

1973 Bill 70

Second Session, 17th Legislature, 22 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 70

The Workers' Compensation Act

HONOURABLE DR. HOHOL

First Reading

Second Reading

Third Reading

BILL 70

1973

THE WORKERS' COMPENSATION ACT

(Assented to _____, 1973)

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

1. In this Act,
 1. "accident" includes
 - (i) a wilful and intentional act, not being the act of the worker,
 - (ii) a chance event occasioned by a physical or natural cause, and
 - (iii) disablement arising out of and in the course of the employment;
 2. "Accident Fund" means the fund provided for the payment of compensation and other outlays and expenses authorized under this Act;
 3. "assessment" includes rates, levies and all other charges imposed by the Board under this Act;
 4. "Board" means The Workers' Compensation Board;
 5. "child" includes an illegitimate child, a grandchild and the child of a husband or wife by a former marriage, as well as any other child to whom the worker stood *in loco parentis*;
 6. "common law spouse" includes any man or woman who although not legally married to a person lives and cohabits with that person as the spouse of that person and is known as such in the community in which they have lived;
 7. "compensation" includes medical aid;
 8. "construction" includes reconstruction, repair, alteration, renovating, painting, decorating and demolition;
 9. "dependants" means such of the members of the family of a worker as were wholly or partially dependent upon his earnings at the time of his death or who, but for the incapacity due to the accident,

Explanatory Notes

General: This Bill will replace the present Workmen's Compensation Act of 1948 with a new Act reflecting the recommendations of Select Committee of the Legislative Assembly's report presented in this session prior to its adjournment. Included are revised procedures for processing claims, a general upgrading of benefits and increased emphasis on safety education. Also implemented is a policy of universal application with exclusions, reversing the present approach.

I. Definitions.

would have been so dependent, but a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that other person for the provision of the ordinary necessities of life;

10. "employer"
 - (i) means every person, firm, association, body or corporation having, or deemed by the Board or by this Act to have, in his or its service one or more workers which include the employer where he is self-employed, and
 - (ii) includes the Crown in right of Alberta and the Crown in right of Canada insofar as the latter, in its capacity as master, submits to the operation of this Act;
11. "employment" means employment in an industry or any part, branch or department of an industry;
12. "fatal accident" means the death of a worker from injury or disease under circumstances that entitle his dependants, if any, to compensation;
13. "independent operator" means a person who carries on or engages in any industry and who does not employ any workers in connection therewith;
14. "industry" means any establishment, undertaking, trade or business to which this Act applies, whether it is carried on in conjunction with other occupations or separately;
15. "invalid" means a person who is physically or mentally incapable of earning;
16. "learner" means any person who, although not under contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of this Act for the purpose of undergoing training or probationary work as a preliminary to employment;
17. "manufacturing" includes making, preparing, altering, repairing, renovating, servicing, dyeing, cleaning, ornamenting, printing, finishing, packing or assembling the parts of and adapting for use or sale any raw material, goods, articles or commodity;
18. "medical aid" includes medical and other services by any of those licensed to practise the healing arts in Alberta, and nursing, hospitalization, drugs, dressings, x-ray treatment, special treatment, transportation and such other matters and things as the Board authorizes or provides;

19. "member of a family" means wife, husband, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother, half-sister and a person who stood *in loco parentis* to the worker or to whom the worker stood *in loco parentis*, whether related to him by consanguinity or not, and where the worker is the parent or grandparent of an illegitimate child, includes such child and where the worker is an illegitimate child includes each of his parents and grandparents;
20. "Minister" means the member of the Executive Council charged with the administration of this Act;
21. "pension" means a periodic payment to a worker in respect of whom a permanent disability has been assessed, or to a dependant of a deceased worker, the capital cost of which has been charged to the Accident Fund and includes periodic payments to workers (or their dependants) of employers specified in the regulations;
22. "physician" means a person licensed to practise any of the healing arts in Alberta;
23. "secretary" means secretary of the Board;
24. "wages", "payroll" or "payroll statements", include any other relative or descriptive terms when the assessment is based thereon;
25. "worker" means a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes
 - (i) any person engaged in training for mine rescue work or who with the knowledge and consent of the management or the person in charge of an authorized mine rescue crew, is doing recovery work after an explosion, accident or catastrophe,
 - (ii) the employees of a contractor contracting for the performance of mining operations for another person engaged in the industry of mining and also such contractor while actually working,
 - (iii) a learner, and
 - (iv) any other person who, under the provisions of this Act or under any direction or order of the Board, is deemed to be a worker;
26. "year" means a calendar year except as the Board may otherwise direct.

PART 1

THE WORKERS' COMPENSATION BOARD

2. (1) The Workmen's Compensation Board previously established is continued as a corporation with the name "The Workers' Compensation Board".

(2) The Board shall consist of not less than three members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman.

(3) A member of the Board holds office for the period designated by his appointment but not exceeding 10 years from the effective date of the appointment.

(4) Upon the expiration of his term of office, a member may be reappointed.

(5) The Lieutenant Governor in Council shall fix the salary of each member of the Board.

(6) No member of the Board shall engage in any other business or employment for remuneration.

3. (1) The chairman is the chief executive officer of the Board.

(2) A majority of the members constitutes a quorum of the Board and the Board may act on all matters and things required or to be done by it on the decision of a quorum of the members.

(3) The chairman may authorize a panel of any two or more members to conduct any hearing on behalf of the Board and such members may exercise all or any powers of the Board necessary for such purpose.

(4) A decision of a panel of members acting pursuant to subsection (3) shall be deemed to be a decision of the Board.

4. (1) In the case of illness or absence from Alberta of the chairman or any other member of the Board or of his inability to act from any cause, the Lieutenant Governor in Council may appoint an acting chairman or an acting member who for the period of his appointment has all the powers and shall perform all the duties of the member in respect of whom he is acting.

(2) In the case of a vacancy in the office of the chairman of the Board or any other member, the Lieutenant Governor in Council may appoint an acting chairman or an acting member, and the person or persons so appointed has all the powers and shall perform all the duties of the chairman of the Board or of a member, as the case may be.

2. Workers' Compensation Board.

3. Operation of the Board.

4. Illness, absence or vacancies on the Board.

5. The office of the Board shall be situated at Edmonton and meetings of the Board shall be held in Edmonton, Calgary and such other place as the Board may direct.

6. The Lieutenant Governor in Council shall appoint an advisory committee to the Minister consisting of representatives of employers, workers, the Board and members of the Legislative Assembly and may prescribe rates of remuneration payable to members of the committee.

7. (1) The Board may appoint an executive director and such other persons as it considers necessary for carrying out the provisions of this Act and the regulations and may prescribe their duties and fix their remuneration.

(2) The executive director is the chief administrative officer of the Board.

(3) No member of the Board is eligible to be appointed as executive director.

(4) Every person appointed by the Board holds office during pleasure of the Board.

(5) The Board may delegate all or any of its powers of administration to such of its employees as it designates.

8. The Board, with the approval of the Lieutenant Governor in Council, may acquire real property and sell, lease or otherwise dispose of it.

5. Meetings of the Board.

6. Advisory committee.

7. Appointment of employees.

8. Acquisition and disposal of property.

PART 2

JURISDICTION OF THE BOARD

9. This Act applies to all employers and workers in all industries in Alberta except the employers and workers in the industries designated by the regulations as being exempt.

10. (1) Subject to section 11, compensation is not payable to an employer, independent operator or a member of the family of an employer or independent operator when such member is employed by him and dwelling with him as a member of his household unless application to have the Act apply to that person has been received and approved by the Board in accordance with the regulations.

(2) Where the approval of the Board of an application under this section is delayed by inadvertence, the Board, in its discretion, may make its approval effective from the date the application would otherwise have been approved.

(3) The Board may at any time revoke its approval of an application made under the provisions of this section, and upon the making of such a revocation by the Board the person or persons referred to in the revocation cease to be workers to whom this Act applies as at the effective date of such revocation.

11. (1) Where a person does any work

(a) in an industry to which this Act applies, and

(b) for a person engaged in that industry (in this section called "the principal"),

that person doing that work shall, for all purposes of this Act, be deemed to be a worker of the principal except when the person doing the work

(c) is himself an employer or the worker of an employer in an industry whether the Act does or does not apply to that industry, or

(d) is a person to whom compensation is not payable by reason of his being a member of the family of an employer or of an independent operator and dwelling in his household, or

(e) is an independent operator whose application to have this Act applied to him has been received and approved by the Board pursuant to the provisions of section 10.

(2) Notwithstanding subsection (1), the Board, upon the application of a principal, may deem all persons doing work for the principal to be his workers for the purposes of this Act.

9. Application of the Act.

10. Applications to have Act apply.

11. Persons deemed workers.

(3) Notwithstanding subsection (1), the Board, if it considers it advisable to do so, may by order declare subsection (1) not to apply to any designated class of persons.

12. (1) The Board has exclusive jurisdiction to examine, inquire into, hear and determine, all matters and questions arising under this Act or the regulations and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court.

(2) No proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceedings in any court or are removable by *certiorari* or otherwise into any court, nor shall any action be maintained or brought against the Board or any member of the Board in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the Board.

(3) Nothing in subsection (1) prevents the Board from reconsidering any matter that has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board has authority to do.

(4) Each matter shall be decided upon the real merits and justice of the case and the Board is not bound to follow any previous decision or ruling of the Board as a precedent in reaching its decisions or making its rulings.

(5) The Board has the same powers as the Supreme Court of Alberta for compelling the attendance of witnesses and of examining them under oath and compelling the production and inspection of books, papers, documents and things.

(6) The Board may cause depositions of witnesses residing in or outside Alberta to be taken before any person appointed by the Board in a manner similar to that prescribed by the Alberta Rules of Court.

13. (1) No action lies for the recovery of compensation, and all claims for compensation shall be determined by the Board.

(2) The provisions of this Act and the regulations are in lieu of all rights and causes of action, statutory or otherwise, to which a worker or his legal personal representative or his dependants are or might become entitled against the employer of the worker by reason of personal injury to or the death of the worker arising out of any accident happening to the worker in the course of his employment and no action in respect of such personal injury or death lies against the employer.

(3) Any party to an action may, upon notice to any other parties thereto, apply to the Board for adjudication and

12. Jurisdiction of the Board and exclusion of authority of the Courts.

13. Worker's right of action against employer removed.

determination of the question of the plaintiff's right to compensation under this Act and the regulations and such adjudication and determination is final and conclusive.

(4) Where an accident happens to a worker in the course of employment entitling him or his dependants to compensation under this Act and the circumstances of the accident are such as to also entitle the worker, his legal personal representative or his dependants to an action against some person other than his employer, the Board is subrogated to the cause of action of the worker, his legal personal representative or his dependants against such other person for or in respect of the personal injury to or death of the worker.

14. (1) Where the Board has become subrogated to the rights of a worker or his legal personal representative or his dependants under section 13,

- (a) no payment or settlement shall be made to or with the worker or his legal personal representative or dependants for or in respect of those rights or for or in respect of any claim, cause of action or judgment arising thereout except with the consent of the Board, and any payment or settlement made in contravention of this clause is void,
- (b) an action against any person arising out of injury to or death of a worker may, with the consent of the Board, be taken by the worker or his legal personal representative or his dependants, or by the Board in the name of the worker or his legal personal representative or his dependants, as the case may be, without the consent of the person in whose name the action is taken,
- (c) if an action is taken by the Board it shall indemnify and save harmless the worker, his legal personal representative or his dependants from and against all costs or damages incurred in respect of such action, including costs or damages awarded by the court to the defendant, but excluding any costs which have been incurred by the worker, his legal personal representative or his dependants without authority of the Board, and
- (d) the Board may at any time, whether or not action has been taken by the Board or the worker or his legal personal representative or his dependants and whether or not judgment has been given in any action, effect a settlement of the claim for such amount as it considers advisable.

(2) Where in any action in which the Board is subrogated to the rights of the worker, his legal personal representative or dependants, payment into court is made pursuant to the

14. Effect of subrogation of the Board.

Alberta Rules of Court, the clerk of the court, upon receipt of notice by the Board of its subrogation in the matter, shall not make payment out of court except with the consent of the Board.

(3) Notice to the clerk of the court under subsection (2) may be made in the same manner as is provided in the Alberta Rules of Court for service by registered mail.

(4) Where money is received by the Board because it is subrogated to the rights of a worker or his legal personal representative or his dependants,

- (a) the Board may accept the money and give a receipt therefor and, where the money is accepted in full settlement, may release the person paying the money or on whose behalf the money is paid from liability in respect of the personal injury to or death of the worker resulting from the accident;
- (b) if the judgment of the court under which the money is received clearly indicates that a portion of the award is for pain and suffering suffered by the worker and resulting from the injury, the Board may pay to the worker from the money remaining in its hands after payment of all legal costs incurred in recovering that money, an amount that bears the same proportion to the money remaining in its hands as the portion of the award that is attributable to pain and suffering bears to the total award;
- (c) if the money is received as a result of action taken or negotiations carried on by the worker or his legal personal representative or his dependants, the Board may pay to that person, from the money remaining in its hands after payment of all legal costs incurred in recovering the money, an amount equal to 25 per cent of the gross amount received by the Board, but in any case where payment is made to the worker under the provisions of clause (b), payment to the worker under the provisions of this clause shall be made only to the extent by which 25 per cent of the money received exceeds the payment made to the worker under the provisions of clause (b);
- (d) if the balance of the money remaining in the Board's hands after payment of all legal costs incurred in recovering the money and after payment of such amounts, if any, as are required to be paid under clauses (b) and (c), exceeds the costs of the accident to the Board, including the capital cost of any pension award, the excess shall be paid over to the worker, his legal personal representative or his dependants, as the case may be.

15. Where an accident happens to a worker in the course of his employment entitling him or his dependants to compensation under this Act, neither the worker, his dependants or his legal personal representative or the employer of the worker has any cause of action in respect of or arising out of the personal injury suffered by or the death of the worker as a result of the accident,

(a) against any other worker of the employer, or

(b) against any other employer in an industry to which this Act applies,

when the conduct of the employer or worker which caused or contributed to the injury arose out of and in the course of employment in an industry to which this Act applies.

15.. Circumstances where no cause of action arises.

PART 3

COMPENSATION

16. (1) Where in any employment to which this Act applies, personal injury by accident arising out of and during the course of employment is caused to a worker, compensation shall be paid unless the injury is attributable solely to the serious and wilful misconduct of the worker and death or serious disablement does not result from it.

(2) Where a worker is found dead at a place where the worker had a right during the course of his employment to be, it shall be presumed that his death was the result of personal injury by accident arising out of and during the course of his employment, unless there is evidence sufficient to rebut the presumption.

(3) Where the accident arose out of the employment, unless the contrary is shown it shall be presumed that it occurred during the course of the employment, and where the accident occurred during the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

(4) Where a worker is required as a condition of his employment to attend any classes or take any course of instruction, the classes or course of instruction shall, for the purposes of this Act, be deemed to be part of the employment.

(5) Where a worker suffers disablement from or because of any of the diseases enumerated in the regulations as being deemed to be caused by employment in certain processes specified therein and at some time during the 12 months preceding the disablement he was employed in the process so deemed to cause that disease, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(6) Where a worker suffers disablement caused by disease, the date of the accident is deemed to be the date of the disablement.

(7) If the injury does not disable the worker longer than the day of the accident, no compensation other than medical aid shall be provided, but if the injury disables the worker longer than the day of the accident compensation shall be paid from and including the day following the day of the accident or from the date of the disability, whichever is the later, but excluding any day or days on which the worker in the usual course of his employment would not have worked or for which he would not have been paid.

(8) No compensation shall be paid to a worker unless a claim is made to the Board by the worker within one year of the date of the accident.

16. Eligibility for compensation.



(9) Notwithstanding subsection (8), upon a claim being made by a worker to the Board later than one year after the date of the accident, the Board may pay compensation to the worker if

- (a) the worker gave notice of the accident to his employer as soon as practicable after its occurrence, and
- (b) the claim is a just one and ought to be allowed.

(10) Where a worker dies after making a claim to the Board, no compensation shall be paid to a dependant unless the dependant makes a claim to the Board within three years after the death of the worker.

(11) Where a worker dies without making a claim to the Board, no compensation shall be paid to a dependant unless

- (a) the death occurs within one year of the date of the accident, or
- (b) the death occurs within three years of the date of the accident and the conditions contained in subsection (9), clause (a) have been met,

and unless, in either case, the dependant makes a claim to the Board within three years of the death of the worker.

(12) Notwithstanding anything in this Act, in any case where, after considering the report and recommendations of the Ombudsman thereon, the Lieutenant Governor in Council is of the opinion that an injustice or hardship to a worker has resulted or will result, the Lieutenant Governor in Council may direct the Board

- (a) to pay to or on behalf of the worker from the Accident Fund such amount as the Lieutenant Governor in Council considers appropriate, or
- (b) to refer the matter to the Supreme Court for an assessment of damages and to pay to or on behalf of the worker from the Accident Fund the amount of any damages so assessed.

17. (1) Where an accident that would entitle the worker or his dependants to compensation under this Act if the accident had happened in Alberta happens while the worker is employed out of Alberta, the worker or his dependants are entitled to compensation under this Act if

- (a) the worker is a resident of Alberta or his usual place of employment is in Alberta,
- (b) the nature of the employment is such that in the course of the work or service that the worker performs, the work or service is required to be performed both in and out of Alberta,

17. Accident elsewhere than in Alberta.

- (c) the employment out of Alberta is a continuation of the employment by the same employer within Alberta, and
- (d) the employment out of Alberta has lasted less than 12 months.

(2) Where the operation in which the worker is and has been employed out of Alberta continues or is likely to continue beyond the period of 12 months and the worker continues or is likely to continue to be employed therein, the period of 12 months may, upon application by the employer, be extended by the Board for a further period of 12 months or such lesser period as the Board orders, and on further application by the employer may be further extended by the Board from time to time as it sees fit.

(3) Where, by the law of the country or place in which the accident happens, the worker or his dependants are entitled to compensation or some other remedy in respect of the accident, the worker or dependants, as the case may be, shall elect whether to either

- (a) claim compensation or the other remedy under the law of that country or place, or
- (b) claim compensation under this Act,

and shall give notice of such election, but if there is in existence an agreement under subsection (8) the right of election is subject to the terms of such agreement.

(4) Notice of the election shall be given to the Board within 30 days after the happening of the accident or, if it results in death, within 30 days after the death, or within such longer period as, either before or after the expiration of the 30-day period, the Board allows, and if notice of election is not given within the time allowed by this subsection it shall be presumed that the worker or dependants, as the case may be, have elected not to claim compensation under this Act.

(5) Where, pursuant to subsection (3), a worker or dependant elects to claim compensation under this Act in respect of an accident that happened out of Alberta and at any time claims compensation or some other remedy under the law of another country or place in respect of the same accident, the worker or dependant 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 constitute a debt due from him to the Board.

(6) Subsection (5) does not affect the right to compensation of a worker or dependant who takes an action at the request of the Board under the provisions of section 18.

(7) Notwithstanding subsection (5), where a worker or dependant, before claiming compensation under this Act,

has in error claimed compensation under the law of the country or place in which the accident happened and has been found not entitled to such compensation, the worker or dependant shall be deemed not to have forfeited his rights under this Act by reason of having made such claim.

(8) The Board may enter into an agreement with the Workmen's Compensation Board or body of like jurisdiction of any other province or territory of Canada to provide for the payment of compensation in conformity with this Act for injuries to workers who are employed under conditions such that part of the work incidental to the employment is performed in Alberta and part of the work in that other province or territory, in order to ensure that such workers or their dependants receive compensation either in conformity with this Act or in conformity with the Act in force in the other province or territory relating to workmen's compensation, as the case may be, and to avoid a duplication of assessments.

(9) Payment out of the Accident Fund of moneys required to be paid pursuant to an agreement made under subsection (8) may be made to the Workmen's Compensation Board or other body 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.

18. (1) If a worker or dependant entitled to compensation under this Act has any right of action in a place other than Alberta in respect of personal injuries to the worker 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.

(2) Where the Board requests the worker or dependant to take an action outside Alberta, it shall repay to him the costs necessarily incurred by him in the prosecution thereof, but the Board is not required to pay the costs of any appeal unless the appeal is taken at the request of the Board.

19. (1) In every case of injury to a worker by an accident in any industry to which this Act applies, the worker or, in the case of his death, a dependant of the worker shall, as soon as practicable after the happening of the accident, give notice thereof in accordance with the regulations to the employer and to the Board.

(2) Failure to give the notice is a bar to any claim for compensation under this Act, unless the Board excuses the failure on the ground

(a) that notice for some sufficient reason could not have been given, or

18. Assignment of damages.

19. Notice of accident.

- (b) in the case of notice to the employer, that the employer or his superintendent or agent in charge of the work where the accident happened had knowledge of the injury, or
- (c) that the claim is a just one and ought to be allowed.

(3) Every employer to whom this Act applies, and who has knowledge or notice of the happening of an accident or of the allegation of the happening of an accident to a worker in his employ, shall forward to the Board, with a copy to the worker, within 24 hours after the accident or allegation comes to his knowledge or notice, notice of the happening of the accident or of the allegation of the happening of an accident, and shall also, in the event of the injured worker or the allegedly injured worker returning to his work or being able to return to his work, forward to the Board within 24 hours after the fact of the return or ability to return comes to his knowledge, notice thereof, and shall make such further and other reports respecting the accident or alleged accident and the worker as may be required by the Board.

(4) Every employer who fails to give any notice, make any report or to furnish particulars of any accident or claim required by reason of this section, unless excused by the Board on the ground that the report for some sufficient reason could not have been made, is liable to a penalty to be imposed by the Board of \$10 a day for each day the failure continues, but not exceeding in total, \$50.

(5) If an employer of an injured person or a person who, in the opinion of the Board, is or might be an employer of an injured person fails

- (a) to give the notice or make the report required by this section, or
- (b) to reply to the Board's communication in regard to such injured person within 30 days of the date of such communication,

the Board may make a special investigation of the injury and of the facts and circumstances surrounding it, and the cost to the Board of such investigation may be charged by the Board to the employer or other person so investigated and he is liable to the Board therefor.

(6) A physician who attends an injured worker shall forward to the Board

- (a) a report within two days after the date of his first attendance upon the worker,
- (b) such reports from time to time as he considers necessary or as may be required by the Board, and
- (c) a report within three days after the worker is, in his opinion, able to resume work.

(7) The physician shall also, without charge to the worker, give all reasonable and necessary information, advice and assistance to the injured worker and his dependants in making a claim for compensation and in furnishing in connection therewith such certificates and proofs as are required.

(8) Every report made or submitted to the Board under any provision of this Act by a physician or hospital is for the use and purpose of the Board only, is deemed to be a privileged communication of the person making or submitting it and, unless it is proved that it was made maliciously, is not admissible in evidence or subject to production in any court in an action or proceeding against such person.

(9) Upon the written request of the employer of an injured worker, the Board shall provide the employer with a report of the progress being made by the worker.

(10) Payment by the Board of an account for medical aid rendered to an injured worker does not of itself constitute the making of a claim by the worker or acceptance of a claim by the Board.

(11) The Board may from time to time require from any person entitled to compensation, whether a worker or dependant, such particulars of his place of residence, address and other information relative to the disability and compensation, as it considers necessary, and pending the receipt of such particulars the Board may withhold further payments.

20. (1) A worker who claims compensation or to whom compensation is payable under this Act shall submit himself for medical examination in such manner and at such time and place as the Board may require.

(2) If a worker does not submit himself for examination as and when required by the Board, or if he in any way obstructs an examination,

(a) his right to compensation, or if he is in receipt of a periodical payment, his right thereto, is suspended until the examination has taken place, and

(b) the condition found upon such examination shall, unless the Board otherwise directs, be deemed to have been the condition of the worker in relation to his disability at the date for which the examination was called.

(3) Where a worker claims compensation under this Act,

(a) the Board may require him to submit to such medical investigation as the Board considers necessary to assist it in determining whether or not the worker is entitled to compensation, or

20. Medical examination of worker.

(b) the Board may approve of any medical investigation already carried out upon reports being submitted to the Board satisfactory to it for the purpose, and in either case the Board may pay the costs of such medical investigation, and the Board may make payments to the worker, which shall be computed on the same basis as compensation, for the period determined by the Board as being necessary for the purpose of the investigation.

21. (1) At the written request of the employer of a worker who claims compensation, the Board may require the worker to submit, at the expense of the employer, to a medical examination by a physician selected by the Board.

(2) Where a worker does not submit himself for the examination or in any way obstructs the examination, the Board may, on the application of the employer, suspend the worker's right to compensation until the examination has taken place.

(3) A physician who makes an examination of a worker pursuant to this section shall submit his report on the worker to the Board and to no other person.

(4) The expense of the examination and the reasonable expenses of the worker in connection with it shall be borne by the employer and, if the employer fails to pay such expenses, the Board may pay the expenses and the employer is liable to pay the Board the amount so paid and the repayment of the amount may be enforced in the same manner as the payment of an assessment may be enforced.

22. (1) If an autopsy is considered by the Board to be necessary to assist in determining the cause of any death, the Board may direct that the autopsy be made within a time to be fixed by the Board, and if the dependant or dependants refuse to permit the autopsy, the Board may reject any claim for compensation under this Act.

(2) Where the death of a worker to whom this Act applies occurs while he is confined to a hospital, the hospital authority shall report the death to the Board immediately after it has occurred.

23. An application for compensation under this Act shall be dealt with and determined in the first instance on behalf of the Board by one or more claims officers employed by the Board.

24. (1) Where a permanent disability results from an accident the evaluation of the worker's disability shall be made on behalf of the Board by one medical and one non-medical employee of the Board.

21. Medical examination of worker at the instance of the employer.

22. Death of worker.

23. Application to claims officers.

24. Evaluation of disabilities.

(2) "Permanent total disability" shall be conclusively presumed in all cases where the injuries suffered consist of or include

- (a) total and permanent loss of the sight of both eyes, or
- (b) the loss of both feet at or above the ankle, or
- (c) the loss of both hands at or above the wrist, or
- (d) the loss of one hand at or above the wrist and one foot at or above the ankle, or
- (e) any injury to the spine resulting in permanent and complete paralysis of legs or arms or one leg and one arm, or
- (f) any injury to the skull resulting in incurable imbecility or insanity.

25. The Board shall, where it makes a determination as to the entitlement to compensation of the worker or a dependant, in writing advise the employer and the worker or, in the case of his death, his dependant, as soon as practicable of the particulars of its determination, and shall provide a summary of its reasons, including medical reasons, for its decision, upon request.

26. (1) Upon the written request of the employer or of the worker or his dependant, the Board shall cause the record of the claim for compensation under this Act to be reviewed by a review committee appointed by the Board which may, with the consent of the Board, hear representations on behalf of the employer and the worker or dependant and which may confirm, vary or reverse any decision made in respect of the claim.

(2) For the purpose of the review, the review committee may require the worker to submit himself to a medical examination by a physician not employed by the Board and the provisions of section 20 apply.

27. (1) Where the employer or the worker or dependant is dissatisfied with a decision of the review committee he may appeal to the Board in accordance with the regulations.

(2) In considering an appeal from a decision of the review committee, the Board or a quorum thereof shall consider the records of the claims officers and the review committee relating to the claim and shall give the employer and the worker or dependant an opportunity to be heard and to present any new or additional evidence.

28. (1) Any periodic or other payment to a worker may be reviewed on the Board's own motion or at the request

25. Decision of the Board.

26. Review of decision by a review committee.

27. Appeal to the Board.

28. Review of compensation.

of the worker or employer, and on the review the Board may put an end to or reduce the payment or may increase it to a sum not exceeding the maximum hereinafter prescribed.

(2) The Board shall advise the employer and worker as soon as possible of its decision upon any review under subsection (1).

(3) Where compensation is payable the Board may commute the payments payable to a worker or a dependant to a lump sum.

(4) The Board may in any case where in its opinion the interest or pressing need of the worker or any dependant warrants it, advance or pay to or for the worker or the dependant such lump sum as the Board considers appropriate, and any sum so advanced or paid shall be on account of and is chargeable against the compensation payable to the worker or dependant.

(5) Where a lump sum payment has been made by the Board to a worker or a dependant as a settlement in full of his claim and has been so accepted by the worker or dependant, the worker or dependant is not entitled to receive or be paid any further or other compensation for or in respect of the degree of disability for which he was being compensated, but this subsection does not in any way prevent the application of section 55, subsection (4), the provision of additional medical aid or the payment of temporary total disability compensation in connection with the provision of the additional medical aid.

(6) Notwithstanding the provisions of any previous *Workmen's Compensation Act* of Alberta, the provisions of subsection (5) also apply to claims arising out of accidents occurring between March 31, 1938 and March 29, 1943.

(7) In the case of death or permanent total disability, or in the case of permanent partial disability where the impairment of the earning capacity of the worker exceeds 10 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 worker entitled to the payments.

(8) Any lump sum payment made by the Board shall be computed on the basis of the rate of compensation applicable at the date of the accident causing the injury for which the worker became entitled to the compensation in lieu of which the lump sum payment is made.

29. Where a worker is entitled to compensation and it is made to appear to the Board

(a) that a spouse, child or children dependent upon the worker and residing in Alberta are without adequate

29. Payments to spouse or children.

means of support and are or are apt to become a charge upon the Government or upon the municipality where they reside or upon private charity, or

- (b) that a spouse, child or children dependent upon the worker and residing in or out of Alberta are not being supported by the worker 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 worker may be paid by the Board in whole or in part to or for the benefit of such spouse or children.

30. (1) Where a worker dies as the result of an accident occurring on or after January 1, 1974 leaving no dependent spouse and

- (a) for the five years immediately preceding his death cohabited with a dependent common law spouse, or
- (b) for the two years immediately preceding his death cohabited with a dependent common law spouse by whom he had one or more children,

the compensation to which a dependent spouse would have been entitled under this Act may, in the discretion of the Board, be paid to such common law spouse until such time as he or she marries.

(2) Upon the marriage of a common law spouse receiving compensation under subsection (1), the provisions of this Act apply with all necessary modifications as if that person were the widow or widower of the worker.

(3) A dependent common law spouse receiving or entitled to receive compensation under the provisions of this Act may not be paid compensation for acting or claiming to act as a foster-parent to the children of the deceased worker.

31. Any payment to or for a child may be made to the parent of the child, or the Board may direct that the payment be made to such other person or be applied in such manner as it deems best for the advantage of the child.

32. (1) Where the only dependants are persons other than those mentioned in section 30, section 37, subsection (1) or in section 39, the compensation payable as the result of an accident occurring on or after January 1, 1974 shall be a sum to be determined by the Board as reasonable and proportionate to the pecuniary loss to those dependants occasioned by the death but shall not exceed \$70 per month to a parent or parents or \$105 per month in total payments to all such dependants.

30. Compensation payable to common law spouse.

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31. Payment to parent or other person for child.

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32. Compensation for other dependants.

(2) On and after January 1, 1974 a dependant other than a person mentioned in section 30, section 37, subsection (1) or in section 39, receiving compensation under any *Workmen's Compensation Act* of Alberta, in respect of the death of a worker where the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award is prior to that date, may be granted an additional payment of compensation sufficient to bring the monthly payment to an amount not exceeding \$70 per month in the case of a parent or parents or \$105 per month in total payments to all such dependants.

(3) The cost of any additional amounts of compensation paid under subsection (2) shall be paid into the Accident Fund from the General Revenue Fund.

(4) Compensation to which this section applies shall continue for as long as in the opinion of the Board it might reasonably be expected that the worker had he lived would have continued to contribute to the support of the dependant.

(5) Compensation to which this section applies may be awarded wholly or partly in a lump sum or by any other form of payment the Board in the circumstances considers appropriate.

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

34. (1) When a worker to whom compensation is payable leaves Alberta, he is not thereafter entitled to receive compensation until permission to reside or remain outside Alberta is granted by the Board.

(2) Notwithstanding subsection (1), if, in the opinion of the Board, the disability resulting from the injury is likely to be of a permanent nature and the Board so directs, the worker is entitled to the amount of periodical payments accruing due while a resident outside Alberta if he proves in such manner as may be prescribed by the Board his identity and the continuance of the disability in respect of which the periodical payments are payable.

35. (1) Where, on the date of death of a worker, a dependant of that worker is not a resident of Canada, he is not entitled to compensation unless by the law of the place or country in which he resides the dependants of a worker to whom an accident happens in such place or country, if resident in Canada, would be entitled to compensation, and

33. Only one pension payable.

34. Permission to leave Alberta.

35. Dependant not resident of Canada.

where such dependants would be entitled to compensation under such law, the compensation to which the non-resident dependant is entitled under this Act shall not be greater than the compensation payable in the like case under that law.

(2) Notwithstanding subsection (1), the Board may award such compensation or sum in lieu of compensation to any such non-resident dependant as is considered proper and may pay it out of the Accident Fund.

36. If an injured worker persists in unsanitary or injurious practices which tend to imperil or retard his recovery, or refuses to submit to such medical or surgical treatment as in the opinion of the Board, based upon independent expert medical or surgical advice, is reasonably essential to promote his recovery, the Board may, in its discretion, reduce or suspend the compensation of that worker.

36. Suspension of payment of compensation.

PART 4

AMOUNT OF COMPENSATION

37. (1) Where an accident happens on or after January 1, 1974, and death results from the accident, the amount of the compensation payable shall be

- (a) the sum of \$500 to a dependent widow or widower as a contribution to the additional expense occasioned consequent upon the death of the deceased worker;
- (b) the necessary expenses of the burial, cremation or memorial service of the worker, not exceeding \$450;
- (c) where the death occurred away from the worker's usual place of residence and it seems to the Board that transportation of the body is desirable, the necessary expense, not exceeding \$100, of
 - (i) transporting the body from the place of death
 - (A) to the usual place of residence of the worker, or
 - (B) if the usual place of residence is outside Alberta, to the boundary of Alberta,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 the rate of 35 cents per mile travelled by the coach or at \$10, whichever amount is the greater;
- (d) a sum to a dependent widow or widower on behalf of the widow or widower and the children of the deceased worker, if any, equal to the amount of pension that would have been received by the worker if his injury, rather than resulting in death, had resulted in permanent total disability.

(2) The compensation payable under subsection (1), clause (d) shall continue to be paid until the dependent widow or widower dies or remarries.

(3) In subsections (4) and (5),

- (a) "existing household" means any household where children entitled to compensation are maintained and taken care of by one or more foster-parents;
- (b) "foster-parent" includes a natural parent.

(4) Where the worker dies as the result of an accident occurring on or after January 1, 1974 and leaves no dependent widow or widower or the dependent widow or widower subsequently dies and any suitable person acts as foster-

37. Compensation for death.

parent in keeping up the household and maintaining and taking care of the children entitled to compensation in a manner that the Board considers satisfactory, the foster-parent while so doing is entitled to receive compensation in the amount of \$225 per month together with an additional sum of \$70 per month in respect of each child so maintained until the child has, subject to section 39, attained the age of 18 years or sooner died.

(5) Where the worker dies as the result of an accident occurring before or after January 1, 1974 leaving no dependent widow or widower or the dependent widow or widower subsequently dies and the children are maintained by more than one of the persons referred to in subsection (4), the amount of \$225 per month shall be divided proportionately among the persons acting as foster-parents to the respective children in accordance with the number of children maintained by each foster-parent and such amount shall continue payable without change notwithstanding the termination of payment to any other foster-parent.

(6) Where a worker leaves no widow or widower or where a surviving widow or widower subsequently dies or is confined to a jail, prison or institution, the Board may make from time to time such additional payments, not exceeding \$50 monthly, to a dependent child under the age of 18 years or to a dependent invalid child as in the discretion of the Board appear necessary to adequately maintain and support such child.

(7) Where death results from the injury the Board may pay to, for or on behalf of a dependent widow in necessitous circumstances because of illness, irrespective of the date of the accident that caused the death, such additional amount as the Board considers appropriate by reason of the illness.

(8) Where death results from the injury the Board may pay to, for or on behalf of a dependent child or a dependent invalid child, irrespective of the date of the accident that caused the death, such additional amount in respect of illness as the Board considers appropriate by reason of the illness.

38. If a dependent widow or widower remarries, the payment to that person shall thereupon cease but a lump sum termination payment of \$2,700 shall be paid as soon as may be convenient after the date of the remarriage.

39. (1) Where a dependent widow or widower dies or remarries the Board shall, except where a dependent child is being maintained by a foster-parent pursuant to section 37, pay compensation to each dependent child at the rate of \$70 per month

- (a) until the child attains the age of 18 years or sooner dies;
- (b) in the case of a dependent invalid child irrespective of the age of the child, as long as in the opinion of the Board it might reasonably be expected that the

38. Remarriage of widow or widower.

39. Payment to dependent children.

worker had he lived would have continued to contribute to the support of the child.

(2) Where a dependent child approaching the age of 18 years is attending an academic, technical or vocational school and is making progress satisfactory to the Board, the Board may, in its discretion, continue the payments of compensation under subsection (1), section 37, subsection (4) or section 40, subsection (2) until such time as the dependent child

(a) fails to make satisfactory progress at school, or

(b) ceases to attend school, or

(c) attains the age of 25 years, or

(d) obtains a first degree or certificate in a post-secondary course of education,

whichever first occurs.

(3) Where a dependent child resumes attendance at school the Board may, in its discretion, resume payments of compensation under subsection (1) or section 40, subsection (2) and the provisions of subsection (2) apply.

(4) Where a dependent child who is continuing to receive payments under subsection (2) or (3) attains the age of 25 years during a school year the Board may continue the payment of compensation until the end of the then current school year.

40. (1) On and after January 1, 1974, a foster-parent or a dependent widow or widower receiving compensation under any *Workmen's Compensation Act* of Alberta, where the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award is prior to that date, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the foster-parent or the dependent widow or widower up to the sum of \$225 per month.

(2) On and after January 1, 1974, a dependent child receiving compensation under any *Workmen's Compensation Act* of Alberta, where the date or time of the award under or because of which the compensation is payable or of the accident that occasioned the award is prior to that date, shall be granted an additional payment of compensation sufficient to bring the monthly payment to the dependent child up to the sum of \$70

(a) for a dependent child under the age of 18 years other than a dependent invalid child, until the child attains the age of 18 years or dies before attaining that age;

40. Additional compensation payments to widows and dependent children in receipt of compensation prior to the application of the new provisions contained in this Act.

(b) to a dependent invalid child irrespective of the age of the child for as long as in the opinion of the Board it might reasonably be expected that the worker had he lived would have continued to contribute to the support of the child.

(3) The cost of the additional amounts of compensation paid under this section shall be paid to the Accident Fund out of the General Revenue Fund.

41. (1) The cost in any year of all capitalized awards arising out of the death of a worker shall, irrespective of the year of occurrence of the accident, be apportioned in accordance with the regulations equally between all accidents that are, in that year, established to the satisfaction of the Board to be accidents resulting in death and arising out of and in the course of employment 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.

(2) The capital value of increases in monthly payments being made prior to January 1, 1974 to dependent widows and widowers and dependent children as authorized by section 37, subsection (4) or section 40 shall not be included in determining the cost of capitalized awards for the purposes of subsection (1).

42. (1) Where a permanent total disability results from the injury, the compensation shall be a weekly payment equal to 75 per cent of the worker's average weekly earnings computed in accordance with section 47 or section 49, subsection (1).

(2) Subject to section 28, the compensation payable under this section shall be payable only during the lifetime of the worker.

43. (1) Where permanent partial disability results from the injury, the Board shall estimate the impairment of earning capacity from the nature and degree of disability by reason of the injury and shall award compensation accordingly based upon 75 per cent of the worker's average weekly earnings computed in accordance with section 47 or section 49, subsection (1) and the compensation, subject to section 28, is payable during his lifetime.

(2) When considered just, the impairment of earning capacity may be estimated from the nature of the injury having regard to the worker's fitness to continue the em-

41. Apportionment of awards.

42. Compensation for permanent total disability.

43. Compensation for permanent partial disability.

ployment in which he was injured or to adapt himself to some other suitable occupation.

(3) Where the impairment of the earning capacity of the worker does not exceed 10 per cent of his earning capacity, instead of making periodic payments the Board may, unless in its opinion it would not be to the advantage of the worker to do so, direct that such lump sum as is considered to be the equivalent of the periodic payments shall be paid to the worker.

(4) Notwithstanding the other provisions of this section, the Board may, where a worker has been seriously and permanently disfigured about the face or head or otherwise permanently injured, recognize an impairment of earning capacity and may allow lump sums or periodical payments or both, as compensation.

44. (1) Where a worker who has been awarded compensation becomes entitled to payment of temporary total compensation by reason of any matter arising out of the accident in respect of which the compensation was paid and

(a) more than one year has elapsed from the date to which temporary total compensation was paid or the permanent disability award was made, and

(b) the payments he would receive as temporary total compensation and any permanent disability compensation are together less than 75 per cent of the worker's average weekly earnings computed in accordance with section 47,

the worker shall be paid temporary total compensation in such amount as together with any permanent disability compensation to which he may be entitled will bring his total weekly compensation to an amount equivalent to 75 per cent of his average weekly earnings computed in accordance with section 47.

(2) In computing average weekly earnings for the purpose of this section, the computations shall be based on the worker's present earnings or, if the worker is not presently employed, the provisions of section 49, subsection (1) shall be deemed to apply.

45. Where temporary total disability results from the injury, the compensation shall be a periodic payment so long as the disability lasts, calculated on a weekly basis equal to 75 per cent of the worker's average weekly earnings, computed in accordance with the provisions of section 47 or section 49, subsection (1).

46. Where temporary partial disability results from the injury, the Board shall estimate the impairment of earning

44. Minimum compensation.

45. Compensation for temporary total disability.

46. Compensation for temporary partial disability.

capacity from the nature and degree of the disability by reason of the injury and award compensation accordingly based on 75 per cent of the worker's average weekly earnings computed in accordance with the provisions of section 47 or section 49, subsection (1), but the compensation is payable only so long as the disability lasts.

47. (1) Subject to the regulations, the average weekly earnings of a worker for the purposes of this Act shall be computed in such manner as is best calculated to give the rate per week at which the worker was being remunerated in industries to which the Act applies at the time of the accident, but not so as in any case to exceed \$10,000 a year.

(2) Where in any case it seems more equitable to do so, the Board may award compensation having regard to the earnings of the worker in industries to which the Act applies during the 12-month period preceding the date of the accident.

(3) Where, owing to the shortness of the time during which the worker was in the employment of his employer or the casual nature of his employment or the terms of his employment, it is impracticable to compute the rate of remuneration, regard may be had to the average earnings as determined by the Board that were earned by a person in the same grade of employment for the previous 12 months.

(4) Where a learner suffers injury for which compensation would be payable under this Act, the amount of compensation shall be computed upon the basis of wages then paid to beginners in the trade or business in which he is a learner.

(5) Where a worker is receiving compensation for a permanent or temporary disability, he shall not receive compensation for any further or other disability in any amount that would result in him receiving in the aggregate compensation in excess of that payable for total disability.

(6) Where a worker has received a lump sum in lieu of the periodic payments that otherwise would have been payable for a permanent disability, he shall for the purposes of subsection (5) be deemed to be still in receipt of the periodic payments.

(7) Where the worker had entered into concurrent contracts of service with two or more employers in industries to which this Act applies by virtue of which he worked at one time for one such employer and at a different time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

47. Computation of compensation.

(8) Where the employer has been accustomed to pay to the worker a sum to cover any special expenses incurred by him by the nature of the employment, the sum so paid shall not be reckoned as part of the earnings.

48. (1) In this section, "institution" means

- (a) any educational institution for the administration of which the Minister of Advanced Education is responsible;
- (b) a correctional institution under *The Corrections Act*;
- (c) a hospital designated as a facility under *The Mental Health Act, 1972*.

(2) Where a person has been committed or admitted to an institution, and

- (a) he is working inside or outside the institution in any industry to which this Act does not apply, or
- (b) is participating in a work training or similar program either inside or outside the institution,

he shall, while so engaged, be considered to be a worker employed by the Government for the purposes of this Act.

(3) Where a person becomes entitled to compensation under subsection (2), the compensation payable to him shall,

- (a) in the event of an injury in an industry to which this Act does not apply, be based on
 - (i) the usual rate of wages payable to a person with similar working experience outside an institution, or
 - (ii) the rate of wages paid to him for the work, whichever is the greater, or
- (b) in the event of injury in a work training or similar program, be based on the usual apprenticeship rate in the trade in which he was training or participating which would be payable to an apprentice with similar working experience outside an institution,

not exceeding in any case the maximum amount of compensation fixed by this Act.

(4) If a person committed or admitted to an institution, a penitentiary or a place of confinement to which the *Prisons and Reformatories Act* (Canada) applies, is, or subsequently becomes, entitled to compensation under this Act, the compensation otherwise payable to or in respect of the person may, in the discretion of the Board, be paid to the dependent spouse or other dependants of the person.

48. Computation for persons in institutions.

49. (1) The amount of compensation to which an injured person is entitled for temporary total disability under the provisions of this Act shall not be less than the weekly equivalent of the amount payable under section 50 or, where his average earnings are less than such weekly equivalent, the amount of such earnings.

(2) The Board may,

- (a) wherever it considers it advisable, provide that the payments of compensation may be monthly or semi-monthly instead of weekly, or
- (b) where the worker or dependant is not a resident of Alberta, or ceases to reside therein, fix the periods of payment or commute the compensation as it considers proper.

(3) Notwithstanding subsection (2), if a worker or dependant who is entitled to compensation at the rate of \$20 a month or more files with the Board a request in writing that the compensation payable to him be paid semi-monthly, the compensation payable to such worker or dependant shall thereafter be paid semi-monthly.

(4) For the purpose of ascertaining the amount of compensation due, the amount may be computed on a daily basis.

(5) Where a worker or dependant is under the age of 18 years or is under any other legal disability, the compensation to which he is entitled may be paid to him or be applied in such manner as the Board considers best for his advantage.

(6) Where the worker was at the date of the accident under 18 years of age, the compensation payable to such worker may, upon his attaining the age of 18 years, be paid on the basis of the earnings at the time of the accident of workers of the age of over 18 years employed in an occupation similar to that in which the worker was employed at the time of the accident.

(7) Where a worker is incapable of endorsing his compensation cheque, any compensation to which he is entitled may

- (a) be paid to the worker's spouse, or
- (b) be applied in such manner as the Board considers in the worker's best interest under the circumstances.

50. The amount of compensation to which an injured person is entitled under this Act

- (a) for permanent total disability shall not be less than \$275 a month, and

49. Minimum compensation for total disability.

50. Compensation for permanent total or partial disability.

(b) for permanent partial disability, shall not be less than a proportionate monthly amount calculated according to the percentage of disability assessed.

51. (1) In fixing the amount of compensation, regard shall be had to any payment, allowance or benefit that the worker will receive from his employer in respect of the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer, and any sum deducted under this section from the compensation otherwise payable may be paid to the employer out of the Accident Fund.

(2) Where such payment, allowance or benefit has been charged against the worker for repayment to his employer, whether such worker is in receipt of a social allowance or otherwise, such payments of compensation as are made by the Board to the employer shall be credited by him to the account so charged.

52. (1) The Board may, on the application of a worker, pay an allowance not exceeding \$100 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of an upper or lower limb prosthesis or appliance supplied by the Board.

(2) The Board may, on the application of a worker, assume the cost of replacement or repair of any article of his clothing destroyed or damaged as a result of an accident in respect of which he is entitled to compensation.

53. (1) On and after January 1, 1974, a person receiving compensation for permanent total or permanent partial disability under any *Workmen's Compensation Act* of Alberta, 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 him up to \$275 for total disability and a proportionate amount thereof for partial disability calculated according to the percentage of disability assessed.

(2) The cost of the additional amounts of compensation paid under this section shall be paid to the Accident Fund out of the General Revenue Fund.

54. The advisory committee shall review annually the amount of all compensation payments being paid in respect of permanent disability and all compensation payments being paid to dependants and shall make their recommendations in respect thereof to the Minister.

51. Consideration of allowance or benefit from employer to worker.

52. Clothing allowance.

53. Additional compensation payments.

54. Annual review of pensions.

PART 5

MEDICAL AND SURGICAL TREATMENT

55. (1) Where, in the opinion of the Board, it is in the best interests of an injured worker, in order to cure and relieve him from the effects of the injury, to provide a special surgical operation or other special medical treatment, the Board has the right to provide such surgical operation or other special medical treatment.

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

(3) To aid in getting injured workers back to work and to assist in lessening or removing any handicap resulting from their injuries, the Board may take such measures and make such expenditures as it considers necessary and expedient.

(4) The Board shall provide for the repair, maintenance or renewal of any apparatus provided by the Board, whether the apparatus was provided before or after the commencement of this Act, and that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear and through no misconduct on the part of the worker, so long as the disability in respect of which such apparatus was supplied continues.

(5) The Board has authority to assume the expense of replacement and repair of dentures, eye-glasses, artificial eyes or limbs or hearing aids, broken or lost as a result of an accident arising out of and in the course of the employment of the worker.

56. (1) The Board, at the time of the injury and thereafter during the disability, may furnish or provide for the injured worker such medical aid as it considers reasonably necessary to diagnose, cure and give relief from the effects of the injury.

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

(3) When the Board provides or is liable to pay for medical or other remedial attention as provided in this section the amount payable to any person in respect of medical or other remedial attention or any attention shall be such as the Board shall direct, and no action lies against the Board for or in respect of any amount greater than that

55. Special surgical or medical treatment.

56. Medical aid.

fixed by it, nor in any event against the injured worker, his employer or any other person in respect of such attention.

(4) When the Board provides or is liable to pay for hospital services, the amount shall be at such rates as have been mutually agreed upon by the Board and the hospital authority.

(5) Where a worker 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.

(6) Where, under the direction of the Board, a worker is undergoing examination or treatment at a place other than that in which he resides, the Board may make to him on account of his subsistence a per diem allowance in accordance with the regulations.

(7) Where a worker is disabled and is receiving home care which is, in the opinion of the Board, comparable in the circumstances to nursing home care, the Board may pay an allowance not to exceed the amount payable for nursing home care.

(8) The Board may

- (a) contract with doctors, nurses and hospitals or any other institutions for any medical aid required, or
- (b) with the approval of the Lieutenant Governor in Council, construct, equip, maintain and operate one or more hospitals at one or more points in Alberta as, in the opinion of the Board, are necessary or advisable for the purpose of providing medical aid, or
- (c) with the approval of the Lieutenant Governor in Council, construct, equip, maintain and operate clinics or residence facilities for the treatment and rehabilitation of injured workers.

(9) Upon the establishment of a hospital or clinic under the authority of subsection (8), the Board may extend the services of the hospital or clinic to persons other than those entitled to medical aid under the provisions of this Act, to such extent and on such terms and conditions as it thinks fit.

(10) Without in any way limiting the power of the Board under this section to supervise and provide remedial aid, in every case where the Board is of the opinion that the exercise of that power is expedient, the Board may permit the injured worker to select any physician he desires.

(11) Every employer shall, at his own expense, furnish to any worker injured in his employment who is in need of it, immediate conveyance and transportation

(a) to a hospital, or
(b) to a physician, or
(c) to the worker's home, or
(d) to such other place as, in the opinion of the Board, the condition of the worker requires him to be sent, and if the employer fails to pay for the conveyance and transportation, the Board may pay for it and the employer is liable to pay to the Board the amount so paid and the repayment of the amount may be enforced in the same manner as the payment of an assessment may be enforced.

(12) Accounts for medical services or other forms of medical aid rendered to, for or in respect of injured workers for which the Board is liable to pay, shall be rendered to the Board in accordance with the regulations.

(13) Where any employer has established or hereafter establishes in connection with any industry carried on by him an arrangement for furnishing medical aid exclusively to his workers that, in the opinion of the Board, is at least as favourable to the worker as that provided for in this Act, the Board after investigating the facts and considering the wishes of both the workers and employer may approve such arrangement.

PART 6

SILICOSIS

57. (1) In this Part, "silicosis" means a fibrotic condition of the lungs, caused by dust containing silica and evidenced by specific x-ray appearances, accompanied by a lessened capacity for work.

(2) Nothing in this Act entitles a worker 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 worker has been exposed to silica dust in his employment in Alberta for periods amounting in all to at least 450 work shifts preceding his disablement or such other criterion as the Board may fix for the purpose of implementing any agreement under subsection (6).

(3) In any case of silicosis, the limitations as to time contained in section 16, subsections (8) to (11) do not apply.

(4) The provisions of subsection (2) do not prevent allowance by the Board of any claim due to silicosis that the Board considers is entirely due to employment in Alberta.

(5) For the purpose of dealing with any claim due to silicosis where the disablement first arose prior to March 31, 1948, section 42, subsection (6) of *The Workmen's Compensation Act*, being chapter 4 of the Statutes of Alberta, 1943, shall be deemed to have included therein a clause as follows:

"(e) nothing in this subsection shall prevent the allowance of any claim due to silicosis that the Board feels in justice should be allowed."

(6) The Board may enter into an agreement either with the Government of 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 the Government of Canada or to the person with whom 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.

58. (1) The Board may require an employer in an industry in which exposure to silica dust occurs to cause all or any workers

57. Silicosis.

58. Medical examination for silicosis.

- (a) within one month from the date of entering the employment, and
 - (b) thereafter at such intervals as the Board may direct, to be examined by a medical practitioner registered under *The Medical Profession Act* selected by and at the expense of the employer.
- (2) The Board shall prescribe the nature of the medical examination, which shall include an x-ray examination.
- (3) The medical practitioner who examines a worker shall furnish to the Board the information and record with respect to the examination.
- (4) The Board may require an employer to employ only those workers who are found on the examination to be physically suited for employment in that industry.

PART 7

THE ACCIDENT FUND

59. (1) A fund called the "Accident Fund" shall be provided by contributions to be made by all employers in the manner provided in this Act, and compensation payable in respect of accidents and the costs of administration shall be paid out of the Accident Fund.

(2) The Accident Fund heretofore maintained under *The Workmen's Compensation Act*, being chapter 397 of the Revised Statutes of Alberta 1970 shall be incorporated into and form part of the Accident Fund referred to in subsection (1).

(3) Where at any time there is not sufficient money available in the Accident Fund for payment of the compensation that has become due, the Lieutenant Governor in Council may direct that the compensation be advanced out of the General Revenue Fund, and in that case the amount advanced shall be repaid to the Provincial Treasurer after the next assessment.

60. (1) Separate experience accounts shall be maintained of assessments levied and costs of claims chargeable in respect of each employer, but for the purpose of paying compensation the Accident Fund is one indivisible fund.

(2) Where it appears to the satisfaction of the Board that a worker has been injured or killed owing to the negligence of another employer or his worker, the Board may direct that the costs of the claim shall be included in the experience account of that employer and, where the employers are in different classes, charged to the class in which that employer is included in the same manner as if those costs had been expended in respect of a worker of that employer, except that where it appears to the satisfaction of the Board that the injury to or death of the worker is due to the negligence of two or more persons, one of whom may be the worker, the Board may direct

(a) that the costs of the claim shall be so included and charged in the experience accounts and classes of the employers who, or whose workers, were negligent in proportion to the degree of negligence of each person involved, or

(b) where the Board is of the opinion that it cannot establish different degrees of negligence, that the costs of the claim be included and charged in the same manner in the experience accounts and classes of the employers involved in equal proportions.

(3) Costs of claims chargeable to an employer shall include the capital cost of pensions awarded as well as

59. Formation of Accident Fund.

60. Separate experience accounts for each employer.

amounts expended in connection with compensation and medical aid.

61. (1) The Provincial Treasurer may, on behalf of the Board, from time to time invest any funds arising under any provisions of this Act or under the control of the Board, in any securities authorized by *The Financial Administration Act*, and may sell and dispose of any such securities and reinvest the proceeds of such sale in securities.

(2) The Board may borrow by way of overdraft from a chartered bank or treasury branch.

62. (1) The accounts of the Board shall be audited by the Provincial Auditor.

(2) The Board shall, on or before the 31st day of May in each year, make a report to the Lieutenant Governor in Council of its business and affairs during the next preceding calendar year.

(3) Every such report shall be forthwith laid by the Minister before the Legislative Assembly if it is then in session, and if it is not then in session, within 15 days after the opening of the next session.

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

61. Investment of Board funds.

62. Audit and annual reports.

PART 8

ASSESSMENTS

63. (1) The Board may divide any industry into one or more classes and any class into one or more subclasses.

(2) In accordance with and for the purposes specified in the regulations the Board shall from time to time assess and levy upon the employers such percentage of the payroll or other rate, or such specific sum as, allowing for any surplus or deficit in the class, the Board may require.

(3) The Board may establish such subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as the Board considers proper, and where any particular industry is shown to be so circumstanced or conducted that the hazard is greater than the average of the class or subclass to which the industry is assigned, the Board may impose upon the industry a special rate, differential or assessment to correspond with the excessive hazard of such industry.

64. (1) Assessments may be made in such manner and form and by such procedure as the Board considers to be adequate and expedient and may be general as applicable to any class or subclass or special as applicable to any industry or part or department of an industry.

(2) Payments on account of their respective assessments shall in the first instance be made by employers in amounts determinable by and based upon the estimates

(a) furnished by them respectively under section 67, or

(b) made by the Board under section 69,

or such payments shall be made otherwise, as the Board may direct.

(3) Where the assessment is based upon the payroll of the employer and the payroll shows in any one year earnings in respect of any worker in excess of \$10,000 for that year, every such excess shall be deducted from the amount of the payroll before it is used as a basis for assessment.

(4) It is not necessary that assessments upon employers in a class or subclass be uniform, but they may be fixed, graded or varied by the Board in relation to the hazard or other circumstances of the operations of the employer.

(5) Where publication of a notice containing a statement of percentages and rates determined and fixed by the Board and of the industries to which they respectively apply is made in The Alberta Gazette, such publication constitutes an assessment upon, and notice thereof to, each

63. Assessment and levies upon employers.

64. Assessment procedure.

employer in an industry named in the notice for the year or other period named therein, computed on the payroll of such employer at the percentage or rate set out in the notice as applicable to such industry.

(6) Publication of any percentage or rate as provided in subsection (5) does not in any way limit the right of the Board to increase or decrease the same from time to time, so long as notice of the increase or decrease is also published in The Alberta Gazette, and upon such publication the increased or decreased percentage or rate has effect in the same manner and to the same extent as if it had been the percentage or rate originally fixed by the Board.

(7) All assessments made under this Act shall be due on the first day of January in the year in which they are made, but the Board may direct payment of assessments at such time or times by instalments or otherwise as the Board thinks fit.

(8) Unless satisfactory evidence of an employer's actual payroll for any period is submitted to or obtained by the Board, the payroll estimated by the employer under section 67 or by the Board under section 69, as the case may be, shall for all purposes under this Act be deemed to be the actual payroll of the employer.

(9) Upon the exemption of any industry from the application of this Act, the employers therein are liable to pay and shall pay to the Board the appropriate assessment in respect of such industry, in accordance with the rate of assessment applicable thereto, for the portion of the then current year during which the Act was applicable to the industry or otherwise as the Board may require.

(10) Notwithstanding any provision of this Act respecting notice to employers, payrolls or estimates of payrolls, employers are liable to pay to the Board, with or without demand or notice from the Board, the full amount of every assessment assessed against them under the provisions of this Act.

(11) Every employer shall pay into the Accident Fund the assessments made by the Board, and if any assessment or any part thereof is not fully paid in accordance with the terms of the assessment, the Board has a cause of action against the employer in respect of any amount unpaid, and is entitled to the costs of the action.

(12) If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer is liable to pay and shall pay as a penalty for his default such percentage upon the amount unpaid as may be prescribed by the regulations or may be determined by the Board.

(13) Where, in his statement to the Board of the amount or estimated amount he will expend for wages for or during the then current year, an employer understates or underestimates the same, he is liable to pay and shall pay as a penalty for such underestimate, such percentage upon the amount thereof as the Board may determine in accordance with the regulations.

(14) A system of merit credits and super-assessments may, in the discretion of the Board, be adopted.

(15) The amount of a super-assessment shall not exceed $33\frac{1}{3}$ per cent of the ordinary assessment.

(16) Where, in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum, and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the Accident Fund for which the employer is liable.

(17) Where in the opinion of the Board

(a) sufficient precautions are not taken for the prevention of accidents to workers in the employment of any employer, or

(b) the working conditions are not safe or the first aid requirements required by the Act or regulations have not been complied with,

the Board may assess and levy against the employer such an amount in addition to the other assessments authorized by this Act as the Board considers just and may exercise such power as often as is appropriate in the opinion of the Board.

65. (1) No assessment of less than \$25 shall be levied in respect of any industry to which this Act applies.

(2) Where the worker or any group of workers of any employer employs a worker as a checkweigher, checker or otherwise, the employer shall pay to the Board an amount sufficient to pay the assessment in respect of the worker so employed and may deduct such amount from the wages of the worker or group of workers who employed him.

66. (1) Where

(a) an employer engaged in an industry to which this Act applies directs a worker who is working in that industry to do other work that is not in an industry to which this Act applies, and

65. Minimum assessment levy.

66. Engagement in work not under Act.

(b) the worker is injured in the course of that other work,

that other work shall be deemed to be in the industry of the employer to which this Act applies and the employer shall pay to the Board in respect of that other work an additional assessment equal to the full cost of the claim in respect of the injury up to a maximum of \$100.

(2) Any person who has control and direction of a worker and who directs him to do other work as mentioned in subsection (1) shall be deemed to have given the direction on behalf of the employer.

67. (1) Every employer shall, not later than January 20 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 of wages earned in the past year and estimated wages payable in the current year.

(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 that 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 a worker employed by the corporation and shall be included upon the payroll 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 sum of \$10,000 and the Board shall for the purpose of its assessment add the sum so fixed by it to the amount of the payroll of the corporation.

(3) Within three days after the granting of any building permit involving an expenditure of over \$300 by any city, town, village, municipal district, county or the Minister of Municipal Affairs, notice in writing thereof shall be given to the Board by the person whose duty it is to keep a record of such permits.

(4) A person who contravenes subsection (3) is guilty of an offence and liable on summary conviction to a fine of not more than \$25 and on default of payment to imprisonment for a term not exceeding three days.

(5) Any work done or performed under and subsequent to the issue of a building permit referred to in subsection (3) is hereby constituted an employment to which this Act applies and the employment by the permit holder of

67. Statement of wages earned and of estimated future wages.

any worker in or in connection with such work constitutes him an employer within the meaning of this Act and he is subject to all the provisions thereof.

68. (1) Every employer shall keep within Alberta in such form and with such detail as may be required for the purposes of this Act, a careful and accurate account of all wages and earnings of his workers and of such other features and particulars of his operations as the Board may require.

(2) Any person who, in the opinion of the Board, might be an employer under the provisions of this Act, shall on request of the Board at any time furnish and deliver to the Board a statement signed by him giving full particulars of the nature of the different classes of work carried on and such particulars as may be required by the Board concerning his payroll or other matters pertaining to his business or industry.

(3) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry and such statements shall be made, verified and transmitted as required by the Board.

(4) The Board and any officer of the Board or other person authorized by it for the purpose has, for any purpose that the Board considers necessary for its administration of this Act, the right at all reasonable hours to enter into every part of the establishment and the premises connected with the establishment of any employer or any other person who, in the opinion of the Board, is or might be an employer.

(5) The Board and any member of it and any officer of the Board or person authorized by it for that purpose, has the right to examine the books and accounts of every employer, and to make such other inquiry as the Board considers necessary, for the purpose of ascertaining

- (a) whether any statement furnished to the Board under any of the provisions of this Act is an accurate statement of the matters that are required to be stated therein, or
- (b) the amount of the payroll, or
- (c) whether the Act applies to any industry or person.

(6) For the purpose of any examination or inquiry, the Board or person authorized to make the examination or inquiry may give to the employer or his agent notice in writing requiring him to bring and produce before the Board or person, at a place and time to be mentioned in the notice, which time shall be at least 10 days after the giving

68. Employers' records.

of the notice, all documents, writings, books, deeds and papers in the possession, custody or power of the employer and in any way relating to or concerning the subject matter of the examination or inquiry referred to in the notice.

(7) Every employer and every agent of the employer named in and served with any such notice shall produce at the time and place required all such documents, writings, books, deeds and papers according to the notice.

(8) For the purpose of any such examination or inquiry the Board and any person so authorized by it has all the powers of a commissioner appointed under *The Public Inquiries Act*.

(9) Every member of the Board and every officer or person authorized by it to make an examination or inquiry under this section has power and authority to require and to take affidavits, affirmations or declarations as to any matter with which the examination or inquiry is concerned.

(10) An employer or other person who obstructs or hinders the making of an examination or inquiry under this section or who refuses to permit it to be made or who neglects or refuses to produce any documents, writings, books, deeds or papers at the time and place stated in the notice mentioned in subsection (6) is guilty of an offence.

(11) If a statement is found to be incorrect, the assessment shall be made on the true amount of the payroll or other basis of assessment as the Board may require, as ascertained by the examination or inquiry, or if an assessment has been made against an employer on the basis of his payroll or other basis of assessment as shown by the statement, the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he should have been assessed.

(12) No member or officer of the Board and no person authorized to make an examination or inquiry under this Act shall divulge or allow to be divulged, except in the performance of his duties or under authority of the Board, any information obtained by him or that has come to his knowledge in making or in connection with an examination or inquiry under this Act.

(13) No member or officer or employee of the Board shall divulge information respecting the business of an employer or a worker obtained by him in his capacity as such member or officer or employee unless it is divulged under the authority of the Board to the persons directly concerned or to agencies or departments of the Government of Canada or of the Government of any province.

(14) Every person who contravenes subsection (12) or (13) is guilty of an offence.

69. (1) If an employer does not make and transmit to the Board the prescribed statement within the prescribed time, or if such statement in the opinion of the Board does not represent the probable amount of the payroll or other basis of assessment of the employer, 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 payroll or other basis of assessment of the employer, and the employer is bound thereby.

(2) If it is afterwards ascertained that such amount is less than the actual amount of the payroll or other basis of assessment, the employer is 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 payroll or other basis of assessment.

(3) Whenever an employer fails to furnish to the Board within the prescribed time a statement of wages, whether estimated or actual, as required by any provision of this Act or the regulations, he is liable to pay and shall pay as a penalty for such default such percentage upon the amount of his assessment as the Board may determine in accordance with the regulations.

70. If for any reason an employer liable to assessment is not assessed, he is nevertheless liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

71. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, the defaulting employer continues liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid.

72. (1) When any industry to which this Act applies is established, commenced or recommenced, the employer shall within 10 days notify the Board of the fact and furnish to the Board an estimate of the probable amount of his payroll for the remainder of the year or such other information as the Board may require.

(2) The estimate and information referred to in subsection (1) shall be verified as the Board may direct.

(3) The employer shall pay to the Board a sum equal to that for which he would have been liable if his industry had been established or commenced before the last assessment was made or so much thereof as the Board considers reasonable.

69. Basis of assessment where statement not duly furnished.

70. Liability of employer not assessed.

71. Continuing liability to assessment.

72. Duty and liability of employer commencing or recommencing an industry.

(4) The Board has the like powers and is entitled to the like remedies for enforcing payment of the sum payable by the employer under subsection (1) as it possesses or is entitled to in respect of assessments.

73. (1) The Board may at any time require an employer to furnish to it security in such amount as in the opinion of the Board is sufficient to provide for the assessments that are or might be levied against him by the Board for or in respect of the then current year.

(2) Within 15 days after service upon him of notice of such requirement, the employer shall deposit with the Board security, in the amount and of the kind stated in the notice, for the payment of the assessments levied or to be levied against him by the Board for or during the then current year.

(3) Where it appears to the Board at any time that the amount of the security furnished by an employer has become inadequate by reason of an increase in the number of workers employed by the employer, the Board may require the employer to deposit with it additional security and may prescribe the amount thereof, and the employer within 15 days after notice to him of the requirements shall deposit with the Board additional security in the amount and of the kind stated in the notice.

(4) The security shall consist of cash or a guarantee bond of an insurance company authorized to carry on the business of guarantee insurance in Alberta or such marketable bonds or securities as are acceptable to the Board.

(5) If default is made in the payment of any assessment that is payable to the Board by such employer and is levied in the period for which the security is given, the Board may proceed to realize upon any or all of the securities deposited with it under the provisions of this section, and may take such proceedings and do all such acts and things as it considers necessary, having regard to the nature of the security, to realize upon it.

(6) The proceeds so realized shall be applied by the Board

- (a) in payment of the liability of the employer to the Board,
- (b) in payment of the costs and expenses of the Board in realizing upon the securities, and
- (c) in payment of the balance, if any, to the persons legally entitled thereto.

(7) If default is made by the employer in furnishing any security that he is required to furnish under this section, or if default is made in the payment of any assessments due to the Board by the employer, then and in each such

73. Security for payment of assessment.

case the Board may order the employer to cease to employ workers until such time as the Board determines by subsequent order, and notice of such orders shall be given to the employer.

(8) Every employer who, after being served with an order, continues to employ workers is guilty of an offence and liable on summary conviction to a fine of not less than \$5 nor more than \$100 a day for each day that his failure or default continues, and in default of payment to imprisonment for a term not exceeding six months.

74. (1) Where any work is performed by a contractor for any person (in this section called the "principal"),

- (a) both the principal and the contractor are liable for the amount of any assessment relating to that work, and
- (b) the assessment may, in the discretion of the Board, be collected from either of them, or partly from one and partly from the other,

but in the absence of any term in the contract to the contrary, the contractor is as between himself and the principal, liable for the amount of the assessment.

(2) Where any work is performed under a subcontract,

- (a) the principal, the contractor and the subcontractor are each liable for the amount of any assessment relating to that work, and
- (b) the assessment may, in the discretion of the Board, be collected from any of them or partly from one and partly from the other or others,

but in the absence of any term in the subcontract to the contrary, the subcontractor is as between himself and the others, liable for the amount of the assessment.

(3) A principal may withhold from any moneys payable to a contractor the amount which the principal is liable to pay under this section and pay that amount to the Board, and as between the principal, the contractor and the subcontractor the payment shall be deemed to be a payment on the contract or subcontract or both, as the nature of the payment requires.

(4) A contractor may withhold from any moneys payable to a subcontractor the amount which the contractor is liable to pay with respect to the subcontractor under this section and pay that amount to the Board, and as between the contractor and the subcontractor the payment shall be deemed to be a payment on the subcontract.

74. Liability to assessment.

75. Assessments may, wherever the Board considers it expedient, be collected in half-yearly, quarterly or monthly instalments or at any other times, and where it appears that the funds in any class are sufficient for the time being, any instalment may be abated or its collection deferred.

76. Employers to whom this Act applies are liable for payment of contributions to the Accident Fund required by the Act.

77. (1) The Board may require any employer who refuses or neglects to make or transmit any payroll, return or other statement required to be furnished by him under any of the provisions of this Act or any regulation or order made hereunder, or who refuses or neglects to pay any assessment or the provisional amount of any assessment or any instalment or part thereof, in addition to any penalty or other liability to which he may be subject, to pay to the Board a sum of money, not exceeding one-half of the amount of the compensation payable and not exceeding in any case \$500 in respect of any accident to a worker in his employ that happens during the period of the default, and the payment of the amount may be enforced in the same manner as the payment of an assessment may be enforced.

(2) Where any employer makes default in the payment of an assessment and an execution, issued upon a judgment entered or certificate filed under section 78 with respect to the assessment, is returned with a certificate from a sheriff or his deputy that he was unable to wholly satisfy the execution, and where the judgment debtor continues to carry on an industry to which this Act applies in which workers are employed, any judge of the Supreme Court, upon an application made on behalf of the Board by way of originating notice of motion may, without the issue of any writ or the commencement of any action, restrain the judgment debtor from carrying on any industry to which this Act applies until the amount due on the execution for all assessments made by the Board together with the costs of the application are paid.

78. (1) Where default is made in the payment of all or any part of an assessment or special assessment or any other moneys due to the Board, the Board may issue its certificate setting out the basis of the payment to be made, the amount remaining unpaid and the person by whom it is payable, and directing the payment of the amount by that person.

(2) The certificate, or a copy of it certified by the secretary under the seal of the Board to be a true copy, may be filed with the clerk of the Supreme Court or the clerk of

75. Collection of assessments by instalments.

76. Liability of employers.

77. Additional penalty for defaults by employer.

78. Enforcement of payment of assessment.

the district court in any judicial district and when so filed it becomes an order of the court and may be enforced as a judgment of the court.

(3) The Board has the like power and is entitled to the like remedies to enforce payment of any sum that any employer, worker or other person is required to pay to the Board under any of the provisions of this Act as it possesses or is entitled to in respect of assessments.

(4) Notwithstanding anything in any other Act, the amount due to the Board by an employer upon any assessment made under this Act or in respect of any amount that the employer is required to pay to the Board under any of its provisions or upon any judgment for that assessment or amount,

- (a) is a charge upon the property or proceeds of property of the employer, including moneys payable to, for or on account of the employer, within Alberta, and
- (b) has priority over all assignments by way of security, debts, liens, charges, mortgages or other encumbrances whatsoever, whenever created or to be created, except wages due to workers by their employer in cases where the exercise of the priority would deprive the workers of their wages.

(5) A copy of the certificate, certified by the secretary of the Board to be a true copy, may be filed in the land titles office for the district in which the real property is situated and any real property of the employer is bound by the assessment, to the same extent as by a registered judgment or mortgage, from the date of the filing, and any judgment entered with respect to the certificate binds the property from the date of the filing in the land titles office.

(6) In the event of the sale of any business or any industry to which this Act applies or of the stock or equipment in bulk used in connection with any such business or industry, it is the duty of the purchaser, before paying any part of the purchase price or giving the vendor any security therefor, to demand and secure from the vendor, and it is the duty of the vendor to furnish to the purchaser, a certificate by the Board that it has no claim in respect of the business or industry or stock or equipment in bulk,

(7) If the vendor has not furnished such certificate, the purchaser of the business or industry or stock or equipment is liable to the Board in and indebted to it for a sum equal to the moneys due to it by the vendor.

79. (1) Except in the matter of retail sales by regularly established retail dealers in the ordinary course of their business, it is the duty of each purchaser of lumber, before

79. Purchasers of lumber.

paying to the vendor the purchase price or any part thereof or giving him any security therefor, to demand and receive from the vendor, and it is the duty of the vendor to furnish to the purchaser, a certificate by the Board that it has no claim in respect of such lumber for assessment or otherwise.

(2) If the vendor has not furnished the certificate, the purchaser of the lumber is indebted to the Board for a sum equal to the moneys due by the producer or vendor of the lumber to the Board, up to but not exceeding (except as provided in subsection (3)) such proportion of the Board's assessment against the producer or vendor as the Board may consider applicable in respect of the lumber.

(3) The purchaser is liable to the Board and indebted to it in such further amount per 1,000 feet board measure of the lumber so purchased as the Board by written notice to the purchaser may stipulate and require.

(4) Purchasers of lumber to whom this section applies shall keep in such form and with such detail as the Board may require, careful and accurate accounts of all lumber purchased by them, and when so required shall submit such accounts for examination by the Board or any duly authorized officer of the Board.

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

(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 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.

80. (1) If any person fails to pay all or any part of an assessment or any other moneys that he is liable to pay within the time provided for such payment, the secretary may by himself or his agent or by a sheriff, deputy sheriff or assistant sheriff collect the same with costs by distress of the goods and chattels of such person, and the costs chargeable shall be the same as those allowed under *The Seizures Act*.

(2) In order to effect the seizure of any goods or chattels under the power herein contained, the person duly authorized to effect the seizure shall serve a notice of seizure

80. Collection of assessment by distress.

upon the debtor, and if there is more than one debtor upon each of them, or upon some adult member of the debtor's household, or shall attach it to the goods to be seized or some or all of them, or shall put it up in some conspicuous place on the premises upon which the goods or some part of them are at the time of seizure.

(3) For the purpose of effecting the seizure of any goods and chattels authorized by any distress warrant under the provisions of this section, or of obtaining the possession of any goods that have been previously seized, the secretary or his agent or other person lawfully charged with the execution of such distress warrant,

(a) has the right to go upon any lands or premises on which any goods and chattels subject to distress hereunder are situated, and to seize, sell or remove the same as he requires, and

(b) may, if it is not possible otherwise to effect the seizure or obtain possession of the goods previously seized, as the case may be, either by himself or with the assistance of such persons as he may request, break open the door or doors of any building, other than a private dwelling house, in which any goods and chattels liable to seizure are contained, and upon the order of a judge may similarly break open the door or doors of a private dwelling house.

(4) Any seizure made pursuant to this section shall be a continuing seizure until such time as the secretary by notice in writing releases the seizure or until the goods or property under seizure have been sold.

(5) The secretary or his agent or other person lawfully charged with the execution of the distress warrant may sell by public auction in accordance with the regulations the goods and chattels distrained or so much thereof as is necessary to pay the moneys due with all lawful costs.

(6) If any goods taken under any of the powers of this section have been offered for sale and remain unsold, the secretary or his duly authorized agent or other person as aforesaid may sell the goods by private contract, either to the Board or any other person, if the price offered for such goods is in the opinion of the secretary or agent a fair and reasonable price having regard to all the circumstances.

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

(8) If the property distrained has been sold for more than the amount of assessments due and costs, and if no claim to the surplus is made within six months from the date of the sale by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, it shall be paid to the person in whose possession the property was when the distress was made.

(9) If any claim to the surplus is contested, the surplus money shall be paid by the secretary or his agent or other person as aforesaid to the clerk or deputy clerk of the district court of the judicial district within which the goods and chattels distrained are situated, who shall retain the surplus until the respective rights of the parties have been determined by action at law or otherwise.

(10) When, at the time a distress warrant issued by the Board under the provisions of this section is placed in the hands of a sheriff or deputy sheriff, goods and chattels of the person against whom the warrant is issued are already under seizure or distraint by the same sheriff or deputy sheriff, or are subsequently seized or distrained by him, under a distress warrant other than the Board's, the said goods and chattels shall, from the time of the placing of the Board's warrant in the hands of the sheriff or deputy sheriff or from the time the seizure or distraint is made, as the case may be, be deemed to have also been seized or distrained upon by the sheriff or deputy sheriff under the Board's warrant.

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

(12) Subject to subsection (1), *The Seizures Act* does not apply to any proceedings under this section.

PART 9

GENERAL

81. (1) Where an employer ceases to be an employer within the meaning of this Act he shall, within 10 days thereafter, notify the Board by registered mail, and shall at the same time transmit a statement of the total amount of wages earned by all his workers for the portion of the then current year during which he has continued in business.

(2) No employer shall keep or have in his employment any worker unless the employer has complied with the provisions of this Act, and where an employer is in default of payment of any assessment or part thereof or any other moneys due by him to the Board and default has continued for one month, the Board may order the employer to discontinue and thereafter refrain from employing any worker or workers, and the employer shall not thereafter employ any worker or workers until he pays to the Board all moneys due to it by him.

82. (1) All books, returns, notices, reports, forms or other documents or papers and copies thereof required to be kept, posted or forwarded in accordance with the provisions of this Act or regulations made hereunder, shall be in a form approved by the Board.

(2) Employers shall post and keep posted in a conspicuous place upon the premises where the work performed by their workers is being carried on, and where they may be readily seen by such workers, such notices as the Board may from time to time require to be posted.

83. (1) Orders, notices and other documents issued by the Board under the provisions of this Act may be served upon the person for whom they are intended by registered mail, and a post office receipt for the letter containing the order, notice or other documents purporting to be signed by such person is proof of service of such order, notice or other documents.

(2) Every order, notice or other document shall be deemed to be served on the date of the receipt that purports to be signed by the person required to be served.

84. (1) The Lieutenant Governor in Council may make regulations

- (a) governing applications by persons for inclusion within the application of the Act;
- (b) specifying diseases which shall be deemed to be caused by employment of specified processes;

81. Employer ceasing to be an employer.

82. Forms, notices, etc.

83. Service of documents.

84. Regulations.

- (c) governing the giving of notice of an accident;
- (d) governing the furnishing of and the payment for medical aid to injured workers and fixing the amounts thereof;
- (e) prescribing amounts payable for subsistence and travel expenses related to treatment or rehabilitation;
- (f) governing the rendering of accounts to the Board;
- (g) relating to employers' statements of wages;
- (h) governing the sale by auction of distrained goods;
- (i) whether of general or special application, and which may apply to both employers and workers, for the prevention of accidents and the prevention of diseases and for the provision of safe working conditions, including proper sanitation, heating where practicable, and ventilation in employments or places of employment;
- (j) governing pensions payable to Board members;
- (k) governing any other matter necessary to carry out the provisions of this Act according to its purpose.

85. The Lieutenant Governor in Council by order may refer or assign to the Board

- (a) the administration of any other Act, or
- (b) the performance of any duty or task, or
- (c) the performance of any task or duty, in connection with the administration of a statute or ordinance relating to workers' compensation, of a public authority in Canada, and that is requested of it by the proper authority in that regard,

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

86. An order, ruling or direction of the Board made pursuant to section 10, 63 or 64 is not a regulation within the meaning of *The Regulations Act*.

85. Additional powers of the Board.

86. Board orders, etc. not regulations.

PART 10

ACCIDENT PREVENTION

87. (1) The Board has power

- (a) to investigate from time to time employments and places of employment within Alberta and determine what suitable safety devices or other reasonable means or requirements for the prevention of accidents are to be adopted or followed in any or all employments or places of employment,
- (b) to determine the requirements for safe working conditions, including the proper sanitation, heating where practicable, and ventilation of the employer's premises, and
- (c) to determine what suitable devices or other reasonable means or requirements for the prevention of disease are to be adopted or followed in any or all employments or places of employment.

(2) The Board, any member or officer thereof or any person authorized by it for that purpose, may at any time enter into the establishment or premises of any employer who is liable to contribute to the Accident Fund, including any place of employment where that employer is then engaged in an industry to which the Act applies, for the purpose of ascertaining whether

- (a) the ways, works, machinery or appliances therein are safe, adequate and sufficient,
 - (b) all proper precautions are taken for the prevention of accidents to the workers employed in or about the establishment, premises or place of employment,
 - (c) the safety appliances or safeguards prescribed by law are used and employed therein, and
 - (d) the working conditions, including sanitation, heating where practicable, and ventilation are safe,
- or for any other purpose that the Board considers necessary.

(3) Where, in any employment or place of employment, safety devices or appliances are, in the opinion of the Board or accident prevention officer of the Board, necessary for the prevention of accidents or disease, the Board or the accident prevention officer may order the installation or adoption of those devices or appliances, and may fix a reasonable time within which they shall be installed or adopted, and the Board or the accident prevention officer shall give notice to the employer accordingly, and the employer shall post or cause to be posted, in a conspicuous place upon the place of employment, a copy of the notice, which shall remain so posted until the order has been com-

87. Accident prevention.

plied with and the employer so notifies the Board and the Board, or an accident prevention officer thereof, authorizes its removal.

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

(5) Where safety devices or appliances are by order of the Board or an accident prevention officer thereof required to be installed or adopted or are prescribed by the regulations and the employer fails, neglects or refuses to install and adopt such safety devices or appliances in any employment or place of employment to the satisfaction of the Board, or where under the circumstances the Board is of the opinion that conditions of immediate danger exist in any employment or place of employment that would be likely to result in injury to any person, the Board may, in its discretion, order the employer forthwith to close down the whole or any part of such employment or place of employment and the industry carried on therein, and the Board shall notify the employer of the order, and a copy of the order, to be provided by the Board, shall, if the Board so requires, be posted by the employer in a conspicuous place upon the employer's premises.

(6) Where an employer fails to obey an order given under subsection (5), the Board may apply to the Supreme Court by way of originating notice, on not less than three days' notice, for an injunction or other order and the Court may grant or refuse the injunction or other order or make any other order that in its opinion the justice of the case requires.

(7) Nothing in subsection (5) takes away or abridges any of the powers and duties of the Provincial Board of Health or local boards of health as constituted under *The Public Health Act*, and the Board or any member of it or any officer appointed by it may forthwith report to the Provincial Board of Health any breach of *The Public Health Act* or regulations of the Provincial Board of Health made under that Act.

(8) Where an accident causing injury or death to a worker in respect of which compensation is payable has occurred and where, in the opinion of the Board, the injury or death was due entirely or mainly to the failure of an employer to comply with an order given under subsection (3) or with the regulations, the Board may levy and collect from the employer as a contribution to the Accident Fund,

a sum of money not exceeding one-half of the costs of the claim in respect of the injury or death as set out in section 60, and the payment of that sum may be enforced in the same manner as the payment of an assessment may be enforced.

(9) In the case of the death of a worker the costs of the claim within the meaning of subsection (8) shall be deemed to be the average amount apportioned to the accident as directed by the provisions of section 41.

88. (1) No employer in an industry over which the Board has jurisdiction with respect to accident prevention shall

- (a) commence or recommence the construction of a manufacturing or processing plant, bridge, reservoir, tunnel, transmission line, pipe line or major commercial or public structure, or
- (b) commence the operation of any manufacturing process in a plant or establishment or recommence its operation after the same has been shut down for more than seven months last preceding, or
- (c) commence work upon trenches or excavations of a nature specified in the regulations,

unless leave therefor is obtained from the Board in the manner provided in this section.

(2) Application for leave shall be made to the Board in writing and shall set out the location of the construction project, plant or establishment and the date of the proposed commencement or recommencement.

(3) Upon receipt of the application the Board shall cause the construction project, plant or establishment to be inspected and if the working conditions are found to be safe the Board shall grant leave for the commencement or recommencement of the project, or of the operation of the plant or establishment.

(4) Pending inspection the Board may, by a temporary permit, grant leave to the employer to commence or recommence work on the construction project or in the plant or establishment.

89. (1) The Board shall engage in and carry on education and instruction in accident prevention and first aid work of workers and others, and may impart such education and instruction by demonstration, exhibits, lectures, classes or otherwise, and shall hold examinations and issue certificates to persons whom it considers sufficiently skilled in such matters to warrant the issue to them of such certificates.

88. Permission to commence or recommence certain industries.

89. Accident prevention education.

(2) Certificates issued by the Board under subsection (1) may be cancelled by the Board at any time when, in its opinion, the holder thereof does not continue to have the necessary qualifications in accident prevention and first aid work.

90. (1) Employers, whenever required by the Board to do so, shall at their own expense install, maintain and provide such first aid appliances and service as the Board may direct, and after having done so shall advise the Board accordingly.

(2) Every employer shall keep in a book provided and kept for that purpose only, a record of all cases in which first aid treatment has been given to a worker for or in respect of any injuries suffered by him.

(3) The record shall set out the name of the worker, the nature of the injuries, the date they were suffered, the date they were treated, the nature of the treatment and the name and address of the person giving the treatment.

(4) Every such book shall be open at any and all times to inspection by the Board or any member or representative thereof or by an injured worker concerned or his representative.

91. (1) The employers in any class may, with the approval and under the control of the Board, form themselves into an association for the purpose of education in accident prevention.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve rules of operation and, when approved by the Board and by the Lieutenant Governor in Council, they are binding on all the employers in industries included in the class.

(3) Where an association under the authority of its rules of operation appoints an inspector or an expert for the purpose of education in accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the Accident Fund or out of that part of it that is at the credit of any one or more of the classes as the Board considers just.

(4) The Board may, in any case that it considers proper, make a grant towards the expenses of any such association.

(5) Any moneys paid by the Board under this section shall be charged against the class represented by the association and levied as part of the assessment against the class.

(6) The word "class" in this section includes subclass or such part of a class or such number of classes or parts of classes as may be approved by the Board.

90. First aid.

91. Accident prevention associations.

PART 11

OFFENCES AND PROHIBITIONS

92. (1) Any person who contravenes any of the provisions of this Act or any regulations or orders made hereunder for which no other penalty is provided is guilty of an offence and liable on summary conviction to a fine of not less than \$25 nor more than \$100 and in default of payment to imprisonment for a term not exceeding three months.

(2) Any person who is convicted for contravening any of the provisions of this Act or the regulations or orders of the Board and who fails after the conviction to comply with the provisions of this Act or the regulations or orders of the Board for the breach of which he was convicted, is guilty of an additional offence and liable on summary conviction to a fine of not less than \$25 nor more than \$100 a day for each day his failure or default continues, and in default of payment, to imprisonment for a term not exceeding six months.

(3) All fines imposed pursuant to this Act shall, when collected, be paid over to the Board and form part of the Accident Fund.

(4) No prosecution shall be instituted for a contravention of any of the provisions of this Act except by some person appointed by the Board.

(5) In any prosecution for a contravention of any of the provisions of this Act or the regulations whereby any person is required to transmit to the Board any statement or report or to pay to the Board any assessment or other amount, or where it is sought to prove service of any notice, order or other document by the Board upon an employer, worker or other person, a certificate under the hand of the secretary and under the seal of the Board, certifying that the statement or report or payment has not been received by the Board or that the notice, order or other document has been duly served upon the person for whom it was intended, is, unless otherwise provided in this Act, prima facie proof of the matters therein certified.

93. (1) Except as authorized by this Act, it is not lawful for any employer, either directly or indirectly, to deduct from the wages of his workers any part of any sum that he is or might become liable to pay to the Board or to require or to permit any of his workers to contribute in any manner towards indemnifying him against any liability that he has incurred or might incur under this Act.

(2) A worker may not agree with his employer to waive or to forego any of the benefits to which he or his depen-

92. General penalty.

93. Unauthorized deduction of amount from worker's wages.

dants might become entitled under this Act, and every agreement to that end is void.

(3) Except as otherwise provided in this Act, no sum payable as compensation or by way of commutation of any periodical payment in respect of it, is capable of being assigned, charged or attached, unless the Board gives its approval.

(4) When compensation payments have been made by the Board to a worker beyond the period of his disability or to a worker or 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 worker 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.

94. (1) The provisions of any previous *Workmen's Compensation Act* of Alberta shall be deemed to be of full force and effect insofar as they relate to any benefits provided or any right to the provision of benefits granted thereunder except to the extent that those benefits or rights are expressly modified or revoked by a subsequent *Workmen's Compensation Act* or amendments thereto or by this Act.

(2) Claims in respect of accidents occurring prior to January 1, 1974 shall be administered under and in accordance with the law in effect at the time the accident occurred.

95. *The Workmen's Compensation Act* is hereby repealed.

96. This Act comes into force January 1, 1974.

94. Transitional.

95. This Bill will repeal chapter 397 of the Revised Statutes of Alberta 1970.