

No. 60

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4 Elizabeth II, 1956

BILL 60

A Bill to amend The Workmen's Compensation Act, 1948

HON. MR. REIERSON

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Explanatory Note

General. For the most part the amendments embodied in this Bill result from the recommendations of the Special Legislative Committee on Workmen's Compensation. In these notes the recommendations of the Committee are enclosed in brackets.

Some additional amendments result from the recommendations of the administrative body concerned in the administration of the Act.

2. (a) ("to insure that a learner is covered by compensation while he is undergoing training or probationary work, the words "specified or stipulated by the employer" be deleted.")

(b) Clause (o) presently reads:

"(o) "Manufacturing" includes making, preparing, altering, repairing, renovating, dyeing, cleaning, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any raw material, goods, article or commodity;"

3. ("that the Act be amended to provide that, in a case in which the amendment of 1952 had the effect of shortening the term of office of an existing commissioner, the Lieutenant Governor in Council may extend beyond the age of 70 years the term of office of the commissioner to expire on the date it would have expired but for the said amendment.")

Subsection (7) will authorize the making of regulations governing the payment, out of the Accident Fund, of pensions and gratuities in the case of service of commissioners not coming within the scope of pensions under The Public Service Pensions Act.

4. ("to clarify that the Board has the authority to let any portion or portions of their premises not immediately required for the purpose of the Board.")

Section 9 presently reads:

"9. The Board may acquire, either by purchase or otherwise, such premises as it may deem necessary."

5. ("an appeal to the courts on a question of law limited to whether or not an accident arose out of and in the course of the employment").

BILL

No. 60 of 1956

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

(Assented to _____, 1956)

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

PART I

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

2. Section 2 is amended

- (a) as to clause (m1) by striking out the words "specified or stipulated by the employer",
- (b) as to clause (o) by adding immediately after the word "renovating," the word "servicing,".

3. Section 4 is amended by adding immediately after subsection (5) the following:

"(6) Subsection (2) shall be deemed not to restrict or to have restricted the term of office of a commissioner whose appointment was made before 1952.

"(7) In respect of service on the Board by a commissioner for which pension is not payable under *The Public Service Pension Act*, the Board may, with the approval of the Lieutenant Governor in Council, make regulations providing for the payment after retirement of a gratuity or pension to such commissioner or to his dependent widow or other dependant, and any such payment shall be made from the Accident Fund."

4. Section 9 is amended by adding immediately after the word "necessary" the words "and may let to others parts of any building owned and in part occupied by it".

5. The following is added immediately after section 10:

"**10a.** (1) Notwithstanding section 10, an appeal lies from the Board to the Appellate Division of the Supreme Court of Alberta on a question of law limited to whether or not an accident arose out of and in the course of employment.

“(2) Any party directly affected by an order, ruling, or decision of the Board and intending to appeal therefrom shall within twenty days of the making of the order, ruling or decision apply to the Board for a statement of the facts found by the Board and the grounds taken by the Board in making such order, ruling or decision and the Board shall within fifteen days provide the party with a statement in writing and the statement shall constitute the record on the appeal.

“(3) Subsection (2) does not preclude a party directly affected from applying to the Board for reconsideration of its order, ruling or decision under the provisions of subsection (2) of section 10 and the appeal permitted by this section may be from the order, ruling or decision given by the Board following such reconsideration.

“(4) Within ten days of being provided with the statement and on notice to the other parties directly affected and to the Board the party appealing shall apply to a judge of the Appellate Division of the Supreme Court of Alberta to determine and order that such statement discloses a question of law limited to whether or not an accident arose out of and in the course of employment.

“(5) If an order is granted the appeal shall be brought by notice served on the other parties directly affected and on the Board within ten days after the granting of such order and the party appealing shall file with the court a copy of such notice together with the record and the judge's order.

“(6) The Board may on its own motion state a case in writing for the opinion of the Appellate Division of the Supreme Court of Alberta on any question that in the opinion of the Board is a question of law limited as to whether or not an accident arose out of and in the course of employment.

“(7) On the hearing of the appeal or stated case any association representing a class interested in the result of the proceedings is entitled to appear and be heard after due notice to all parties thereto and the provisions of *The Judicature Act* and the Rules of the Supreme Court so far as they are applicable and not inconsistent herewith apply to all proceedings under this section.

“(8) On the hearing of an appeal under this section

“(a) no evidence other than the evidence that was submitted to the Board upon the making of the order or decision appealed from shall be admitted, and

“(b) the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of law as to whether or not the accident arose out of and in the course of employment

and the court shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

6. Subsection (1) of section 13, as relevant, reads at present

"13. (1) The Board may,

"(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;"

As "industry" is a defined term, there is some ambiguity caused by the present clauses (a) and (b) which the amendment will remove.

7. ("that the words "heating, where practicable" be added after the word "sanitation", and also in clause (d) and subsection (2) of section 15.")

8. Subsections (1), (2), (3), (7) and (8), of section 20 presently read as follows:

"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.

“(9) No costs shall be awarded on any application or appeal under this section.

“(10) Every order, ruling or decision of the Board has effect at the time prescribed by the same and the operation of the order, ruling or decision is not suspended by any appeal under this section to the Appellate Division unless otherwise ordered by the Appellate Division but the Board itself may suspend the operation of its order, ruling or decision when appealed from until the decision of the Appellate Division is rendered.

“(11) The decision of the Appellate Division has effect at the time such decision is rendered or if the order, ruling or decision of the Board is suspended by the Appellate Division or the Board from the time such order, ruling or decision is suspended, and the decision of the Appellate Division does not affect in any way anything done under or pursuant to the order, ruling or decision of the Board prior to the decision of the Appellate Division coming into effect and all such things done under such order, ruling or decision are as valid and effective as if no appeal had been taken.

“(12) The right to appeal given by this section applies only to orders, rulings or decisions of the Board regarding accidents occurring subsequent to the date of the coming into force of this section.”.

6. Section 13, subsection (1) is amended by striking out clause (a) and by substituting the following:

- “(a) add to the Schedules as industries any establishment, undertaking, trade or business or group or class thereof;
- “(a1) withdraw from the Schedules hereto any industry or rearrange any of the industries in the Schedules;”.

7. Section 15 is amended

- (a) as to subsection (1), clauses (b) and (d) by adding immediately after the word “sanitation” the words “, heating, where practicable,”,
- (b) as to subsection (2) by adding immediately after the word “sanitation” the words “, heating, where practicable,”.

8. Section 20 is amended

- (a) as to subsection (1) by adding immediately after the word “house” the words “as members of his household”,
- (b) as to subsection (2) by striking out the word “three” and by substituting the word “four”,
- (c) as to subsection (3)
 - (i) by adding immediately after the word “employed” the words “in the industry named in the application”,

"(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.

"(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.

"(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."

(a) If a workman is a member of the family of the employer and is not dwelling with the employer as a member of his household, the exclusion against members of the families of employers will not apply.

(b) The amendment here results from the recommendation set out in the note to clause 26.

(c) The amendments to subsections (3) and (8) will result in coverage being only in the industry in respect of which application for coverage was made.

(d) The amendment to subsection (7) increases the maximum compensation coverage under this section.

9. (a) This amendment is for the purpose of preventing workmen from collecting from two compensation boards or agencies for the same accident.

(b) The new subsection (4a) clarifies the position of the Board with regard to moneys paid or received under agreements with other compensation boards.

- (ii) by adding immediately after the words "to have been workmen" the words "in the industry named in the application",
- (d) as to subsection (7) by striking out the word "three" and by substituting the word "four",
- (e) as to subsection (8)
 - (i) by adding immediately after the words "to be a workman" the words "in the industry named in the application",
 - (ii) by adding immediately after the words "to have been a workman" the words "in the industry named in the application".

9. Section 21 is amended

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

"(3a) Where pursuant to subsection (2) a workman elects to claim compensation under this Act in respect of an accident that happened outside the Province and previously, concurrently or subsequently claims compensation or other remedy under the law of any other country or place in respect of the same accident, the workman shall be deemed to have forfeited all rights to compensation under this Act in respect of that accident, and any moneys paid to him or on his behalf by the Board in respect thereof constitutes a debt due from him to the Board.

"(3b) Subsection (3a) does not affect the right to compensation of a workman who takes action at the direction of the Board under the provisions of section 22.

"(3c) Notwithstanding subsection (3a) a workman who, before claiming under this Act, has in error claimed compensation under the law of the country or place wherein the accident happened and has been found not entitled to such compensation shall be deemed not to have forfeited his rights under this Act by reason of having made such claim.",

10. Subsection (1) of section 22 presently reads:

"22. (1) If any workman entitled to compensation under the provisions of section 21 has any right of action in a place other than the Province of Alberta in respect of his personal injuries, he shall assign all compensation or damages to be recovered thereunder to the Board."

This amendment is for the purpose of preventing workmen from collecting from two compensation boards or agencies for the same accident.

11. Subsection (4) of section 23 presently reads:

"(4) If and when compensation payments have been made by the Board to a workman beyond the period of his disability, the amount thereof may be recovered by the Board as a debt due the Board by such workman and, without in any way limiting the Board's remedies for recovery, may be set off against any compensation that may be or become payable to him."

12. Clause (a) of subsection (5) of section 24 presently reads:

"(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,

"(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 contravention hereof, shall be entirely null and void and of no effect against such workman or his legal personal representative or dependants.

Subsection (10) presently reads:

"(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

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

“(4a) Payment out of the Accident Fund of moneys required to be paid pursuant to an agreement made under subsection (4) may be made to the Workmen’s Compensation Board with which the agreement has been made, and all moneys received by the Board pursuant to any such agreement shall be paid by it into the Accident Fund.”.

10. Section 22 is amended

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

“**22.** (1) If a workman entitled to compensation under this Act has any right of action in a place other than the Province of Alberta in respect of his personal injuries, he shall assign all damages to be recovered thereunder to the Board, and the Board may withhold payment of compensation until the assignment is made in a form satisfactory to the Board.”,

- (b) as to subsection (2)
 - (i) by striking out the first proviso,
 - (ii) as to the second proviso by striking out the word “further”.

11. Section 23 is amended by striking out subsection (4) and by substituting the following:

“(4) When compensation payments have been made by the Board to a workman beyond the period of his disability or to a dependant in an amount in excess of that to which he is entitled, the amount of the overpayment may be recovered by the Board as a debt due the Board by such workman or dependant, as the case may be.

“(5) Without in any way limiting the Board’s remedies for recovery, any moneys due the Board under this section or otherwise may be set off against any compensation that may be or that may become payable to the person indebted to the Board.”.

12. Section 24 is amended

- (a) as to subsection (5), clause (a) by adding immediately after the word “against” the words “the Board,”,
- (b) as to subsection (10) by striking out the words “for which the workman is entitled to compensation”.

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."

These subsections are amended for clarification.

13. ("that this section be amended to provide that the workman be furnished, by the employer, with a copy of the first accident record report concerning his accident.")

14. ("that this section be amended to provide that the workman may be entitled to payment computed on the same basis as compensation for the period determined by the Board as being necessary for the purposes of the medical investigation, and that the word "shall" in the ninth line thereof be amended to read "may.")

15. ("in order to provide a greater choice of specialists, more than two duly qualified physicians practising in the Province of Alberta be nominated by the Board, one of whom may be selected by the workman, and one of whom may be selected by the employer, and in the event of the two so chosen disagreeing, they shall be empowered to add a third member to their number and the decision of the majority shall be conclusive as to the matters certified unless the Board at any time directs otherwise.")

13. Section 25, subsection (5) is amended by adding immediately after the words "shall forward to the Board" the words ", with a copy to the workman,".

14. Section 26, subsection (4) is amended by striking out the words "workman shall be entitled to payment computed on the same basis as compensation" and by substituting the words "Board may make payments to the workman, which shall be computed on the same basis as compensation,".

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

"27. (1) Where a workman has applied to the Board for compensation under the provisions of this Act, if he claims

"(a) a greater disability than that found by the Board,

"(b) a continuance of compensation beyond the period allowed by the Board,

"(c) error on the part of the Board in some feature or circumstance of his claim as affected by his physical condition, or

"(d) that the medical opinion upon which the disputed finding was made is erroneous,

and makes to the Board a request in writing for an examination under the provisions of this section, the Board shall nominate not less than four duly qualified medical practitioners recognized as specialists in the particular class of injury or ailment in respect of which the workman has claimed compensation.

"(2) From the medical practitioners so nominated two shall be selected in the following manner:

"(a) The Board shall notify the workman and his employer by registered mail of the names and addresses of the medical practitioners nominated and each may select from the said names one such medical practitioner, such selection to be made and communicated in writing to the Board within fourteen days after the mailing of the notice by the Board.

"(b) If either the workman or the employer fails to make a selection within the time provided or if both select the same medical practitioner, the Board shall select one medical practitioner from those nominated.

"(c) If the workman and the employer both fail to make a selection within the time provided, the Board shall select two medical practitioners from those nominated.

16. Subsection (2) of section 30 presently reads:

"(2) Where in the case of any claim for compensation the Board is of the opinion that the injury would be alleviated to some appreciable extent by the supplying of any apparatus usually provided in such cases, it shall supply such apparatus to the workman, but any such action shall not affect in any way the payments made to the workman."

17. Subsections (5) and (7) of section 31 presently read:

"(5) In case of death or permanent total disability or in case of permanent partial disability where the impairment of the earning capacity of the workman exceeds ten per cent of his earning capacity at the time of the accident, no commutation of periodical payments shall be made except upon the application of and at an amount agreed to by the dependant or workman entitled to the payments.

"(7) If any person entitled to compensation under this Act is committed to any institution, the compensation otherwise payable to or in respect of such person may in the discretion of the Board be paid to the governing body of the institution."

18. Section 32 presently reads:

"32. Where a workman is entitled to compensation and it is made to appear to the Board,

"(a) that he is no longer residing in the Province but that the spouse or child or children under eighteen years of age are still residing therein without adequate means of support and are or are apt to become a charge upon the municipality where they reside or upon private charity; or

"(b) that he, although still residing in the Province, is not supporting the spouse and children as aforesaid and an order has been made against him by a court of competent jurisdiction, for the support or maintenance of the spouse or children or for alimony;

the Board may divert the compensation in whole or in part from the workman for the benefit of the spouse or children of the workman."

“(3) The two medical practitioners selected shall examine the workman and certify to the Board as to

“(a) the condition of the workman,

“(b) his fitness for employment,

“(c) if unfit, the cause of such unfitness,

“(d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation, and

“(e) such other matters as may in their opinion or in the opinion of the Board be pertinent to the claim.

“(4) If after examining the workman the two medical practitioners are unable to agree on the matters in respect of which their certificate is required they shall select a third medical practitioner from the list of those first nominated and in event of their being unable to agree on a third practitioner the selection shall be made by the Board and the three so selected shall examine the workman and the decision of the majority shall be certified to the Board with respect to the matters set out in subsection (3).

“(5) The certificate of the medical practitioners is conclusive as to the matters certified unless the Board at any time directs otherwise.

“(6) The Board may of its own motion require a workman to be examined under the provisions of this section and may without any request from a workman nominate a list of medical practitioners and notify the workman and the employer, whereupon the examination shall be proceeded with under the provisions of this section in the same manner as if a request had been made by the workman.”.

16. Section 30, subsection (2) is amended by striking out the word “appreciable”.

17. Section 31 is amended

(a) as to subsection (5) by striking out the word “ten” and by substituting the word “five”,

(b) as to subsection (7) by striking out the words “governing body of the institution” and by substituting the words “dependent wife or other dependants of such person”.

18. Section 32 is struck out and the following is substituted:

“32. Where a workman is entitled to compensation and it is made to appear to the Board

“(a) that a spouse, child or children dependent upon the workman and residing in the Province are without adequate means of support and are or are apt to become a charge upon the municipality where they reside or upon private charity, or

19. The amendments to section 33 are for the purpose of implementing the following recommendations of the Committee in respect of that section:

(a) ("to a dependent widow or dependent invalid widower the allowance be increased from \$100 to \$150 as a contribution to the additional expense occasioned consequent upon the death of the deceased workman.")

(b) ("the allowance to a dependent widow or dependent invalid widower be increased to \$60 per month, and that all other relevant sections be amended accordingly to make the increase applicable to all dependent widows or all dependent invalid widowers 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.")

(c) ("payment to a dependent child, other than a dependent invalid child, be increased to \$30 per month, regardless of the date of death of the workman.")

(d) ("be amended to provide for an increase of payments in respect of all dependent invalid children to \$30 per month, regardless of the date of death of the workman.") (33 (1) (e).)

(e) ("be amended to add the word "dependent" following the word "no" in the first line of this section.") (33 (2) (b).)

20. The amendments to this section follow the recommendation noted in (b) of the preceding note.

21. ("that the seven-year period necessary for a dependent common law wife to have cohabited with a deceased workman immediately preceding his death in order to qualify for compensation, be reduced to two years.")

22. ("be amended to include a dependent child who, at the time of death of a workman, is over the age of sixteen and has not yet attained the age of eighteen years and who is attending an academic, technical or vocational school and making progress satisfactory to the Board.")

“(b) that a spouse, child or children dependent upon the workman and residing outside the Province are not being supported by the workman and an order has been made against him by a court of competent jurisdiction for maintenance of the spouse or children or for alimony,

the compensation payable to the workman may be paid by the Board in whole or in part to or for the benefit of such spouse or children.”.

19. Section 33 is amended

(a) as to subsection (1)

- (i) by adding immediately after the words “one hundred” in clause (b) the words “and fifty”,
- (ii) by striking out the word “fifty” in clause (c) and by substituting the word “sixty”,
- (iii) by striking out the word “twenty-five” in clause (d) and by substituting the word “thirty”,
- (iv) by adding immediately after clause (d) the following:

“(d1) to a dependent child over the age of sixteen years and under the age of eighteen years at the date of death of the workman, such amounts as would have been paid to to the dependent child under section 33c at and subsequent to his age at the date of death of the workman had the child been under the age of sixteen years at the date of the death, subject to the same conditions as a payment under that section;”,

- (v) by striking out the word “twenty-five” in clause (e) and by substituting the word “thirty”,

(b) as to subsection (2), clause (b) by adding immediately before the word “widow” wherever it occurs the word “dependent”.

20. Section 33a is amended

(a) as to subsection (1)

- (i) by striking out the figures “1952” and by substituting the figures “1956”,
- (ii) by striking out the word “fifty” and by substituting the word “sixty”,

(b) as to subsection (3) by striking out the word “fifty” wherever it occurs and by substituting the word “sixty”.

21. Section 33b, subsection (1) is amended by striking out the word “seven” and by substituting the word “two”.

22. Section 33c, subsection (2) is amended by adding immediately after the word and figure “subsection (1)” the words and figures “, or clause (d1) of subsection (1) of section 33,”.

This recommendation is implemented by this clause and clause (a), subclause (iv) of clause 19 of this Bill, amending section 33 of the Act.

23. ("that the following words in 33f be struck out, "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 payments to her in such amount not exceeding \$50 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." The Committee however recommends that the amount payable to a dependent widow on remarriage be increased from \$600 to \$720.")

24. Subsection (2) of section 33h presently reads as follows:

"(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."

The amendment will require that the average cost of accident be arrived at by averaging the fatal accident claims awarded in one year rather than averaging the fatal accident claims arising out of accidents occurring in the one year.

25. Subsection (3) of section 35 presently reads:

"(3) Where the impairment of the earning capacity of the workman does not exceed ten per cent of his earning capacity instead of such weekly payment the Board shall, unless in its opinion it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman."

The amendment in (a) hereof conforms to the amendment made by (a) of clause 17 of the Bill to section 31 of the Act.

26. ("that the "wage ceiling" for compensation purposes be increased from \$3,000 to \$4,000 per annum.")

27. (a) Subsection (6) was renumbered subsection (2) when the Act was last amended.

(b) ("an amendment to the effect that the Workmen's Compensation Board be empowered to enter into an agreement with other compensation authorities whereby the authorities who are parties to the agreement, would share the cost of a silicosis claim according to the exposure to silica by the claimant in the provinces concerned.")

23. Section 33*f* is struck out and the following is substituted:

“33*f*. If a dependent widow remarries, the monthly payments to her shall thereupon cease but she shall be paid a lump sum of seven hundred and twenty dollars within one month after the date of her remarriage.”.

24. Section 33*h* is amended by striking out subsection (2) and by substituting the following:

“(2) The cost in any year of all capitalized awards arising out of the death of a workman shall, irrespective of the year of occurrence of the accident, be apportioned equally between all accidents in which responsibility for the death was assumed by the Board in that year and the amounts so apportioned to each accident shall be charged and dealt with as an award arising out of that accident in the same manner as an award arising out of a fatal accident would have been charged and dealt with were it not for the provisions of this subsection.”.

25. Section 35, subsection (3) is amended

- (a) by striking out the word “ten” and by substituting the word “five”,
- (b) by striking out the words “Board shall,” and by substituting the words “Board may,”.

26. Section 39, subsection (3) is amended by striking out the word “three” and by substituting the word “four”.

27. Section 42 is amended

- (a) as to subsection (4) by striking out the figure “(6)” and by substituting the figure “(2)”,
- (b) by adding immediately after subsection (5) the following:

“(6) The Board may enter into an agreement either with Canada or with the appropriate authority in any other province or territory of Canada providing for the sharing of the costs of silicosis claims in proportion to the exposure or estimated amount of exposure to silica dust encountered by the claimants in the provinces or territories concerned.

“(7) Payment out of the Accident Fund of moneys required to be paid pursuant to an agreement made under subsection (6) may be made to the Workmen’s Compensation Board or to Canada or to the person with which such agreement has

28. ("that the *per diem* subsistence allowance be increased from \$5.00 to \$6.00 provided however that when the Board provides all or part of the said subsistence, the allowance may be correspondingly reduced.")

Subsection (4) of section 43 presently reads:

"(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."

29. (a) This amendment relates to the recommendation quoted under the note to clause 26, *supra*.

(b) Corrects a grammatical error.

30. This amendment also relates to the recommendation quoted under clause 26, *supra*.

31. Subsection (1) of section 56 presently reads:

"56. (1) If an employer does not make and transmit to the Board the prescribed statement within the prescribed time the Board may, in addition to any other remedy provided by this Act, base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the pay-roll or other basis of assessment of the employer, and the employer shall be bound thereby, but if it is afterwards ascertained that the amount is less than the actual amount of the pay-roll or other basis of assessment, the employer shall be liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he should have been assessed on the basis of his pay-roll or other basis of assessment."

The amendment will permit the Board to levy its provisional assessment where the employer has made his assessment too low.

32. ("the Committee is of the opinion that this section as presently enacted deems as workmen many persons who, by the very nature of their operations, are not in essence workmen within the meaning of the Act, and recommends that the section be amended to restrict the coverage presently afforded.")

Section 61 presently reads as follows:

"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.

"(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 is 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

been made and all moneys received by the Board pursuant to any such agreement shall be paid by it into the Accident Fund.”.

28. Section 43 is amended

- (a) as to subsection (4) by striking out the word “five” and by substituting the word “six”,
- (b) by renumbering subsections (4) to (11) as subsections (5) to (12) respectively,
- (c) by adding immediately after subsection (3) the following:
 “(4) Where a workman is rendered helpless through permanent total disability, the Board in its discretion may provide such other treatment services or attendance as may be necessary as a result of the injury.”.

29. Section 52 is amended

- (a) as to subsection (3) by striking out the word “three” and by substituting the word “four”,
- (b) as to subsection (8) by striking out the word “employer” and by substituting the word “employers”.

30. Section 54, subsection (2) is amended by striking out the word “three” and by substituting the word “four”.

31. Section 56, subsection (1) is amended by adding immediately after the words “prescribed time” the words “, or if such statement in the opinion of the Board does not represent the probable amount of payroll or other basis of assessment of the employer,”.

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

“61. (1) For the purposes of subsection (2) “equipment” includes teams, trucks, tractors, bulldozers, drag lines, power shovels and such other equipment or apparatus as the Board may from time to time designate as equipment.

“(2) Where in any undertaking a person enters into an arrangement for the supplying of equipment to another person, (who is in this subsection and in subsections (4) and (5) referred to as the “principal”) if the person supplying the equipment

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

for the year as provided for in subsection (1) of section 54, in which case the persons, other than the person supplying the equipment, 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 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 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 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, 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."

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

all persons operating the equipment shall be deemed to be workmen of the principal, 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 the persons operating the equipment shall not be deemed to be workmen of the principal but, subject to the provisions of section 20, shall be deemed to be workmen of the person supplying the equipment, and for the purposes of assessment the basis of the earnings of the workmen shall be such 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 (who is in this subsection and in subsections (4) and (5) referred to as the “principal”) 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,

“(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 the principal 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 the persons performing the work shall not be deemed to be workmen of the principal but, subject to the provisions of section 20, shall be deemed to be workmen of the person agreeing to perform the work, and for the purposes of assessment the basis of earnings of the workmen shall be such as the Board may from time to time determine.

“(4) Notwithstanding the provisions of section 20, the Board on the application of the principal may deem to be his workmen all persons operating equipment or performing work for him who would otherwise by reason of section 20 not be workmen.

“(5) Where in the opinion of the Board it is advisable to do so, the Board may by regulation provide that any class of persons who but for the provisions of subsections (1) to (3) would not have been workmen of a principal shall not be deemed to be workmen of such principal.

“(6) Nothing in this section affects the powers of the Board contained in section 13.

“(7) In any undertaking contemplated by subsections (1) to (3) and without in any way relieving any person of his liability to the Board in respect of its assessment

33. Corrects a printing error.

34. This section implements the recommendation quoted in note to clause 19 as (b) thereof.

Part II will relate the amendments to the revision and consolidation.

upon him, a person shall be liable to pay to the Board any sum that 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, 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.

“(8) Subsection (7) 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.”.

33. Schedule I is amended by striking out the words “occupation of work” and by substituting the words “occupation or work”.

34. The benefits provided by this Part to workmen and their dependants, other than the additional compensation for widows and children provided in sections 18, 19, 20, 22 and 23, apply only to claims in respect of accidents occurring on or after the date upon which this Part comes into force, and claims in respect of accidents occurring before that date shall be administered under and in accordance with the law in effect at the time the accident occurred.

PART II

35. *The Workmen's Compensation Act*, being chapter 370 of the Revised Statutes of Alberta, 1955, is hereby amended.

36. Section 2 is amended

- (a) as to clause (o) by striking out the words “specified or stipulated by the employer”,
- (b) as to clause (q) by adding immediately after the word “renovating,” the word “servicing,”.

37. Section 4 is amended by adding immediately after subsection (2) the following:

“(2a) Subsection (2) shall be deemed not to restrict or to have restricted the term of office of a commissioner whose appointment was made before 1952.

“(2b) In respect of service on the Board by a commissioner for which pension is not payable under *The Public Service Pension Act*, the Board may, with the approval of the Lieutenant Governor in Council, make regulations providing for the payment after retirement of a gratuity or pension to such commissioner or to his dependent widow or other dependant, and any such payment shall be made from the Accident Fund.”.

38. Section 9 is amended by adding immediately after the word “necessary” the words “and may let to others parts of any building owned and in part occupied by it”.

39. The following is added immediately after section 10:

“10a. (1) Notwithstanding section 10, an appeal lies from the Board to the Appellate Division of the Supreme Court of Alberta on a question of law limited to whether or not an accident arose out of and in the course of employment.

“(2) Any party directly affected by an order, ruling, or decision of the Board and intending to appeal therefrom shall within twenty days of the making of the order, ruling or decision apply to the Board for a statement of the facts found by the Board and the grounds taken by the Board in making such order, ruling or decision and the Board shall within fifteen days provide the party with a statement in writing and the statement shall constitute the record on the appeal.

“(3) Subsection (2) does not preclude a party directly affected from applying to the Board for reconsideration of its order, ruling or decision under the provisions of subsection (2) of section 10 and the appeal permitted by this section may be from the order, ruling or decision given by the Board following such reconsideration.

“(4) Within ten days of being provided with the statement and on notice to the other parties directly affected and to the Board the party appealing shall apply to a judge of the Appellate Division of the Supreme Court of Alberta to determine and order that such statement discloses a question of law limited to whether or not an accident arose out of and in the course of employment.

“(5) If an order is granted the appeal shall be brought by notice served on the other parties directly affected and on the Board within ten days after the granting of such order and the party appealing shall file with the court a copy of such notice together with the record and the judge’s order.

“(6) The Board may on its own motion state a case in writing for the opinion of the Appellate Division of the Supreme Court of Alberta on any question that in the opinion of the Board is a question of law limited as to whether or not an accident arose out of and in the course of employment.

“(7) On the hearing of the appeal or stated case any association representing a class interested in the result of the proceedings is entitled to appear and be heard after due notice to all parties thereto and the provisions of *The Judicature Act* and the Rules of the Supreme Court so far as they are applicable and not inconsistent herewith apply to all proceedings under this section.

“(8) On the hearing of an appeal under this section

“(a) no evidence other than the evidence that was submitted to the Board upon the making of the order or decision appealed from shall be admitted, and

“(b) the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of law as to whether or not the accident arose out of and in the course of employment

and the court shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

“(9) No costs shall be awarded on any application or appeal under this section.

“(10) Every order, ruling or decision of the Board has effect at the time prescribed by the same and the operation of the order, ruling or decision is not suspended by any appeal under this section to the Appellate Division unless otherwise ordered by the Appellate Division but the Board itself may suspend the operation of its order, ruling or decision when appealed from until the decision of the Appellate Division is rendered.

“(11) The decision of the Appellate Division has effect at the time such decision is rendered or if the order, ruling or decision of the Board is suspended by the Appellate Division or the Board from the time such order, ruling or decision is suspended, and the decision of the Appellate Division does not affect in any way anything done under or pursuant to the order, ruling or decision of the Board prior to the decision of the Appellate Division coming into effect and all such things done under such order, ruling or decision are as valid and effective as if no appeal had been taken.

“(12) The right to appeal given by this section applies only to orders, rulings or decisions of the Board regarding accidents occurring subsequent to the date of the coming into force of this section.”.

40. Section 13, subsection (1) is amended by striking out clause (a) and by substituting the following:

“(a) add to the Schedules as industries any establishment, undertaking, trade or business or group or class thereof,

“(a1) withdraw from the Schedules hereto any industry or rearrange any of the industries in the Schedules,”.

41. Section 15 is amended

(a) as to subsection (1), clauses (b) and (d) by adding immediately after the word “sanitation” the words “, heating, where practicable,”,

(b) as to subsection (2) by adding immediately after the word “sanitation” the words “, heating, where practicable,”.

42. Section 20 is amended

(a) as to subsection (1) by adding immediately after the word “house” the words “as members of his household”,

- (b) as to subsection (2) by striking out the word "three" and by substituting the word "four",
- (c) as to subsection (3)
 - (i) by adding immediately after the word "employed" the words "in the industry named in the application",
 - (ii) by adding immediately after the words "to have been workmen" the words "in the industry named in the application",
- (d) as to subsection (7) by striking out the word "three" and by substituting the word "four",
- (e) as to subsection (8)
 - (i) by adding immediately after the words "to be a workman" the words "in the industry named in the application",
 - (ii) by adding immediately after the words "to have been a workman" the words "in the industry named in the application".

43. Section 21 is amended

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

"(4a) Where pursuant to subsection (3) a workman elects to claim compensation under this Act in respect of an accident that happened outside the Province and previously, concurrently or subsequently claims compensation or other remedy under the law of any other country or place in respect of the same accident, the workman shall be deemed to have forfeited all rights to compensation under this Act in respect of that accident, and any moneys paid to him or on his behalf by the Board in respect thereof constitutes a debt due from him to the Board.

"(4b) Subsection (4a) does not affect the right to compensation of a workman who takes action at the direction of the Board under the provisions of section 22.

"(4c) Notwithstanding subsection (4a) a workman who, before claiming under this Act, has in error claimed compensation under the law of the country or place wherein the accident happened and has been found not entitled to such compensation shall be deemed not to have forfeited his rights under this Act by reason of having made such claim."

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

"(5a) Payment out of the Accident Fund of moneys required to be paid pursuant to an agreement made under subsection (5) may be made to the Workmen's Compensation Board with which the agreement has been made, and all moneys received by the Board pursuant to any such agreement shall be paid by it into the Accident Fund."

44. Section 22 is amended

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

“22. (1) If a workman entitled to compensation under this Act has any right of action in a place other than the Province of Alberta in respect of his personal injuries, he shall assign all damages to be recovered thereunder to the Board, and the Board may withhold payment of compensation until the assignment is made in a form satisfactory to the Board.”,

- (b) as to subsection (2)
 - (i) by striking out the first proviso,
 - (ii) as to the second proviso by striking out the word “further”.

45. Section 23 is amended by striking out subsection (4) and by substituting the following:

“(4) When compensation payments have been made by the Board to a workman beyond the period of his disability or to a dependant in an amount in excess of that to which he is entitled, the amount of the overpayment may be recovered by the Board as a debt due the Board by such workman or dependant, as the case may be.

“(5) Without in any way limiting the Board’s remedies for recovery, any moneys due the Board under this section or otherwise may be set off against any compensation that may be or that may become payable to the person indebted to the Board.”.

46. Section 24 is amended

- (a) as to subsection (5), clause (a) by adding immediately after the word “against” the words “the Board,”,
- (b) as to subsection (10) by striking out the words “for which the workman is entitled to compensation”.

47. Section 25, subsection (5) is amended by adding immediately after the words “shall forward to the Board” the words “, with a copy to the workman,”.

48. Section 26, subsection (4) is amended by striking out the words “workman shall be entitled to payment computed on the same basis as compensation” and by substituting the words “Board may make payments to the workman, which shall be computed on the same basis as compensation,”.

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

"27. (1) Where a workman has applied to the Board for compensation under the provisions of this Act, if he claims

- "(a) a greater disability than that found by the Board,
- "(b) a continuance of compensation beyond the period allowed by the Board,
- "(c) error on the part of the Board in some feature or circumstance of his claim as affected by his physical condition, or
- "(d) that the medical opinion upon which the disputed finding was made is erroneous,

and makes to the Board a request in writing for an examination under the provisions of this section, the Board shall nominate not less than four duly qualified medical practitioners recognized as specialists in the particular class of injury or ailment in respect of which the workman has claimed compensation.

"(2) From the medical practitioners so nominated two shall be selected in the following manner:

- "(a) The Board shall notify the workman and his employer by registered mail of the names and addresses of the medical practitioners nominated and each may select from the said names one such medical practitioner, such selection to be made and communicated in writing to the Board within fourteen days after the mailing of the notice by the Board.
- "(b) If either the workman or the employer fails to make a selection within the time provided or if both select the same medical practitioner, the Board shall select one medical practitioner from those nominated.
- "(c) If the workman and the employer both fail to make a selection within the time provided, the Board shall select two medical practitioners from those nominated.

"(3) The two medical practitioners selected shall examine the workman and certify to the Board as to

- "(a) the condition of the workman,
- "(b) his fitness for employment,
- "(c) if unfit, the cause of such unfitness,
- "(d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation, and
- "(e) such other matters as may in their opinion or in the opinion of the Board be pertinent to the claim.

"(4) If after examining the workman the two medical practitioners are unable to agree on the matters in respect of which their certificate is required they shall select a third medical practitioner from the list of those first nominated and in event of their being unable to agree on a third practitioner the selection shall be made by the Board and the three so selected shall examine the workman and

the decision of the majority shall be certified to the Board with respect to the matters set out in subsection (3).

“(5) The certificate of the medical practitioners is conclusive as to the matters certified unless the Board at any time directs otherwise.

“(6) The Board may of its own motion require a workman to be examined under the provisions of this section and may without any request from a workman nominate a list of medical practitioners and notify the workman and the employer, whereupon the examination shall be proceeded with under the provisions of this section in the same manner as if a request had been made by the workman.”.

50. Section 30, subsection (2) is amended by striking out the word “appreciable”.

51. Section 31 is amended

- (a) as to subsection (5) by striking out the word “ten” and by substituting the word “five”,
- (b) as to subsection (7) by striking out the words “governing body of the institution” and by substituting the words “dependent wife or other dependants of such person”.

52. Section 32 is struck out and the following is substituted:

“32. Where a workman is entitled to compensation and it is made to appear to the Board

- “(a) that a spouse, child or children dependent upon the workman and residing in the Province are without adequate means of support and are or are apt to become a charge upon the municipality where they reside or upon private charity, or
- “(b) that a spouse, child or children dependent upon the workman and residing outside the Province are not being supported by the workman and an order has been made against him by a court of competent jurisdiction for maintenance of the spouse or children or for alimony,

the compensation payable to the workman may be paid by the Board in whole or in part to or for the benefit of such spouse or children.”.

53. Section 33 is amended

- (a) as to subsection (1)
 - (i) by adding immediately after the words “one hundred” in clause (b) the words “and fifty”,
 - (ii) by striking out the word “fifty” in clause (d) and by substituting the word “sixty”,
 - (iii) by striking out the word “twenty-five” in clause (e) and by substituting the word “thirty”,

(iv) by adding immediately after clause (e) the following:

“(e1) to a dependent child over the age of sixteen years and under the age of eighteen years at the date of death of the workman, such amounts as would have been paid to the dependent child under section 36 at and subsequent to his age at the date of death of the workman had the child been under the age of sixteen years at the date of the death, subject to the same conditions as a payment under that section,”

(v) by striking out the word “twenty-five” in clause (f) and by substituting the word “thirty”,

(b) as to subsection (3) by adding immediately before the word “widow” wherever it occurs the word “dependent”.

54. Section 34 is amended

(a) as to subsection (1)

(i) by striking out the figures “1952” and by substituting the figures “1956”,

(ii) by striking out the word “fifty” and by substituting the word “sixty”,

(b) as to subsection (3) by striking out the word “fifty” wherever it occurs and by substituting the word “sixty”.

55. Section 35, subsection (1) is amended by striking out the word “seven” and by substituting the word “two”.

56. Section 36, subsection (2) is amended by adding immediately after the word and figure “subsection (1)” the words and figures “, or clause (e1) of subsection (1) of section 33,”.

57. Section 39 is struck out and the following is substituted:

“**39.** If a dependent widow remarries, the monthly payments to her shall thereupon cease but she shall be paid a lump sum of seven hundred and twenty dollars within one month after the date of her remarriage.”.

58. Section 41 is amended by striking out subsection (2) and by substituting the following:

“(2) The cost in any year of all capitalized awards arising out of the death of a workman shall, irrespective of the year of occurrence of the accident, be apportioned equally between all accidents in which responsibility for the death was assumed by the Board in that year and the amounts so apportioned to each accident shall be charged and dealt with as an award arising out of that accident in

the same manner as an award arising out of a fatal accident would have been charged and dealt with were it not for the provisions of this subsection.”.

59. Section 46, subsection (3) is amended

- (a) by striking out the word “ten” and by substituting the word “five”,
- (b) by striking out the words “Board shall,” and by substituting the words “Board may,”.

60. Section 50, subsection (3) is amended by striking out the word “three” and by substituting the word “four”.

61. Section 53 is amended by adding immediately after subsection (5) the following:

“(6) The Board may enter into an agreement either with Canada or with the appropriate authority in any other province or territory of Canada providing for the sharing of the costs of silicosis claims in proportion to the exposure or estimated amount of exposure to silica dust encountered by the claimants in the provinces or territories concerned.

“(7) Payment out of the Accident Fund of moneys required to be paid pursuant to an agreement made under subsection (6) may be made to the Workmen’s Compensation Board or to Canada or to the person with which such agreement has been made and all moneys received by the Board pursuant to any such agreement shall be paid by it into the Accident Fund.”.

62. Section 54 is amended

- (a) as to subsection (4) by striking out the word “five” and by substituting the word “six”,
- (b) by renumbering subsections (4) to (11) as subsections (5) to (12) respectively,
- (c) by adding immediately after subsection (3) the following:

“(4) Where a workman is rendered helpless through permanent total disability, the Board in its discretion may provide such other treatment services or attendance as may be necessary as a result of the injury.”.

63. Section 64 is amended

- (a) as to subsection (3) by striking out the word “three” and by substituting the word “four”,
- (b) as to subsection (8) by striking out the word “employer” and by substituting the word “employers”.

64. Section 66, subsection (2) is amended by striking out the word “three” and by substituting the word “four”.

65. Section 68, subsection (1) is amended by adding immediately after the words “prescribed time” the words “, or

if such statement in the opinion of the Board does not represent the probable amount of payroll or other basis of assessment of the employer,".

66. Section 73 is struck out and the following is substituted:

"73. (1) For the purposes of subsection (2) "equipment" includes teams, trucks, tractors, bulldozers, drag lines, power shovels and such other equipment or apparatus as the Board may from time to time designate as equipment.

"(2) Where in any undertaking a person enters into an arrangement for the supplying of equipment to another person, (who is in this subsection and in subsections (4) and (5) referred to as the "principal") if the person supplying the equipment

"(a) operates it himself or hires other persons to operate it, and

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

all persons operating the equipment shall be deemed to be workmen of the principal, 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 66, in which case the persons operating the equipment shall not be deemed to be workmen of the principal but, subject to the provisions of section 20, shall be deemed to be workmen of the person supplying the equipment, and for the purposes of assessment the basis of the earnings of the workmen shall be such 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 (who is in this subsection and in subsections (4) and (5) referred to as the "principal") 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,

"(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 the principal 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 66, in which case the persons performing the work shall not be deemed to be workmen of the principal but, subject to the provisions of section 20, shall be deemed to be workmen of the person agreeing to perform the work, and for the purposes of assessment the basis of earnings of the workmen shall be such as the Board may from time to time determine.

“(4) Notwithstanding the provisions of section 20, the Board on the application of the principal may deem to be his workmen all persons operating equipment or performing work for him who would otherwise by reason of section 20 not be workmen.

“(5) Where in the opinion of the Board it is advisable to do so, the Board may by regulation provide that any class of persons who but for the provisions of subsections (1) to (3) would not have been workmen of a principal shall not be deemed to be workmen of such principal.

“(6) Nothing in this section affects the powers of the Board contained in section 13.

“(7) In any undertaking contemplated by subsections (1) to (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 that 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, 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.

“(8) Subsection (7) 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.”.

67. Schedule I is amended by striking out the words “occupation of work” and by substituting the words “occupation or work”.

68. The benefits provided by this Part to workmen and their dependants, other than the additional compensation for widows and children provided in sections 52, 53, 54, 56 and 57, apply only to claims in respect of accidents occurring on or after the date upon which this Part comes into force, and claims in respect of accidents occurring before that date shall be administered under and in accordance with the law in effect at the time the accident occurred.

69. Part I and this section come into force on the day this Act is assented to, and Part II, except this section, comes into force and Part I is repealed on the day the Revised Statutes of Alberta, 1955, come into force.

SECOND SESSION
THIRTEENTH LEGISLATURE
4 ELIZABETH II
1956

BILL

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

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. REIERSON
