

No. 103

2nd Session, 14th Legislature, Alberta
9 Elizabeth II

BILL 103

A Bill to amend The Workmen's Compensation Act

HON. MR. REIERSON

Explanatory Note

2. Section 19 is amended to make it clear that subsection (2) does not apply to compensation for silicosis which is dealt with under section 53. Section 19, subsection (2) reads:

"(2) Where the personal injury consists of disease, in part due to the employment and in part due to causes other than the employment, compensation shall be paid in the same proportion to the whole of the compensation that would have been payable had the personal injury been wholly due to the employment, as the part of the personal injury that is due to the employment is in proportion to the whole of the personal injury."

The subsection is considered not appropriate to silicosis injury.

3. Section 20 reads in part:

"20. (1) Members of the family of an employer employed by him and dwelling in his house as members of the household shall not be deemed to be workmen within the scope of this Act and compensation is not 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 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 four 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

(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 in the industry named in the application, 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 as 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 industry named in the application in the interim between the end of the preceding year and the date of the approval of the application.

(5) In all cases where an application has been made under subsection (2), assessments on the employer in respect of the employment of each 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 the member of the family, except that in industries where assessments are based upon the employer's production the weekly equivalent of annual earnings of one thousand eight hundred dollars per year shall be deemed to be the average weekly earnings of each member of the family referred to in 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 four thousand dollars and not less than one thousand eight hundred dollars, and such assessment as the Board fixes 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 in the industry named in the application 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 industry named in the application in the interim between the end of the preceding year and the date of the approval of the application.

(9) Compensation payable to an employer shall be based upon his average weekly earnings which shall be deemed to be

(a) in industries in which assessments are based upon the employer's production, the weekly equivalent of annual earnings equal to one thousand eight hundred dollars, or

(b) in all other industries, the weekly equivalent of annual earnings equal to the sum stated as provided by subsection (7)."

BILL

No. 103 of 1961

An Act to amend The Workmen's Compensation Act

(Assented to _____, 1961)

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*, being chapter 370 of the Revised Statutes is hereby amended.

2. Section 19 is amended by adding immediately after subsection (9) the following:

(10) It is hereby declared that subsection (2) does not apply to compensation for disability or death from silicosis.

3. Section 20 is amended

(a) as to subsection (2)

(i) by striking out the words "one thousand eight" wherever they occur and by substituting the words "two thousand five",

(ii) by striking out the word "four" and by substituting the word "five",

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

(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 in the industry named in the application be deemed to be workmen for and during the balance of the then current year and until the twentieth day of the following year.

(c) as to subsection (5) by striking out the words "one thousand eight" and by substituting the words "two thousand five",

(d) as to subsection (7)

(i) by striking out the word "four" and by substituting the word "five",

(ii) by striking out the words "one thousand eight" and by substituting the words "two thousand five",

(e) by striking out subsection (8) and by substituting the following:

(8) Upon the application being approved by the

4. (a) Section 21, subsection (1), clause (c) is amended to clarify the intention. Section 21, subsection (1) reads:

"21. (1) Where an accident that 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 are entitled to compensation under this Act, if

- (a) the workman is a resident of the Province or his usual place of employment is in the Province,
- (b) the nature of the employment is such that in the course of the work or service that the workman performs, the work or service is required to be performed both within and outside the Province,
- (c) the employment out of the Province has immediately followed employment by the same employer within the Province, and
- (d) the employment out of the Province has lasted less than twelve months."

(b) The other provisions of the section refer to the right of compensation of a workman or his dependants but the subsections being amended refer only to the workman. This oversight is being corrected.

5. Section 22 is amended to conform to the language used in section 21—see note to clause 4, subclause (b) of this Bill. Section 22, subsection (1) reads:

"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."

6. (a) Subsection (8), clause (b) is amended to make it relate only to court judgments. The reference to disfigurement is omitted as the Board is authorized elsewhere to deal with this. Section 24, subsection (8), clause (b) reads:

"(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 this section:

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- (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 that bears the same proportion to the moneys remaining in its hands as the portion of the judgment or settlement that is attributable to pain and suffering or disfigurement bears to the total judgment or settlement;"

(b) Section 24, subsection (8), clause (d) reads in part:

"(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, as are required to be paid under clauses (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....."

Board, the employer shall be deemed to be a workman in the industry named in the application for and during the balance of the then current year and until the twentieth day of the following year.

- (f) as to subsection (9) by striking out the words "one thousand eight" and by substituting the words "two thousand five",
- (g) by adding immediately after subsection (12) the following:

(13) Where the approval of the Board under subsection (3) or (8) is delayed by inadvertence, the Board, in its discretion, may make its approval effective from the date the application would otherwise have been approved.

4. Section 21 is amended

- (a) as to subsection (1) by striking out clause (c) and by substituting the following:
 - (c) the employment out of the Province is a continuation of the employment by the same employer within the Province, and
- (b) as to subsections (4a), (4b) and (4c) by adding immediately after the word "workman" wherever it occurs the words "or dependant".

5. Section 22 is amended

- (a) as to subsection (1)
 - (i) by adding immediately after the word "workman" the words "or dependant",
 - (ii) by striking out the words "his personal injuries" and by substituting the words "personal injuries to the workman",
- (b) as to subsection (2) by adding immediately after the word "workman" wherever it occurs the words "or dependant".

6. Section 24, subsection (8) is amended

- (a) as to clause (b) by striking out the words "or terms of settlement", the words "or settlement" and the words "or disfigurement" wherever they occur,
- (b) as to clause (d) by striking out the word "capitalized" and by substituting the word "capital".

7. Section 33, subsection (1) reads in part:

“33. (1) Where death results from the injury, the amount of the compensation shall be

- (a) the necessary expenses of the burial of the workman, not exceeding two hundred dollars,
- (b) to a dependent widow or dependent invalid widower, the sum of one hundred and fifty dollars as a contribution to the additional expense occasioned consequent upon the death of the deceased workman,
- (c) where the death occurred away from the workman's usual place of residence and it seems to the Board that transportation of the body is desirable
 - (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) where the usual place of residence of the workman is outside the Province and it is proposed to transport the body to that place, the expense necessarily incurred for so much of the transportation as takes place within the Province, up to but not exceeding one hundred dollars,
- (d) to a dependent widow or dependent invalid widower a monthly payment of sixty dollars,
- (e) to a dependent child under the age of sixteen years, other than a dependent invalid child, a monthly payment of thirty dollars to continue until the child attains the age of sixteen years or dies before attaining that age,
.....
- (f) to a dependent invalid child irrespective of the age of the child, a monthly payment of thirty dollars to continue for as long as in the opinion of the Board it might reasonably be expected that the workman had he lived would have continued to contribute to the support of the child,
- (g) where a workman leaves no widow or widower or where a surviving widow or widower subsequently dies or is confined to a gaol, prison, or institution, the Board may make from time to time such additional payments, not exceeding ten dollars monthly, to a dependent child under the age of eighteen years or to a dependent invalid child as in the discretion of the Board appear necessary to adequately maintain and support such child,
- (h) to a dependent widow in necessitous circumstances because of illness, such additional amount as the Board thinks fit, up to but not exceeding fifteen dollars a month for such period as to the Board seems appropriate by reason of the illness, and
- (i) to a dependent child or a dependent invalid child such additional amount because of illness as the Board thinks fit, up to but not exceeding ten dollars per month for such period as to the Board seems appropriate by reason of the illness.”.

7. Section 33, subsection (1) is amended
- (a) as to clause (a) by adding immediately after the words "two hundred" the words "and fifty",
 - (b) as to clause (b) by striking out the words "one hundred and fifty" and by substituting the words "two hundred",
 - (c) by adding immediately after clause (b) the following new clause:
 - (b1) the cost of the burial plot, not exceeding fifty dollars,
 - (d) by striking out clause (c) and by substituting the following:
 - (c) where the death occurred away from the workman's usual place of residence and it seems to the Board that transportation of the body is desirable, the necessary expense, not exceeding one hundred dollars, of
 - (i) transporting the body from the place of death
 - (A) to the usual place of residence of the workman, or
 - (B) if the usual place of residence is outside the Province, to the boundary of the Province,
 - and
 - (ii) transporting the body to and from an embalmer for the purpose of embalming, and where a funeral coach is used for transporting the body, the expense of such transportation shall be computed at thirty-five cents a mile travelled by such coach or at ten dollars, whichever amount is the greater,
 - (e) as to clause (d) by striking out the word "sixty" and by substituting the word "seventy-five",
 - (f) as to clause (e) by striking out the word "thirty" and by substituting the word "forty",
 - (g) as to clause (f) by striking out the word "thirty" and by substituting the word "forty",
 - (h) as to clause (g) by striking out the word "ten" and by substituting the word "twenty-five",
 - (i) as to clause (h) by adding immediately after the words "because of illness," the words "irrespective of the date of the accident that caused the death,"
 - (j) as to clause (i) by adding immediately after the words "dependent invalid child" the words "irrespective of the date of the accident that caused the death,".

8. Section 34 reads:

"34. (1) On and after the first day of April, 1956, a dependent widow or a dependent invalid widower receiving compensation under any 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 that 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 sixty dollars per month.

(1a) On or after the first day of April, 1956, a dependent child receiving compensation under any 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 that occasioned the award, shall be granted an additional payment of compensation sufficient to bring the monthly payments of compensation to the dependent child up to the sum of thirty 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 subsection (2), where a dependent widow or dependent invalid widower is in receipt of assistance, allowance or pension benefits and where the aggregate amount of the monthly compensation payment and the monthly payment of assistance, allowance or pension totals less than sixty dollars a month, the dependent widow or dependent invalid widower shall receive such additional payment of compensation as will bring the aggregate amount of compensation and assistance, allowance or pension payments up to a total of sixty 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)."

9. Section 35, subsection (1) reads:

"35. (1) Where a workman for the two 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."

The amendment is intended to enable compensation to be payable where the accident that gave rise to the death of the workman occurred before the enactment of section 35 in 1952.

10. Section 39 reads:

"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."

11. Section 41, subsection (2) is revised for greater clarity, and presently reads:

"(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."

12. Section 45 reads:

"45. Where permanent total disability results from the injury, the amount of the compensation shall be a weekly payment during the life of the workman equal to seventy-five per cent of

- (a) the average weekly earnings of workmen employed at similar work in the same occupation as shown by the records of the Board for the eight consecutive years immediately preceding the first day of January preceding the date of the injury,
- (b) the average weekly earnings of the workman in industries to which this Act applies during the eight consecutive years immediately preceding the first day of January preceding the date of the injury, or
- (c) the average weekly earnings of the workman in industries to which this Act applies during the twelve months immediately preceding the date of the injury,

whichever in the opinion of the Board is the most beneficial to the workman."

8. Section 34 is struck out and the following is substituted:

34. (1) On and after the first day of April, 1961, a dependent widow or a dependent invalid widower receiving compensation under any 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 that occasioned the award, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the dependent widow or dependent invalid widower up to the sum of seventy-five dollars per month.

(2) On or after the first day of April, 1961, a dependent child receiving compensation under any 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 that occasioned the award, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the dependent child up to the sum of forty dollars per month.

9. Section 35, subsection (1) is amended by adding immediately after the words "in the discretion of the Board" the words "and irrespective of the date of the accident".

10. Section 39 is amended by striking out the words "seven hundred and twenty" and by substituting the words "nine hundred".

11. Section 41, subsection (2) is amended by striking out the words "in which responsibility for the death was assumed by the Board in that year" and by substituting the words "that are, in that year, established to the satisfaction of the Board to be accidents arising out of and in the course of employment".

12. Section 45 is amended by striking out the word "eight" where it occurs in clauses (a) and (b) and by substituting the word "three".

13. Section 46, subsection (1) reads:

"46. (1) Where permanent partial disability results from the injury, the Board shall estimate the impairment of earning capacity from the nature and degree of the disability by reason of the injury and award compensation accordingly based upon seventy-five per cent of

(a) the average weekly earnings of workmen employed at similar work in the same occupation as shown by the records of the Board for the eight consecutive years immediately preceding the first day of January preceding the date of the injury,

(b) the average weekly earnings of the workman in industries to which this Act applies during the eight consecutive years immediately preceding the first day of January preceding the date of the injury, or

(c) the average weekly earnings of the workman during the previous twelve months,

whichever in the opinion of the Board is most beneficial to the workman, and the compensation is payable weekly during the lifetime of the workman."

Clause (c) is amended to conform to the wording used in other sections.

14. Where a workman finds it necessary to have further treatment for an injury at a later date and is entitled to temporary compensation during the period of treatment such compensation is paid at the rate in effect at the time the injury was incurred. In some cases this is lower than if it were based on the workman's present earnings. This new section is intended to provide some relief in such cases.

15. (a) Section 50, subsection (1) is amended to correct a cross-reference. Section 50, subsection (1) reads:

"50. (1) Subject to subsection (9) of section 20, the average weekly earnings of a workman for the purposes of this Act shall be based upon the earnings of the workman during the previous twelve months in industries to which this Act applies, where such earnings are ascertainable."

(b) Section 50, subsection (3) reads:

"(3) For the purpose of ascertaining the amount of compensation payable under the provisions of sections 45 to 49, average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated, but not so as in any case to exceed four thousand dollars per annum."

Sections 45 to 49 provide the basis for computing compensation where a permanent or temporary, total or partial disability occurs.

16. Section 51, subsection (1) reads:

"51. (1) The amount of compensation to which an injured person is entitled for temporary total or permanent total disability under the provisions of this Act shall not be less than twenty-five dollars per week or, where his average earnings are less than twenty-five dollars per week, the amount of such earnings."

17. Section 53, subsection (2) reads:

"(2) Nothing in this Act entitles a workman or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis, unless in the opinion of the Board the workman has been exposed to silica dust in his employment in Alberta for periods amounting in all to at least three years preceding his disablement."

18. Section 54, subsection (4) reads:

"(4) The Board may make a per diem allowance of six dollars on account of his subsistence to an injured workman when under its direction he is undergoing treatment at a place other than in which 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 per diem allowance may be reduced proportionately and as the Board deems proper in the circumstances."

13. Section 46, subsection (1) is amended

- (a) by striking out the word "eight" where it occurs in clauses (a) and (b) and by substituting the word "three",
- (b) as to clause (c) by adding immediately after the word "workman" the words "in industries to which this Act applies".

14. The following new section is added immediately after section 46:

46a. Where a workman who has been awarded compensation for a permanent partial disability and has returned to employment becomes entitled to payment of temporary total compensation by reason of any matter arising out of the accident in respect of which the permanent partial disability award was made and

- (a) more than one year has elapsed from the date the permanent partial disability award was made, and
- (b) the payments he would receive as temporary total compensation and permanent partial disability compensation are together less than five dollars per day,

the workman shall be paid temporary total compensation in such amount as together with his permanent partial disability compensation will bring his total daily compensation to five dollars.

15. Section 50 is amended

- (a) as to subsection (1) by striking out the word and figure "subsection (9)" and by substituting the words and figures "subsections (5) and (9)",
- (b) as to subsection (3) by striking out the word "four" and by substituting the word "five".

16. Section 51, subsection (1) is amended by striking out the word "twenty-five" wherever it occurs and by substituting the word "thirty-five".

17. Section 53, subsection (2) is amended by striking out the words "three years" and by substituting the words "four hundred and fifty work shifts".

18. Section 54 is amended by striking out subsection (4) and by substituting the following:

(4) Where, under the direction of the Board, a workman is undergoing treatment at a place other than that in which he resides, the Board may make to him on account of his subsistence,

- (a) a per diem allowance of eight dollars for the first seven days of treatment, and
- (b) a per diem allowance for the subsequent period of treatment of

19. The wording of section 63, subsection (1), clause (f) is revised. Section 63, subsection (1), clause (f) reads:

"63. (1) The Board shall from time to time assess and levy upon the employers in each of the classes and subclasses, such percentage of the pay-roll or such other rate, or such specific sum as, allowing for any surplus or deficit in the class, the Board may require

.....
(f) to provide and maintain a rehabilitation reserve for the payment of such expense as is incurred by the Board in the retraining and rehabilitation of, and in the furnishing of other adjustments to, injured workmen,".

20. Section 64, subsection (3) reads:

"(3) Where the assessment is based upon the pay-roll of the employer and the pay-roll shows in any one year earnings in respect of any workman in excess of four thousand dollars for that year, every such excess shall be deducted from the amount of the pay-roll before it is used as a basis for assessment.".

21. Section 65, subsections (1) and (2) read:

"65. (1) No assessment less than fifty dollars shall be levied in respect of employment in or about underground coal mines and in strip mining, and in other cases no assessment shall be less than five dollars.

(2) For the purposes of this section, in case of the employment of safety committees by labour unions for safety purposes in and about a coal mine, the minimum assessment shall be five dollars.".

22. Section 66, subsection (1) reads in part:

"66. (1) Subject to the regulations of the Board, every employer shall, before the twentieth day of January in each year or at such other time or times as may be required by the Board, prepare and transmit to the Board a statement

.....".

The amendment to subsection (1) is made to enable the statement to be delivered on the twentieth day.

Subsection (2) reads:

"(2) Every person rendering service to a corporation, wherever and however incorporated or constituted, under a contract of service written or oral, express or implied, whether such person is or is not a member, officer or executive of the corporation, and whether or not the corporation is or is not under legal obligation to pay such person any wages, salary or other remuneration, shall be deemed to be and is hereby constituted a workman of the corporation and shall be included upon the pay-roll thereof, and in every such case, where the person is not being paid any wages or salary, or is being paid a merely nominal or token remuneration, the Board shall, for the purposes of assessment, fix such sum as in its opinion represents a reasonable wage or salary for the service rendered by the person, having regard to the nature of the employment, but not in any case exceeding in any one year the aforesaid maximum sum of four thousand dollars, and the Board shall for the purpose of its assessment add the sum so fixed by it to the amount of the pay-roll of the corporation.".

- (i) six dollars, if the workman is maintaining a home with one or more dependants residing therein at a place other than the place of treatment, or
- (ii) four dollars and fifty cents, if the workman is not maintaining a home with one or more dependants residing therein at a place other than the place of treatment,

but when the Board is providing the workman with any of his meals and with lodging, or with either, in a hospital, clinic, or other place, the per diem allowance may be reduced proportionately and as the Board deems proper in the circumstances.

19. Section 63, subsection (1) is amended by striking out clause (f) and by substituting the following:

- (f) to provide and maintain a rehabilitation reserve for the payment of the expenses incurred by the Board in the rehabilitation of injured workmen,

20. Section 64, subsection (3) is amended by striking out the word "four" and by substituting the word "five".

21. Section 65 is amended by striking out the word "five" where it occurs in subsections (1) and (2) and by substituting the word "fifteen".

22. Section 66 is amended

- (a) as to subsection (1) by striking out the word "before" and by substituting the words "not later than",
- (b) as to subsection (2) by striking out the word "four" and by substituting the word "five".

23. Section 73, subsections (2) and (3) are amended to express their meaning more correctly, and read:

"(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."

24. Section 78 requires certain purchasers of lumber to satisfy themselves that the Board assessment in respect of the lumber has been paid and if not to deduct it from the purchase price. Subsection (6) reads:

"(6) Any person who, pursuant to the provisions of this section, deducts or withholds any payment that 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 is payable to the Board upon and at its demand."

25. A new section is added to provide protection under the Act for a workman who is directed by his employer to engage in a form of work that is not under the Act.

26. Certain Board orders stated not to be regulations.

27. Application of benefits.

28. Commencement of Act.

23. Section 73 is amended

- (a) as to subsection (2) by striking out the words "in respect of which he has" and by substituting the words "in respect of which he should have",
- (b) as to subsection (3) by striking out the words "in respect of which he has" and by substituting the words "in respect of which he should have".

24. Section 78, subsection (6) is amended by striking out the words "upon and at its demand" and by substituting the words "not later than the last day of the month following the month in which the lumber is purchased and may be collected from the purchaser by the Board as if it were an assessment levied against the purchaser".

25. The following new section is added immediately after section 84:

84a. Where

- (a) an employer engaged in an industry to which this Act applies directs an employee who is working in or is on the pay-roll of such industry to do work for the employer that is not in an industry to which this Act applies, and
- (b) the employee is injured in the course of such work, the work so done by the employee shall be deemed to be an industry to which this Act applies and the employer shall pay an assessment on such industry for the balance of the current year not less than the assessment he would have paid had he made an application to the Board to have such work added to the Schedule as an industry coming under this Act.

26. The following new section is added immediately after section 86.

87. It is declared that an order, ruling or direction of the Board made pursuant to section 13, 14, 20 or 64 is not a regulation within the meaning of *The Regulations Act*.

27. The benefits provided by this Act to workmen and their dependants, other than the additional compensation provided in sections 7, 8, 9, 10, 14 and 18, apply only to claims in respect of accidents occurring on or after the date of commencement of this Act, 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.

28. This Act comes into force on the day upon which it is assented to.

No. 103

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act to amend The Workmen's
Compensation Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. REIERSON
