintain”;
- (b) by adding immediately after paragraph (g) the following new paragraphs:

“(h) to provide and maintain a reserve for the payment of such part of the cost of claims of workmen suffering enhanced disabilities because of similar or other disabilities previously suffered as, in the opinion of the Board, was due to such previous disabilities and the balance standing to the credit of the special reserve created by the previously existing paragraph (n) of subsection (1) of section 33 of this Act in the balance sheet of the Board as at the thirty-first day of December, 1951, shall be transferred to this reserve; and

“(i) to provide and maintain such other reserves from time to time as the Board may deem advisable in the course of its administration of this Act.”.

33. Section 52, subsection (3) is amended,—

Section 52
amended

- (a) by striking out the word “calendar”;
- (b) by striking out the words “twenty-five hundred” and by substituting the words “three thousand”.

Section 54
amended

34. Section 54 is amended,—

- (a) by striking out the word “calendar” where it occurs in subsection (1) ;
- (b) by striking out the word “company”, wherever it occurs in subsection (2) and by substituting the word “corporation”;
- (c) by adding immediately after the words “any wages or salary”, where they occur in subsection (2), the words “, or is being paid a merely nominal or token remuneration,”;
- (d) by striking out the words “twenty-five hundred”, where they occur in subsection (2), and by substituting the words “three thousand”;
- (e) by striking out the word “one”, where it occurs in subsection (3), and by substituting the word “three”;
- (f) by adding immediately after the word “under”, where it occurs in subsection (5), the words “and subsequent to the issue of”.

Section 55
amended

35. Section 55 is amended,—

- (a) by striking out subsection (4) and by substituting the following:

“(4) The Board and any officer of the Board or other person authorized by it for the purpose shall, for any purpose which the Board may deem necessary for its administration of the Act, have the right at all reasonable hours to enter into the establishment, and the premises connected with the establishment and every part of it, of any employer or any other person who, in the opinion of the Board, is or may be an employer.”;

- (b) by striking out the words “Dominion or Provincial Government” where they occur in subsection (12), and by substituting the words “the Government of Canada or of the Government of any province”.

Section 59
amended

36. Section 59, subsection (1) is amended by adding immediately after the word “declaration,” the words “or other form of certificate as the Board may direct,”.

Section 61
amended

37. Section 61 is struck out and the following is substituted:

“Equipment”

“**61.** (1) For the purposes of this section ‘equipment’ includes teams, trucks, tractors, bulldozers, drag lines, power shovels and such other equipment or apparatus as the Board may see fit to designate as equipment.

When
persons
operating
equipment
deemed
workmen

“(2) Where in any undertaking a person enters into an arrangement for the supplying of equipment to another person, if the person supplying the equipment,—

- “(a) operates it himself or hires other persons to operate it; and

“(b) is paid or to be paid for the services of both equipment and operators;

the person supplying the equipment and any persons operating the equipment shall be deemed to be workmen of the person to whom the equipment is supplied, unless the person supplying the equipment has established with the Board an account in an industry in which the equipment may be used and in respect of which he has made his return for the year as provided for in subsection (1) of section 54, in which case,

“(c) he shall not be deemed to be a workman of the person to whom the equipment is supplied; and

“(d) the persons operating the equipment shall not be deemed to be workmen of the person for whom the equipment is supplied but shall be deemed to be workmen of the person supplying the equipment;

and for the purposes of assessment in each case the basis of the earnings of the workmen shall be as the Board may from time to time determine.

“(3) Where in any undertaking not coming within the provisions of subsection (2), a person enters into an arrangement for the performance of work for another person and, notwithstanding that the arrangement may also provide that he supply materials, equipment or other services, if the person undertaking to perform the work,—

“(a) performs the work himself; or

“(b) has others perform the work for him; or

“(c) has others assist him in the performance of the work;

all the persons performing the work shall be deemed to be workmen of that other person for whom the work is performed, unless the person agreeing to perform the work has established with the Board an account in respect of which he has made his return for the year as provided for in subsection (1) of section 54, in which case,—

“(d) he shall not be deemed to be a workman of the person for whom the work is performed; and

“(e) the persons performing the work for him or assisting him in the performance of the work shall not be deemed to be workmen of that other person for whom the work is performed but shall be deemed to be workmen of the person agreeing to perform the work;

and for the purposes of assessment in each case the basis of earning of the workmen shall be as the Board may from time to time determine.

“(4) In any undertaking contemplated by subsections (2) or (3) and without in any way relieving any person of his liability to the Board in respect of its assessment upon him, a person shall be liable to pay to the Board any sum which any other person participating directly or indirectly with or through him in the undertaking, is or may become liable to pay to the Board in respect of the undertaking,

Liability
for
assessment

and he shall be indemnified to the extent of the payment by the person who should have paid the amount to the Board and all questions as to the right and the amount of any such indemnity shall be determined by the Board.

“(5) Subsection (4) shall not be deemed to relieve any person supplying equipment or agreeing to perform work for another of liability to the Board in respect of its assessment upon him.

“(6) Where one party to an undertaking is the Crown this section shall be deemed not to apply.”.

Section 65
amended

38. Section 65 is amended,—

- (a) by adding immediately after the words “property of the employer”, where they occur in subsection (3), the words “, including moneys payable to, for or on account of the employer,”;
- (b) by striking out the words “which is not otherwise bound by or subject to a lien created by this Act”, where they occur in subsection (6).

Section 66
amended

39. Section 66 is amended,—

- (a) by adding immediately after subsection (2) the following new subsections:

“(2a) Moneys payable to the Board by a purchaser of lumber under the provisions of this section may be paid out of the purchase price of the lumber and when so paid constitutes a payment to the vendor on account of the purchase price of the lumber so purchased.

“(2b) Any person who, pursuant to the provisions of this section, deducts or withholds any payment which he is obliged to make to any person shall be deemed to hold the amount so deducted or withheld in trust for the Board and the amount shall be payable to the Board upon and at its demand.”;

- (b) by adding immediately after subsection (5) the following new subsection:

“(6) In industries to which this Act applies and in which assessments are based on production, persons who engage in the operation of the industry in partnership with other persons and actively engage and work in such operations will be deemed to be workmen of the partnership and the partnership will be deemed to be an employer within the meaning of this Act.”.

Partnerships

Section 67
amended

40. Section 67 is amended,—

- (a) by adding immediately after the word “thereof”, where it occurs in subsection (1), the words “or any moneys”;
- (b) by striking out the words “the person against whom the assessment was made”, where they occur in subsection (1), and by substituting the words “such person”;

- (c) by striking out the words "and at the time named in the notice the Secretary or his agent or such other person as aforesaid shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the moneys due with all lawful costs", where they occur in subsection (5), and by substituting the words "and may fix an upset price therefor or for any part thereof as in his or their opinion is reasonably commensurate with the value of the goods and may vary the same from time to time as to him or them may seem advisable in the circumstances and at the time named in the notice the secretary or his agent or other person as aforesaid, shall, subject to the upset price, if any, sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the moneys due with all lawful costs";

- (d) by adding immediately after subsection (6) the following new subsection:

"(6a) Upon the sale by the sheriff or other person lawfully charged with the execution of the distress warrant of any goods pursuant to any distress the sale shall be without warranty of title and the purchaser, upon paying the purchase price, shall thereupon acquire the precise interest which may lawfully be sold under power of distress and no more in the goods so sold.";

Sale by
distress

- (e) by adding immediately after subsection (9) the following new subsection:

"(9a) A distress warrant placed in the hands of the sheriff by the Board or its secretary, his agent or other person as aforesaid, shall constitute the Board an execution creditor within the meaning of section 5 of *The Execution Creditors Act* and Form A in the Schedule thereto, for the amount claimed in the warrant, which amount shall be included and stated by the sheriff in any certificate or statement of subsisting executions made or issued by him under the provisions of *The Execution Creditors Act*."

Execution
creditor

41. Section 71, subsection (2) is amended by adding immediately after the word "regulations", wherever it occurs, the words "or orders".

Section 71
amended

42. Section 72 is amended by adding immediately at the beginning of subsection (1) the words "Subject to such additions, withdrawals or rearrangements that have been or may hereafter be made by the Board under the provisions of section 13,".

Section 72
amended

43. Schedules 1 and 2 are struck out and the following are substituted:

Schedule
amended

"SCHEDULE I

"Coal mining; the operation of coke ovens and briquetting plants; mining other than coal mining; lumbering; fishing; manufacturing; building; construction; engineering; transportation; irrigation; the construction and operation of electric power lines, power plants, water works and other public utilities; the manufacture, repair and servicing of motor vehicles; the operation of municipal police forces and municipal fire departments; navigation; the operation of boats, ships, tugs and dredges; the operation of grain elevators, and warehouses; the manufacture of tobacco and tobacco products and optical products; teaming; scavenging and street cleaning; painting, decorating and renovating; dyeing and cleaning; the operation of planing mills; flour milling; the operation of packing plants; printing, lithographing and engraving; the construction and operation of telephone and telegraph systems; laundries run by mechanical power; excavation; well drilling; the operation of gas and oil wells and the laying, construction and operation of gas and oil pipe lines; the operation and maintenance of freight and passenger elevators (including the work of janitors in buildings where such elevators are operated); quarrying; the operation of lumber yards and wood yards; the preparation, putting up, hauling and distributing of natural ice; the operation of hotels, restaurants, retail stores and commercial greenhouses; exhibition associations and the operation of theatres and of the business of moving pictures and all and every occupation of work incidental to or connected with the industries or any of them enumerated in this Schedule and by way of specific enumeration, but not so as in any way to interfere with or affect the generality of the preceding words thereof the following classes of industries:

"Classification.

- "Class 1 Underground coal mining;
- "Class 5 Strip mining;
- "Class 13-2 Production and manufacture of lumber, laths, shingles and ties;
- "Class 13-3 The operation of sash and door factories, lumber yards where lumber is processed;
 • manufacture of wooden boxes, furniture, carpenter work in shops; creosoting of timber;
- "Class 13-4 Operation of retail lumber yards;
- "Class 15-1 Operation of lime kilns, marble works; manufacture of bricks, tile, sewer pipes, glass products, cement (including quarrying), cement products; stone cutting;

- “Class 15-10 Drilling for, and operation of gas and oil wells; ice operations;
- “Class 15-11 Operation of refineries, absorption plants; manufacture of paints, chemicals;
- “Class 15-12 Natural gas distribution; operation of oil pipe lines;
- “Class 20-1 Operation of garages, auto repair shops, service stations, blacksmith shops, machine shops, ornamental iron works, foundries, rolling mills, central steam heating plants, bus lines, implement agencies; manufacture of agricultural implements, vehicles, mattresses, upholstered furniture, boats, canoes; upholstering; locksmiths; gunsmiths, scrap and junk dealers; gas and electric welding; refrigeration servicing; fabrication of structural steel, iron or metals; aeroplane transportation; maintenance and operation of aeroplanes for hire; overhaul, maintenance and repair of aircraft and aircraft engines; elevator operations;
- “Class 27-1 Operation of grain elevators;
- “Class 27-2 Operation of packing plants, abattoirs, flour mills, seed cleaning plants, canneries, bottling works; manufacture of meat products, cereals, animal foods, liquor, beverages, aerated water, wine, vinegar, cider, sugar, yeast, soap, toilet preparations; irrigation operations; exhibition associations;
- “Class 37-1 Warehousing, including wholesaling with warehousing; storage with cartage; cold storage; cold storage locker systems;
- “Class 37-5 Operation of bakeries, creameries, power laundries, cleaning works, dyeing works, commercial hatcheries; manufacture of wearing apparel, textiles, fabrics, awnings, blinds, food products, typewriters, cash registers, adding machines, rubber stamps, stencils, gold, silverware, jewelry, leather goods, artificial limbs, rubber goods, tobacco products, optical products; painting, polishing and varnishing of furniture;
- “Class 38 Operation of retail stores, restaurants, hotels, greenhouses, moving pictures, theatres; retailing; radio transmission; printing and lithographing;
- “Class 39-1 Carpentry; general construction (including telegraph and power line construction); highway construction, including trucking and teaming in connection therewith; paving,

- surfacing, dirt and gravel moving; excavation; cement construction; brick-laying; masonry; installation of machinery (including freight and passenger elevators, fire escapes, engines, boilers); brushing with power driven equipment; operation of sand, shale or gravel pits; structural steel erection: wrecking demolition; building moving; railroad construction, tunnelling, dredging, sewer construction, pipe line construction;
- “Class 39-3 Painting, decorating, fumigating, plastering, stuccoing, lathing, shingling, tile setting, terazzo work, roofing, insulating, window cleaning, outdoor advertising;
- “Class 39-4 Operation of wood yards; coal yards; teaming; trucking;
- “Class 39-5 Boat and vessel transportation;
- “Class 39-6 Plumbing, steam and hot water heating, including sheet metal where operations combined, metal roofing, sheet metal work, hot air heating, electric wiring, floor laying (wood), linoleum laying (including lino tiles);
- “Class 39-8 Light and power operation and line construction (when carried on as one industry), telephone and telegraph operation and line construction (when carried on as one industry);
- “Class 39-37 Counties, employees of workmen in or about coal mines;
- “Class 89-1 Towns and villages;
- “Class 89-2 Municipal districts;
- “Class 89-3 Cities;
- “Class 91 The Canadian Pacific Railway;
- “Class 93 The Canadian National Railways;
- “Class 94 The Northern Alberta Railways;
- “Class 97-1 The University of Alberta;
- “Class 97-2 City school boards and school divisions;
- “Class 97-4 The University Hospital;
- “Class 97-5 Eastern Rockies Forest Conservation Board;
- “Class 99 The Workmen’s Compensation Board;

"SCHEDULE 2

Schedule 2

- "Class 95-1 The Government of Canada in respect of employment as, when and where authorized by it;
- "Class 96-1 The Government of the Province of Alberta;
- "Class 96-2 The Public Works Department of the Province of Alberta—labour pay-rolls;
- "Class 96-3 The Alberta Government Telephones.
- "Class 96-4 The Highways Department of the Province of Alberta—labour pay-rolls."

Schedule 3
amended

44. Schedule 3 is amended by striking out the words "which shall be deemed to be — Silicosis. Siderosis. Lithosis.", where they occur under the heading Description of Disease following the subtitle "Pneumoconiosis".

Application
of benefits

45. The benefits provided by this Act to workmen or their dependants other than the benefits provided in section 18 shall apply only to claims in respect of accidents occurring on or subsequent to the date upon which this Act comes into force and claims in respect of accidents occurring prior to that date shall be administered under and in accordance with the law in effect at the time the accident occurred.

Coming
into force

46. This Act shall come into force on the day upon which it is assented to.

No. 101.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to amend The Workmen's
Compensation Act, 1948.

Received and read the

First time

Second time.....

Third time.....

HON. DR. ROBINSON.
