

1981 BILL 37

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 37

THE WORKERS' COMPENSATION ACT, 1981

HON. BILL W. DIACHUK

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

THE WORKERS' COMPENSATION ACT, 1981

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Bill 37
Hon. Bill W. Diachuk

BILL 37

1981

THE WORKERS' COMPENSATION ACT, 1981

(Assented to _____, 1981)

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

Definitions

1(1) In this Act,

(a) "accident" means an accident that arises out of and occurs in the course of employment in an industry to which this Act applies and includes

(i) a wilful and intentional act, not being the act of the worker who suffers the accident,

(ii) a chance event occasioned by a physical or natural cause,

(iii) disablement, and

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

(a.1) "Accident Fund" means the fund referred to in section 85;

(b) "Board" means The Workers' Compensation Board;

(c) "child" includes a child born out of wedlock, a grandchild, the child of a spouse by a former marriage, and any other child to whom the worker stood in loco parentis;

(d) "compensation" includes medical aid and vocational rehabilitation;

(e) "construction" includes reconstruction, repair, alteration, renovation, painting, decorating and demolition;

(f) "dependant" means a member of the family of a worker who was wholly or partially dependent on his earnings at the time of his death or who, but for the death or disability due to the accident, would have been so dependent, but a person is not a partial dependant of another person unless he was partially dependent on contributions from that other person for the provision of the ordinary necessities of life;

(g) "dependent child" means a dependent child who is under the age of 18 years;

(h) "employer" means

(i) an individual, firm, association, body or corporation that has, or is deemed by the Board or this Act to have, one or more workers in his or its service and includes a person considered by the Board to be acting on behalf of that individual, firm, association, body or corporation,

(ii) a partner in a partnership or a proprietor whose application has been approved under section 10,

and includes the Crown in right of Alberta and the Crown in right of Canada insofar as the latter, in its capacity as employer, submits to the operation of this Act;

(i) "employment" means employment in an industry;

(j) "fatal accident" means an accident causing the death of a worker under circumstances that entitle his dependants, if any, to compensation under this Act;

(k) "industry" means an establishment, undertaking, trade or business, whether it is carried on in conjunction with other occupations or separately;

(l) "invalid" means a person who is incapable of becoming gainfully employed due to physical or mental incapacity;

(m) "learner" means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry to which this Act applies for the purpose of undergoing testing, training or probationary work preliminary to employment in an industry to which this Act applies;

(n) "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 materials, goods, articles or commodities;

(o) "medical aid" includes medical and other services provided by a person licensed to practise the healing arts in Alberta, and

nursing, hospitalization, drugs, dressing, x-ray treatment, special treatment, appliances, apparatuses, transportation and any other matters and things that the Board authorizes or provides;

(p) “member of a family” means a spouse, parent, grandparent, step-parent, child, step-child, brother, sister, half-brother and half-sister of a worker;

(q) “Minister” means the member of the Executive Council charged with the administration of this Act;

(r) “net earnings” means net earnings as defined in the regulations;

(s) “occupational disease” means occupational disease as defined in the regulations;

(t) “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;

(u) “physician” means a person licensed to practise any of the healing arts in Alberta;

(v) “proprietor” means

(i) an individual who owns and operates a business

(A) the intangible assets of which, including goodwill but excluding any value associated with and attributable solely to the individual, are not negligible, or

(B) the general business activity of which generally involves working for more than 1 employer, and

(ii) any other individual who is deemed by a direction or order of the Board to be a proprietor;

(w) “secretary” means secretary of the Board;

(x) “wages”, “payroll” or “payroll statements”, include any other relative or descriptive terms when an assessment under this Act is based on them;

(y) “worker” means a person who enters into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes

(i) a learner, and

(ii) any other person who, under this Act or under any direction or order of the Board, is deemed to be a worker;

(z) "year" means a calendar year unless the Board directs otherwise.

(2) A reference in this Act to a payment to a person also applies to a payment to another person for or on behalf of that person.

(3) For the purposes of this Act, "spouse" includes a common law spouse who cohabited with the worker for

(a) at least the 5 years immediately preceding the worker's death, or

(b) at least the 2 years immediately preceding the worker's death, if there is a child of the common law relationship,

but if, at the time of the worker's death there is also a legal spouse of the worker, then

(c) if the legal spouse is a dependent legal spouse, that spouse is the dependent spouse for the purposes of a pension under section 64,

(d) if the legal spouse is not a dependent legal spouse, the common law spouse is the dependent spouse for the purposes of a pension under section 64, and

(e) nothing in this subsection affects the rights under this Act of dependent children of either relationship.

PART 1

WORKERS' COMPENSATION BOARD

Continuation and membership of Board

2(1) The Workers' Compensation Board previously established is continued as a corporation.

(2) The Board shall consist of not less than 3 members appointed by the Lieutenant Governor in Council, 1 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) On 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) The members of the Board shall devote their full time to their duties under this Act.

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

(2) The chairman may authorize a panel of any 2 or more members to conduct a hearing on behalf of the Board and those members may exercise the powers of the Board necessary for that purpose.

(3) A decision of a panel of members acting pursuant to subsection (3) is a decision of the Board.

Vacancies on Board **4(1)** In the case of illness or absence 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 or any other member, the Lieutenant Governor in Council may appoint an acting chairman or an acting member, and the person so appointed has all the powers and shall perform all the duties of the chairman or the member, as the case may be.

Office and meetings **5** The office of the Board shall be situated at Edmonton and meetings of the Board shall be held in Edmonton, Calgary or any other place the Board directs.

Staff **6(1)** The Board may appoint the employees it considers necessary for carrying out this Act and the regulations and may prescribe their duties and fix their remuneration.

(2) An employee appointed by the Board holds office during pleasure of the Board.

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

Acquisition of property **7** The Board, with the approval of the Lieutenant Governor in Council, may acquire real property and sell, lease or otherwise dispose of it.

Advisory committee **8(1)** 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 authorize, fix and provide for the payment of remuneration and expenses to members of the committee.

(2) 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 that regard to the Minister.

(3) The advisory committee shall, in addition to its duties under subsection (2), consider and make recommendations to the Minister on any matters the Minister refers to it.

PART 2

JURISDICTION OF BOARD

Application of Act **9**(1) 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.

(2) The Board may, on the terms and conditions it considers appropriate, by order declare that this Act applies to the following classes of persons:

(a) persons temporarily employed in preventing, combatting or alleviating the effects of any emergency or disaster whether or not remuneration is paid for that employment;

(b) persons who are engaged on a voluntary basis as firemen, ambulance drivers, ambulance attendants or in a similar activity undertaken in the public interest whether or not remuneration is paid for that activity.

(3) For the purposes of subsection (2), “disaster” and “emergency” have the meanings assigned them in *The Disaster Services Act*.

(4) The Board may, on application by an employer or prospective employer proposing to engage persons in any volunteer activity in which the remuneration, if any, is nominal, order that those persons are deemed to be workers to whom this Act applies.

Application to have Act apply **10**(1) Compensation is not payable under this Act to an employer, a partner in a partnership, a proprietor or a director of a corporation unless an application in respect of that person is made to the Board to have this Act apply to him as a worker and the Board approves that application in accordance with the regulations.

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

(3) The Board may at any time revoke an approval given under this section and, on the revocation, the person referred to in the revocation ceases to be a worker to whom this Act applies as of the effective date of the revocation.

Persons deemed workers **11** The Board may, in its discretion or on the application of a principal, by order deem any persons or classes of persons performing work for or for the benefit of that principal or on his behalf to be his workers.

Jurisdiction of Board

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) The Board has authority to reconsider any matter that it has dealt with and to rescind or amend any decision or order previously made by it.

(4) Each matter shall be decided on the 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 Court of Queen's Bench 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.

Investigation by Board

13(1) In this section, "employer" includes a person who the Board considers might be an employer.

(2) The Board or a person authorized in writing by the Board for the purpose may on its or his own initiative or on complaint of a person interested, investigate any matter concerning the due administration of this Act.

(3) For the purposes of an investigation under subsection (2), the Board or authorized person

(a) may inquire into and examine

(i) the business affairs of an employer involved in the matter under investigation,

(ii) the books, files, papers, documents, correspondence, records or other things in relation to or connected with an employer involved in the matter under investigation

as they relate to the subject matter of the investigation, and may give to the employer or his agent notice in writing requiring him to bring and produce before the Board or authorized person at

a place and time stated in the notice, which time shall be at least 10 days after the giving of the notice, all books, files, papers, documents, correspondence, records and other things in his custody, possession or control that are relevant to the matter under investigation,

(b) may take possession of, examine and remove and take extracts from or obtain reproduced copies of any of the things referred to in clause (a), and

(c) may enter, inspect and examine at all reasonable times any premises or other place, other than a private dwelling, in which an employer carries on business.

(4) If a person

(a) fails to comply with a notice under subsection (3)(a), or

(b) refuses to permit a person conducting an investigation to enter, inspect and examine a premises or place in accordance with subsection (3)(c),

the person making the investigation may apply to the Court of Queen's Bench by originating notice and the Court may make any order it considers necessary requiring the person to comply with the notice or permit the entry, inspection or examination.

(5) A copy of the originating notice, and each affidavit in support, shall be served not less than 3 days before the date named in the notice for hearing the application.

(6) A person who, pursuant to subsection (3)(b), removes any of the things permitted by that subsection to be removed shall

(a) give to the person from whom the things were taken a receipt for the things taken, and

(b) forthwith make copies of, take photographs of or otherwise record the things removed and forthwith return them to the person to whom the receipt was given under clause (a).

Offence

14 A person who

(a) fails to make prompt and explicit answers to an inquiry made under section 13(3)(a),

(b) fails to comply with a notice given under section 13(3)(a),

(c) prohibits or interferes with the examination or removal of anything under section 13(3), or

(d) otherwise obstructs, hinders or interferes with the Board, or a person acting on its behalf, in the making of an investigation under section 13

is guilty of an offence.

General powers on investigation

15 For the purposes of conducting an investigation under this Act, the Board or other person conducting the investigation has all the powers, privileges and immunities of a commissioner appointed under *The Public Inquiries Act*.

Compensation in place of action

16(1) No action lies for the recovery of compensation under this Act and all claims for compensation shall be determined by the Board.

(2) This Act and the regulations apply in lieu of all rights and causes of action, statutory or otherwise, to which a worker, his legal personal representatives or his dependants are or might become entitled against the employer of the worker by reason of any accident happening to the worker, and no action in respect of that accident lies against the employer.

(3) Any party to an action may, on notice to the other parties, apply to the Board for determination of whether a worker who is a party to the action is entitled to compensation under this Act and the regulations.

Subrogation by Board

17(1) If an accident happens to a worker 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 representatives or his dependants to an action against some person other than an employer or worker in an industry to which this Act applies in respect of the personal injury to or death of the worker, the Board is subrogated to the rights of the worker, his legal personal representatives or his dependants in respect of that cause of action.

(2) When the Board becomes subrogated to the rights of a worker, his legal personal representatives or his dependants under subsection (1),

(a) no payment or settlement shall be made to or with the worker, his legal personal representatives or his dependants for or in respect of those rights or for or in respect of any claim, cause of action or judgment arising out of them 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 the death of the worker may, with the consent of the Board and on the terms that are satisfactory to the Board, be taken by the worker, his legal personal representatives or his dependants, or by the Board in the name of the worker, his legal personal representatives or his dependants, 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 representatives and his

dependants from and against all costs and damages incurred in respect of that action, including costs and damages awarded by the court to the defendant, but excluding any costs that have been incurred by the worker, his legal personal representatives or his dependants without authority of the Board, and

(d) the Board may at any time, whether or not an action has been taken by the Board, the worker, his legal personal representatives or his dependants, and whether or not judgment has been given in any action, effect a settlement of the claim for any amount it considers advisable.

(3) If the Board gives its consent under subsection 2(b), the legal costs incurred on behalf of the worker, his legal personal representatives or his dependants in taking the action shall be paid by the Board in the amount prescribed in the regulations unless the legal representative of the worker, or the worker's legal personal representatives or dependants satisfy the Board that that amount is insufficient, in which case the Board may increase the amount.

(4) If in any action in which the Board is subrogated to the rights of the worker, his legal personal representatives or his dependants, payment into court is made pursuant to the Alberta Rules of Court, the clerk of the Court, on 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.

(5) If money is received by the Board because it is subrogated to the rights of a worker, his legal personal representatives or his dependants,

(a) the Board may accept the money and give a receipt for it and, if 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, his legal personal representatives 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% of the gross amount received by the Board, but in any case when payment is made to the worker under clause (b), payment to the worker under this clause shall be made only to the extent by

which 25% of the money received exceeds the payment made to the worker under clause (b), and

(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 the amounts, if any, 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 representatives or his dependants, as the case may be.

Circumstances removing cause of action

18(1) If an accident happens to a worker entitling him or his dependants to compensation under this Act, neither the worker, his legal personal representatives, his dependants nor his employer 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 employer, or
- (b) against any worker of an employer,

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

(2) In an action taken pursuant to section 17(2)(b) and arising out of injury to or death of a worker, a defendant may not bring 3rd party or other proceedings against any employer or worker whom the plaintiff may not, by reason of this section bring an action against, but if the court is of the opinion that that employer or worker, by his fault or negligence, contributed to the damage or loss of the plaintiff, it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

PART 3

COMPENSATION

ENTITLEMENT, APPLICATION AND PAYMENT

Eligibility for compensation

19(1) Subject to this Act, compensation under this Act is payable

- (a) to a worker who suffers personal injury by an accident, unless the injury is attributable primarily to the serious and wilful misconduct of the worker, and
- (b) to the dependants of a worker who dies as a result of an accident.

(2) The Board shall pay compensation under this Act to a worker who is seriously disabled as a result of an accident notwithstanding

that the injury is attributable primarily to the serious and wilful misconduct of the worker.

(3) If a worker is found dead at a place where the worker had a right, during the course of his employment, to be, it is presumed that his death was the result of personal injury by accident arising out of and during the course of his employment, unless the contrary is shown.

(4) If the accident arose out of the employment, unless the contrary is shown, it is presumed that it occurred during the course of the employment, and if the accident occurred during the course of the employment, unless the contrary is shown, it is presumed that it arose out of the employment.

(5) If 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 are, for the purposes of this Act, deemed to be part of his employment.

(6) If a worker suffers disablement from or because of any occupational disease and at some time during the 12 months preceeding the disablement was employed in the industry or process deemed by the regulations to have caused that disease, the disease is deemed to have been caused by that employment unless the contrary is shown.

(7) If a worker suffers disablement or potential disablement caused by an occupational disease, the date of the accident for the purposes of this Act is deemed to be

(a) in the case of disablement, the date the disablement occurs, and

(b) in the case of potential disablement, the date the potential disablement comes to the Board's attention.

Payment of
compensation

20(1) If an accident does not disable a worker for longer than the day of the accident,

(a) the employer shall, by the end of the next regularly scheduled pay period after that day, pay compensation to the worker for that day in an amount equal to the minimum normal net wage the worker would have received for that day if he had not been disabled and had been available for work in the normal course, and

(b) the Board is not responsible for providing compensation to the worker, other than medical aid, for that day.

(2) If an accident disables a worker for longer than the day of the accident, the Board shall pay compensation to the worker from and including the day following that day but excluding any day on which the worker would not have worked in the normal course of his employment or for which he would not have been paid.

(3) An employer may refuse to make a payment under subsection (1)(a) until the worker provides to him a report from a physician of the worker's choice stating that the injury resulting from the accident was the cause of the consequent absence of the worker from work.

(4) No employer shall deduct sick pay entitlement or otherwise reduce the usual benefits to which the worker is entitled by reason of the employer having to make a payment under subsection (1)(a).

(5) If an employer contravenes subsection (1)(a), the Board

(a) may pay to the worker the amount due under that subsection, and in that case the employer is liable to repay to the Board the amount so paid, and

(b) may impose a fee of not more than \$100 on the employer each time the Board makes a payment under clause (a).

Time limits for claims

21(1) Subject to subsection (2), the Board shall not pay compensation

(a) to a worker unless the worker makes a claim to the Board within 12 months after the date of the accident, or

(b) to a dependant unless the dependant makes a claim to the Board within 12 months after the date of death of the worker.

(2) If a worker or dependant does not make a claim within the time prescribed by subsection (1), the Board may nevertheless pay compensation if it is satisfied there are reasonable and justifiable grounds for the claim not being made within the prescribed time.

Intervention by Lieutenant Governor in Council

22 Notwithstanding anything in this Act, if, after considering the report and recommendations of the Ombudsman, 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 the worker from the Accident Fund an amount that the Lieutenant Governor in Council considers appropriate, or

(b) to refer the matter to the Court of Queen's Bench for an assessment of damages and to pay to the worker from the Accident Fund the amount of any damages so assessed.

Out-of-province accidents

23(1) If an accident 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 normal

course, the work or service the worker performs is required to be performed both in and out of Alberta,

(c) the employment out of Alberta is a continuation of the employment by the same employer in Alberta, and

(d) subject to subsection (2), the employment out of Alberta has lasted less than 12 continuous months.

(2) The Board may, on application by an employer extend for further periods of 12 months or less the period referred to in subsection (1)(d).

(3) If, by the law of the jurisdiction 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 shall elect

(a) to claim compensation or the other remedy under the law of the other jurisdiction, or

(b) to claim compensation under this Act,

and shall give notice of that election to the Board under subsection (4), but if there is in existence an agreement under section 24, the right of election is subject to the terms of that agreement.

(4) Subject to subsection (5) notice of election shall be given to the Board

(a) by the worker within 30 days after the happening of the accident, or

(b) if the accident results in death, by a dependant within 30 days after the death,

and if notice of election is not given in accordance with this subsection, the worker or dependant is deemed to have elected not to claim compensation under this Act.

(5) The Board may, on application either before or after the expiration of the 30-day period referred to in subsection (4), extend that period.

(6) If a worker or dependant elects under subsection (3) to claim compensation under this Act and at any time claims compensation or some other remedy under the law of another jurisdiction in respect of the same accident, the worker or dependant is deemed to have forfeited all rights to compensation under this Act in respect of that accident, and any money paid to him or on his behalf by the Board in respect of it constitutes a debt due from him to the Board.

(7) Subsection (6) does not affect the right to compensation of a

worker or dependant who takes an action at the request of the Board under section 26.

(8) Notwithstanding subsection (6), if a worker or dependant, before claiming compensation under this Act, and in ignorance of his rights or the extent of his rights under this Act, claims compensation under the law of the other jurisdiction where the accident happened and is found to be not entitled to compensation, the worker or dependant is deemed not to have forfeited his rights under this Act by reason only of making that claim.

Agreements with other provinces

24(1) The Board may enter into an agreement with the Workers' Compensation Board or similar body in another province to provide for the payment of compensation 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 is performed in that other province, in order to ensure that those workers or their dependants receive compensation either in conformity with this Act or in conformity with the Act in force in the other province relating to workers' compensation and to avoid a duplication of assessments.

(2) Payment out of the Accident Fund of money required to be paid pursuant to an agreement under subsection (1) may be made to the Workers' Compensation Board or other body with which the agreement has been made, and all money received by the Board pursuant to the agreement shall be paid by it into the Accident Fund.

Cost sharing agreements

25(1) The Board may enter into an agreement with the government of Canada or with the appropriate authority in any province providing for the sharing of the costs of claims in proportion to the exposure or estimated amount of exposure to probable causes of the injury giving rise to the claims encountered by the claimants within their respective jurisdictional areas.

(2) All money paid or received by the Board pursuant to any agreement under subsection (1) shall be paid out of or into the Accident Fund, as the case may be, by the Board.

Right of action outside of Alberta

26(1) If a worker or dependant entitled to compensation under this Act has a right of action in a jurisdiction other than Alberta in respect of personal injury to or death of the worker,

(a) the Board may request the worker or dependant to take an action in that other jurisdiction, and

(b) the worker or dependant shall assign his right to damages recoverable, and all damages that he recovers, under that action to the Board

and the Board may withhold payment of compensation to the worker or dependant until he takes the action or makes the assignment, as the case may be.

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

Notice by worker

27(1) If a worker

- (a) suffers personal injury by an accident, or
- (b) regardless of whether he is injured, is, as a result of an accident, entitled to medical aid under Part 4 that is not covered by *The Alberta Health Care Insurance Act*,

the worker shall, as soon as practicable after the accident, give notice of the accident in accordance with the regulations

- (c) to the employer, and
- (d) to the Board, if the injury disables or is likely to disable the worker for more than the day of the accident.

(2) If a worker suffers an accident that results in his death, his dependant shall, as soon as practicable after the accident, give notice of the accident in accordance with the regulations to the employer and to the Board.

(3) A worker or dependant who fails to give notice as required by subsection (1) is not entitled to compensation under this Act unless the Board is satisfied

- (a) that notice for some sufficient reason could not have been given,
- (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 claim and should be allowed for any other reason.

Notice by employer

28(1) An employer who receives notice of an accident under section 27 or otherwise acquires knowledge of the happening of such an accident or of an allegation of the happening of such an accident

(a) shall forthwith record the particulars of the accident or allegation of the happening of an accident in the form and manner prescribed by the regulations,

(b) shall, if the accident disables or is likely to disable the worker for more than the day of the accident,

(i) give notice of the accident or of the allegation of the happening of the accident to the Board within 24 hours after

he acquires knowledge of the accident or the allegation and shall give a copy of that notice to the worker, and

(ii) if he acquires knowledge that the worker has returned to work or is able to return to work, give notice of that fact to the Board within 24 hours after he acquires knowledge of it,

(c) shall, if the accident is one to which section 27 (1)(b) applies, give notice of the accident or of the allegation of the happening of the accident to the Board within 24 hours after he acquires knowledge of the accident or the allegation, and

(d) shall provide the Board with any other information it requires in connection with the accident.

(2) An employer who, without reasonable cause, contravenes subsection (1) is liable to pay to the Board the sum of up to \$100 for each day the contravention continues, up to a maximum of \$500.

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

(a) to give any notice or provide any information required by this section, or

(b) to reply to the Board's communication in regard to the injured worker within 30 days of the date of that communication,

the Board may investigate the injury and the facts and circumstances surrounding it and may charge the costs of the investigation to the employer or other person.

Report by
physician

29(1) A physician who attends an injured worker shall

(a) forward a report to the Board

(i) within 2 days after the date of his first attendance on the worker if he considers that the injury to the worker will or is likely to disable him for more than the day of the accident or that it may cause complications that may contribute to disablement in the future, and

(ii) at any time when requested by the Board to do so,

(b) advise the Board when, in his opinion, the worker will be or was able to return to work, either in his report referred to in clause (a)(i) or in a separate report forwarded to the Board not later than 3 days after the worker was, in his opinion, so able, and

(c) without charge to the worker, give all reasonable and necessary information, advice and assistance to the worker and his dependants in making a claim for compensation and in furnishing

any certificates and proofs that are required in connection with the claim.

(2) The Board shall pay an attending physician fees prescribed by the regulations for a report under this section.

(3) A report made or submitted to the Board under this Act by a physician or hospital is for the use and purpose of the Board only, and is 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 that person.

(4) 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 for compensation by the worker or acceptance of a claim by the Board.

Progress report **30** On 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.

Board's entitlement to information **31** The Board may require from any person entitled to compensation, whether a worker or dependant, particulars of his place of residence, address and other information relative to the disability and compensation, that it considers necessary, and pending the receipt of those particulars the Board may withhold compensation payments.

Inspection of records **32** A record required to be kept under *The Occupational Health and Safety Act* or the regulations under that Act to record cases in which first aid treatment is given to a worker for or in respect of any injuries suffered by the worker, is open to inspection by the Board or any member or representative of the Board and by the injured worker or his representative.

Medical examination and investigation **33(1)** A worker claiming compensation or to whom compensation is payable under this Act shall, if the Board requires it, undergo a medical examination by a physician selected by the Board and at a time and place determined by the Board and the Board shall pay the costs of that examination to the extent that they are not paid for under *The Alberta Health Care Insurance Act*.

(2) If a worker contravenes subsection (1) or in any way obstructs an examination,

(a) his right to compensation is suspended until the examination has taken place, and

(b) his condition as found by the examination shall, unless the Board otherwise directs, be deemed to have been his condition at the date for which the examination was called.

(3) If a worker claims compensation under this Act the Board, in

order to assist it in determining the worker's entitlement to compensation, may

(a) require that a medical investigation be conducted in respect of the worker in the manner it considers necessary, or

(b) accept the results of a medical investigation already conducted in respect of that worker,

and, in either case, the Board may pay the costs of the investigation.

(4) While a medical investigation is being conducted under subsection (3), the Board may pay compensation to the worker notwithstanding that his entitlement to it has not yet been determined.

Employer may
require medical
examinations

34(1) At the written request of the employer of a worker who claims compensation or to whom compensation is payable under this Act, the Board may require the worker to undergo a medical examination by a physician selected by the Board.

(2) If a worker fails to undergo 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) Any part of the expense of the examination that is not paid for under *The Alberta Health Care Insurance Act*, and the reasonable expenses of the worker in connection with the examination shall be borne by the employer and, if the employer fails to pay those expenses, the Board may pay the expenses and the employer is liable to pay the Board the amount so paid.

Board may require
autopsy

35 If the Board considers an autopsy to be necessary to assist in determining the cause of death of a worker, the Board may direct that the autopsy be conducted within a time fixed by the Board, and if the dependants of the worker refuse to permit the autopsy, the Board may reject any claim for compensation under this Act.

Hospital authority
must report death.

36 If the death of a worker to whom this Act applies occurs while he is confined to a hospital, the hospital authority shall immediately report the death to the Board.

Application for
compensation

37 An application for compensation under this Act shall be dealt with and determined in the first instance on behalf of the Board by a claims adjudicator employed by the Board.

Evaluation of
disability

38(1) If permanent disability results from an accident, the evaluation of the worker's disability shall be made on behalf of the Board by 1 physician and 1 claims adjudicator employed by the Board.

(2) Permanent total disability shall be conclusively presumed in all cases in which the injuries suffered consist of or include any or all of the following:

- (a) total and permanent loss of the sight of both eyes;
- (b) the loss of both feet at or above the ankle;
- (c) the loss of both hands at or above the wrist;
- (d) the loss of 1 hand at or above the wrist and 1 foot at or above the ankle;
- (e) an injury to the spine resulting in permanent and complete paralysis of both legs, both arms or 1 leg and 1 arm;
- (f) an injury to the central nervous system resulting in mental incompetence that renders the worker incapable of being gainfully employed.

Notice of decision **39** On the making of a determination as to the entitlement of a worker or his dependant to compensation under this Act, the employer and the worker or, in the case of his death, his dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.

Review of decision **40(1)** On the written request of any person who has a direct interest in a claim for compensation under this Act, the Board shall cause the record of the claim to be reviewed by a claims services review committee appointed by the Board.

(2) The claims services review committee shall consist of not less than 3 persons, none of whom shall be the claims adjudicator or the physician referred to in section 37 or 38.

(3) A panel of at least 2 members of the claims services review committee may conduct a review under this section, and a decision of the panel is a decision of the committee.

(4) The claims services review committee shall receive representations on behalf of all interested parties and may confirm, vary or reverse any decision made in respect of the claim.

(5) For the purposes of a review, the claims services review committee may require the worker or his dependant, if the dependant is claiming compensation, to undergo a medical examination by a physician not employed by the Board and, in that case, section 33 applies.

Appeal to members of Board **41(1)** If an interested party is dissatisfied with a decision of the claims services review committee, he may appeal to the members of the Board in accordance with the regulations.

(2) In considering an appeal from a decision of the claims services review committee, the members of the Board shall consider the records of the claims adjudicator and the review committee relating to the claim and shall give all interested parties an opportunity to be heard and to present any new or additional evidence.

(3) The members of the Board may confirm, vary or reverse the decision appealed from.

Commutation of periodic payments

42(1) The Board may commute to a lump sum periodic compensation payments to a worker or dependant under this Act.

(2) The fact that the Board makes a lump sum payment to a worker or dependant in full settlement of his claim does not affect his right to compensation under Parts 4 and 5.

(3) In the case of

(a) death or permanent total disability, or

(b) permanent partial disability resulting in greater than 10% impairment of the worker's earning capacity immediately before the accident,

the Board shall not commute any periodic compensation payments except with the agreement of the worker or dependant entitled to them.

(4) A lump sum payment made by the Board shall be computed on the basis of the rate of compensation applicable at the time of the accident that gave rise to the right to compensation.

Lump sum advance

43 The Board may, in any case in which in its opinion the interest or pressing need of the worker or dependant warrants it, advance or pay to the worker or dependant a lump sum that it 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.

Payments to spouse or child

44 If the Board is satisfied

(a) that a spouse or child dependent on the worker and residing in Alberta are without adequate means of support and are or are likely to become a charge on the Government or on the municipality where they reside or on private charity, or

(b) that a spouse or child dependent on 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 for maintenance of the spouse or child or for alimony,

the Board may pay the compensation payable to the worker in whole or in part to the spouse or child.

- Payment for person under disability **45** The Board may, instead of making a payment to the worker or dependant, pay the money to some other person for the benefit of the worker or dependant or direct that the payment be applied in a manner that it considers to be for the best advantage of the worker or dependant if it is satisfied that the worker or dependant is under the age of 18 years, that he suffers from some other disability or incapacity or that for some other reason the money should not be paid directly to the worker or dependant.
- Only 1 pension payable **46** If a person who is receiving or is entitled to receive a pension because of the death of a worker 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 2 pensions.
- Worker leaving Alberta **47** If a worker who is entitled to compensation under this Act leaves Alberta and resides in another jurisdiction, the Board may cease paying compensation under this Act to that worker unless it is satisfied that the disability resulting from the accident is likely to be of a permanent nature.
- Compensation to dependants residing outside of Canada **48** The Board may, in its discretion, pay compensation to a dependant who resides outside of Alberta but no such dependant is entitled to receive greater compensation than he would receive if he were resident in Alberta.
- Reduction or suspension of compensation **49** If a worker conducts himself in a manner that tends to imperil or retard his recovery or refuses to undergo any medical aid that the Board, based on independent medical advice, considers reasonably essential to promote his recovery, the Board may reduce or suspend the compensation payable to that worker.
- Payments to end of month **50** If, under this Act, periodic payments of compensation, other than for temporary disability, are to cease on the happening of an event, the Board shall pay the compensation up to the end of the month in which the event happens.

Disability

- Compensation for disability **51(1)** The Board shall pay compensation
- (a) periodically on a monthly basis in the case of permanent disability,
 - (b) periodically on a bi-weekly basis in the case of temporary disability, or
 - (c) on a basis other than under clause (a) or (b), if the Board considers it appropriate to do so.
- (2)** If an accident causes injury to a worker and results in disablement, the Board shall pay periodic compensation to the worker, and that compensation

- (a) for the first 30-day period shall be based on
 - (i) the worker's actual net earnings at the time of the accident and calculated in accordance with subsections (3) to (9), or
 - (ii) the worker's average net earnings and calculated in accordance with subsections (3) to (9), if that calculation can readily be made at the time of the accident,

whichever is more favourable to the worker, and

- (b) on and from the 31st day, shall be based on the worker's average net earnings and calculated in accordance with subsections (3) to (9).

(3) If, in respect of the first 30-day period, the Board pays compensation to the worker based on his actual net earnings at the time of the accident under subsection (2)(a)(i), and later discovers that it would have been more favourable to the worker to pay compensation to him under subsection (2)(a)(ii), it shall, in respect of that 30-day period, adjust the compensation payable to the more favourable amount.

(4) The calculation of actual net earnings or average net earnings, as the case may be, shall be made separately in respect of each source of employment the worker had at the time of the accident from which he no longer has the ability to earn, or in which his ability to earn is impaired, due to the accident, regardless of whether the source of employment is in an industry to which this Act applies.

(5) For the purposes of this Act, a worker's average net earnings are,

- (a) if the worker was employed for all of the 12 month period immediately preceding the accident, his average monthly or bi-weekly net earnings calculated over that 12 month period,

- (b) if the worker was not employed for all of the 12 month period but was employed for at least the 3 month period immediately preceding the accident, his average monthly or bi-weekly net earnings calculated over the period for which he was so employed, or

- (c) if the worker was not employed for at least the 3 month period immediately preceding the accident, the average monthly or bi-weekly net earnings of another worker in the same grade of employment, calculated over the 12 month period immediately preceding the accident.

(6) In computing net earnings for the purposes of this Act no regard shall be taken of the aggregate gross annual earnings of the worker in excess of \$40 000.

- (7) The amount of the periodic payment of compensation is
- (a) in the case of permanent total disability and temporary total disability, 90% of the worker's actual net earnings or average net earnings, as the case may be, and
 - (b) in the case of permanent partial disability and temporary partial disability, a proportionate part of 90% of the worker's actual net earnings or average net earnings, as the case may be, based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.
- (8) Compensation for permanent total disability and permanent partial disability is payable to the worker during his lifetime and shall not be less than
- (a) in the case of permanent total disability, \$615 per month, and
 - (b) in the case of permanent partial disability, a proportionate part of \$615 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.
- (9) Compensation for temporary total disability and temporary partial disability is payable to the worker for only as long as the disability lasts, and compensation for temporary total disability shall be
- (a) the bi-weekly equivalent of the amount that he would have received under subsection (7) had he been permanently totally disabled, or
 - (b) his average bi-weekly net earnings, if they are less than the sum referred to in subsection (8)(a).

Additional
compensation
payment

52(1) A worker receiving compensation for permanent total disability or permanent partial disability under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that person to the greater of

- (a) \$615 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$615 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and
- (b) the amount of pension that worker would otherwise receive under section 53 of *The Workers' Compensation Act* as at December 31, 1980 plus 20% of that amount.

(2) The cost of any additional amounts of compensation paid under subsection (1) in respect of accidents occurring prior to January 1, 1974 shall be paid to the Accident Fund out of the General Revenue Fund.

Additional
supplement

53(1) Notwithstanding section 52, on and after January 1, 1982, an injured person receiving compensation under a predecessor of this Act for

- (a) permanent total disability, or
- (b) permanent partial disability, if the degree of disability in aggregate is at least 50%,

shall be granted an additional supplement that, together with any other compensation to which he is entitled, will provide a monthly amount equal to that which would have been payable had the scale of compensation in force in 1981 been in effect at the time the accident for which he is receiving compensation occurred.

(2) A supplement under subsection (1) is payable

- (a) until that person reaches the age of 65 years, where the accident occurred before April 1, 1975, or
- (b) during the life of that person, where the accident occurs on or after April 1, 1975.

(3) The amount of a supplement, if any, to which a person is entitled under subsection (1) shall be considered to be part of the compensation he is receiving for the purposes of determining the additional payment, if any, to which he is entitled under section 52.

Inflationary
adjustment to pre-
accident earnings

54 If

- (a) a worker is temporarily disabled for a period of more than 12 months, or
- (b) a period of more than 12 months elapses between the day of the accident and the commencement of temporary disability resulting from the accident

the Board shall, in determining the compensation to which the worker is entitled, adjust the worker's actual net earnings or average net earnings, as the case may be, at the time of the accident by the same percentage as they would be adjusted by if he had been permanently totally disabled at the time of the accident.

Recurrence of
disability

55 The Board may, if

- (a) a worker who was awarded compensation under this Act in respect of an accident ceases to receive that compensation by reason of recovery from the disability,
- (b) there is a recurrence of disability in the form of temporary disability and that disability is due to the same accident,
- (c) the worker has, at the time of recurrence of the disability,

earnings in an amount that is greater than the amount of his actual net earnings or average net earnings, as the case may be, at the time of the accident as adjusted pursuant to section 54, if applicable, and

(d) more than 12 months have elapsed since the date of the accident,

pay compensation on and from the date of the recurrence on the same basis as if the worker had suffered another accident and been disabled on the date of the recurrence of disability.

Reimbursement for special expenses not earnings

56 Payments customarily made by an employer to a worker to cover any special expenses incurred by the worker in the course of his employment shall not be included in computing the worker's actual net earnings or average net earnings, as the case may be, for the purposes of this Act.

Determining impairment of earning capacity

57 In determining the degree of impairment of earning capacity, the Board may consider as a factor the nature of the injury and the physical and mental fitness of the worker to continue in the employment in which he was injured or to adapt himself to some other suitable employment.

Deduction of allowance or benefit from employer

58(1) The Board may, in fixing the amount of compensation payable to a worker, deduct all or part of the amount of any payment, allowance or benefit that the worker will receive from his employer in respect of the period of his disability and the Board may pay all or part of that amount to the employer out of the Accident Fund.

(2) An employer who receives money under subsection (1) shall credit that amount to the account of the worker from whom the deductions were made.

Supplement respecting pre-existing condition

59(1) If a worker suffers permanent disability as the result of an accident and the injury aggravates a pre-existing condition, the Board may, in addition to compensation it pays under this Act in respect of that part of the disability caused by the accident, pay to the worker a supplement in an amount determined by it in respect of that part of the disability caused by the pre-existing condition, subject to the maximum amount payable pursuant to section 51.

(2) A supplement under subsection (1) is payable until the enhanced disability ceases or the worker reaches the age of 65 years, whichever occurs first.

Increase respecting residual disability

60 In the case of an accident causing temporary partial disability, if the Board is satisfied that the worker's net earnings after the accident together with any pension he is receiving under this Act are less than his actual net earnings or average net earnings, as the case may be, calculated under section 51 the Board may, in addition to the compensation payable under that section, pay compensation in an amount up to 90% of the earnings loss, according to what per-

centage of the earnings loss is, in the Board's opinion, caused by the residual disability.

Compensation to learner and apprentice

61(1) If a worker who is a learner is disabled because of an accident, the compensation to which he is entitled shall be calculated on the same basis as if he were, at the time of the accident, a beginner in the industry in which he was a learner.

(2) If a worker who is an apprentice in an industry is disabled because of an accident and is entitled to compensation, the Board may grant him an adjustment in the compensation at the time that he would, in the normal course, have become qualified in his trade.

Increase in compensation on worker reaching 18

62 If a worker was at the time of his accident less than 18 years of age, the Board may, on his reaching the age of 18 years, pay compensation to him on the same basis as if, at the time of the accident, he had been a similarly employed worker who was 18 years of age or older.

Additional compensation for disfigurement

63 If a worker is seriously and permanently disfigured or otherwise permanently injured as a result of an accident the Board may, notwithstanding any other provision in this Act, pay to the worker additional compensation that it considers appropriate in the form of a lump sum or periodic payment in recognition of an impairment of earning capacity caused by the disfigurement or other injury.

Death

Compensation for death

64(1) If a worker dies as a result of an accident and leaves a dependent spouse, a pension is payable to the dependent spouse in an amount equal to the pension the worker would have received had he lived and been permanently totally disabled.

(2) Subject to this section, the pension referred to in subsection (1) shall, where there is a dependent spouse and dependent children, be paid to the spouse for her benefit and the benefit of the dependent children until the month in which the youngest dependent child reaches the age of 18 years, at which time a 5-year term pension is payable to the dependent spouse in the amounts specified in subsection (3).

(3) If the dependent spouse is gainfully employed when the youngest dependent child reaches 18 years of age, the pension under subsection (1) terminates in the month in which the child reaches that age and a 5-year term pension is payable commencing in the month following that month in an amount equal to

- (a) for the 1st 12-month period, the full pension,
- (b) for the 2nd 12-month period, 80% of the full pension,
- (c) for the 3rd 12-month period, 60% of the full pension,

(d) for the 4th 12-month period, 40% of the full pension, and

(e) for the 5th 12-month period, 20% of the full pension

that the worker would have received had he lived and been permanently totally disabled.

(4) If the dependent spouse is not gainfully employed when the youngest dependent child reaches the age of 18 years, the Board may, notwithstanding subsection (2), continue payment of the full pension under subsection (1) after the child reaches that age until

(a) the spouse becomes gainfully employed, or

(b) the expiration of a period of 60 months after the month in which the child reaches the age of 18 years,

whichever occurs first, at which time a 5-year term pension is payable to the spouse in the amounts specified in subsection (3) on and from the month following the month in which the spouse becomes gainfully employed or the 60-month period terminates.

(5) If, during the period of time referred to in subsection (4)(b), the dependent spouse neglects or refuses to accept vocational rehabilitation services provided under subsection (11), the spouse is entitled to receive only a 5-year term pension commencing in the month following the month in which the neglect or refusal occurred and in the amounts set out in subsection (3).

(6) If a worker dies as a result of an accident, leaving a dependent spouse and no dependent children, and if the spouse accepts vocational rehabilitation services provided under subsection (11), the spouse is entitled to a pension in the amount referred to in subsection (1) until

(a) the spouse becomes gainfully employed, or

(b) the expiration of a period of 60 months after the date of death of the worker,

whichever occurs first, at which time a 5-year term pension is payable in the amounts set out in subsection (3) commencing in the month following the month in which the spouse becomes employed or the 60-month period expires.

(7) In a case to which subsection (6) applies, if the spouse is gainfully employed at the time of the worker's death or neglects or refuses to accept vocational rehabilitation services provided under subsection (11), the spouse is entitled to receive only a 5-year term pension payable commencing in the month following the month in which the worker died and in the amounts set out in subsection (3).

(8) If a worker dies as a result of an accident and leaves a dependent spouse and no dependent children, and if the spouse is employed at

the time of the death or thereafter becomes employed, but that employment does not constitute gainful employment, the Board may deduct from the pension payable under this Act an amount not to exceed the amount earned by the dependent spouse from that employment.

(9) If a worker dies as a result of an accident and

(a) leaves dependent children but no dependent spouse, or

(b) leaves a dependent spouse and dependent children, but the spouse later dies,

the pension payable under this section shall be paid to the person who acts as guardian of the dependent children for the maintenance and education of the dependent children until the month in which the youngest child reaches 18 years of age, at which time a 5-year term pension is payable in the amounts set out in subsection (3), to be divided equally among the surviving children who were under the age of 18 years at the time of the worker's death.

(10) If more than 1 person is acting as a guardian under subsection (9), the Board may divide the amount payable under that subsection proportionately among those persons according to the number of children of whom they are the guardian.

(11) The Board may take whatever steps it considers necessary to provide the benefits and services referred to in section 83(1) to a dependent spouse.

(12) Notwithstanding anything in this Act, if the Board considers that a dependent spouse is an invalid or is incapable of substantially benefitting from rehabilitation services or of becoming gainfully employed it may continue payment of the full pension payable under subsection (1), or a percentage of it that the Board considers appropriate, for as long as the dependent spouse remains an invalid or the incapability persists.

Compensation to child not residing with dependent spouse

65 Notwithstanding any payment to a dependent spouse under section 64, the Board may pay compensation to a dependent child of the deceased worker who is not residing with the dependent spouse at the time of the worker's death in an amount not exceeding \$126 per month.

Additional payments to child

66 If a worker dies as a result of an accident and leaves no spouse, or if a surviving spouse subsequently dies or is confined to an institution, prison or correctional institution, the Board may make additional payments of not more than \$60 per month to a dependent child of the worker to assist in his maintenance and support.

Payments to dependants for illness

67 If a worker dies as a result of an accident, the Board may pay to the worker's dependent spouse or dependent child, or both of them, who are in necessitous circumstances because of illness, any additional amount it considers appropriate.

Payments to
dependent children
on death of spouse

68 If, with respect to an accident that occurs before January 1, 1982, the dependent spouse of the worker, on or after January 1, 1982,

- (a) dies,
- (b) marries, or
- (c) enters into a common law relationship and cohabits with the common law spouse for a period of
 - (i) at least 5 years, or
 - (ii) at least 2 years, if there is a child of that common law relationship,

the Board shall pay to each dependent child of the worker who is not being maintained pursuant to section 69(3), compensation at the rate of \$126 per month

- (d) until the child reaches the age of 18 years, or
- (e) 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 worker had he lived, would have continued to contribute to the support of the child.

Additional
compensation

69(1) A dependent spouse or a foster-parent receiving compensation under *The Workers' Compensation Act* in respect of an accident that occurred on or after January 1, 1974 but prior to January 1, 1982 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent spouse or the foster-parent, as the case may be, to the greater of

- (a) \$615 per month, or
- (b) the amount of pension that person would otherwise receive under *The Workers' Compensation Act* as at December 31, 1980, plus 20% of that amount.

(2) A dependent spouse or foster-parent receiving compensation under any predecessor of this Act in respect of an accident that occurred prior to January 1, 1974 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent spouse or to the foster-parent, as the case may be, to \$615.

(3) A dependent child receiving compensation under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that dependent child to the sum of \$126.

(4) A payment under this section continues,

(a) in the case of a dependant child under the age of 18 years, until that child reaches the age of 18 years, or

(b) in the case of a dependant invalid child, irrespective of the age of that child, 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 that child.

Compensation to other dependants

70(1) If the only dependant of a deceased worker is a person other than a dependant spouse or child of the worker, the Board shall pay compensation to him in an amount the Board considers to be reasonable and proportionate to the pecuniary loss caused to him by the death of the worker, subject to the maximum amount payable pursuant to section 51.

(2) The Board may in respect of an accident occurring before January 1, 1982, pay to a dependant referred to in subsection (1) who is receiving compensation in respect of that accident under a predecessor of this Act, an additional amount of compensation determined by the Board to be reasonable and proportionate to the pecuniary loss caused to him by the death of the worker, subject to the maximum amount payable under the predecessor of this Act at the time of the accident, as adjusted pursuant to that Act.

(3) 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.

Cost of pre-1974 accidents

71 The cost of any additional amounts of compensation paid under section 69 or 70(2) in respect of accidents occurring prior to January 1, 1974 shall be paid to the Accident Fund out of the General Revenue Fund.

Funeral and other expenses

72 If a worker dies as a result of an accident for which compensation is payable, the Board shall, subject to the maximum amounts prescribed in the regulations, pay

(a) a sum of money to assist the dependant spouse in defraying costs resulting from the death of the worker, or

(b) the necessary expenses for burial or cremation, including the reasonable cost of transporting the body,

or both (a) and (b).

PART 4
MEDICAL AID

Special operation,
treatment and
apparatus

73(1) If, 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 treatment, the Board may provide that operation or treatment.

(2) If the Board is of the opinion that an injury would be alleviated by the supplying of any apparatus usually provided in such cases, it shall supply the apparatus to the worker.

(3) The Board shall provide for the repair, maintenance or renewal of any apparatus provided by the Board that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear for as long as the disability in respect of which the apparatus was supplied continues.

Clothing allowance

74 The Board may

(a) assume the cost of replacement or repair of articles of clothing, dentures, eye-glasses, artificial eyes or limbs or hearing aids that are lost, damaged or destroyed as a result of an accident, regardless of the date of the accident, and

(b) on application of the worker, pay to the worker an annual amount prescribed by the regulations for the replacement of clothing that is worn or damaged

(i) by reason of the wearing of an upper or lower limb prosthesis or appliance, or

(ii) by use of a wheelchair

required as a result of an accident, regardless of the date of the accident.

Board may provide
additional medical
aid

75(1) In addition to basic health services as defined in *The Alberta Health Care Insurance Act* that are provided to a worker who suffers an accident, the Board may, at the time of the accident and through the period of disability, provide to the worker any additional medical aid it considers reasonably necessary to diagnose, cure or give relief from the effects of the injury.

(2) All questions as to the necessity, character and sufficiency of basic health services or additional medical aid provided under subsection (1) shall be determined by the Board.

(3) The Board shall determine the amount payable to any person in respect of additional medical aid provided under subsection (1) and no action lies against

(a) any person other than the Board for the recovery of any money in connection with that medical aid, or

(b) the Board for any money in excess of the amount determined by it under this subsection to be payable.

Per diem allowance

76 If, under the direction of the Board, a worker is undergoing examination or treatment at a place other than the place where he resides, the Board may pay to him a travel allowance, a subsistence allowance and a wage loss allowance, or any of them, in accordance with the regulations.

Allowance for home care

77 If a worker is disabled and is receiving home care that is, in the opinion of the Board, comparable in the circumstances to nursing home care, the Board may pay an allowance in respect of that home care.

Agreements respecting medical aid

78(1) The Board may do any or all of the following:

(a) contract with physicians, nurses and hospitals or any other persons or institutions for any medical aid that is required by injured workers;

(b) with the approval of the Lieutenant Governor in Council, construct, equip, maintain and operate any hospitals in Alberta that, in the opinion of the Board, are necessary or advisable for the purpose of providing medical aid to injured workers;

(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.

(2) On the establishment of a hospital, institution or clinic under this section, the Board may extend the services of the hospital, institution or clinic to persons other than those entitled to medical aid under this Part, to the extent and on the terms and conditions that it thinks fit.

Worker may select physician

79 If a worker requires medical aid under this Part, the Board may, if it considers it appropriate, permit the worker to select the physician of his choice.

Accounts to Board

80 Accounts for medical aid for which the Board is liable to pay shall be provided to the Board in accordance with the regulations.

No charge to worker for medical aid

81 Medical aid to which a worker is entitled under this Part, whether in the form of basic health services as defined in *The Alberta Health Care Insurance Act* or additional medical aid for which the Board is responsible, shall be provided to or in respect of the worker at no cost to him.

Transportation of injured worker

82(1) An employer shall, at his own expense, furnish to any worker in his employ who suffers an accident and who is in need of it, immediate transportation

(a) to the worker's home, or

(b) if the worker needs medical aid, to a hospital or other medical facility, a physician or any other place that the worker's condition requires.

(2) If an employer

(a) fails to provide transportation to the appropriate place under subsection (1), or

(b) fails to pay the cost of transportation under subsection (1),

the Board may provide the transportation and pay the cost of it and the worker is liable to the Board for the amount so paid.

PART 5

VOCATIONAL REHABILITATION

Board to provide vocational and rehabilitational services

83(1) The Board shall take whatever measures it considers necessary to assist a worker injured in an accident and entitled to compensation to return to work and to lessen or eliminate any handicap resulting from that injury and, without limiting the generality of the foregoing, may offer to do any or all of the following:

(a) provide physical, social and psychological services;

(b) relocate a worker who suffers from an occupational disease and his dependants if in the opinion of the Board a change of industry or occupation is advisable;

(c) provide vocational or other rehabilitation services;

(d) reimburse a worker engaged in a vocational or rehabilitation program his actual and reasonable expenses, including the cost of relocation, if applicable.

(2) If a worker dies as a result of an accident, his dependent spouse is entitled to receive the same benefits and services as would have been available to the worker under subsection (1) had he lived.

(3) The Board may, if it is of the opinion that such action will assist in the rehabilitation of a dependent spouse receiving benefits under section 64, provide that dependent spouse with a pension advance but the total of the term pension payments received and the pension advance shall not exceed the total amount payable under section 64.

PART 6
ACCIDENT FUND AND ASSESSMENTS

- 84** In this Part, “cost of the claim” includes the capital cost of the pension awarded and all amounts expended by the Board in connection with compensation.
- 85(1)** A fund called the “Accident Fund” shall be provided by contributions to be made by all employers in industries to which this Act applies 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 maintained under *The Workers’ Compensation Act* shall be incorporated into and form part of the Accident Fund referred to in subsection (1).
- (3) If at any time there is not sufficient money available in the Accident Fund for payment of the compensation that becomes 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 following assessment under this Part.
- 86(1)** The Provincial Treasurer may, on behalf of the Board, invest any funds arising under this Act or under the control of the Board, in any securities authorized by *The Financial Administration Act, 1977* and may sell and dispose of those securities and reinvest the proceeds of that sale in securities.
- (2) The Board may borrow from a chartered bank, insurance company, trust company or treasury branch.
- 87(1)** The Auditor General is the auditor of the Board.
- (2) The Board shall, on or before May 31 in each year, make a report to the Lieutenant Governor in Council of its business and affairs during the next preceding calendar year.
- (3) The 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 5 years, or in any lesser period the Lieutenant Governor in Council directs, by an independent duly qualified actuary, whose report shall be made to the Board and laid before the Legislative Assembly in the same manner as an annual report under subsection (3).
- 88** An employer in an industry to which this Act applies is liable for payment to the Accident Fund of contributions pursuant to an

assessment made against him and other contributions required of him under this Act.

Separate
experience
accounts for each
employer

89(1) The Board shall maintain separate experience accounts in respect 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) If it appears to the satisfaction of the Board that a worker has been injured or killed due to the negligence of another employer or his worker, the Board may direct that the cost 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 that cost 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 2 or more persons, 1 of whom may be the worker who was injured or killed, the Board may direct

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

Apportionment of
fatal awards

90(1) Subject to the regulations, the costs of capitalized awards made in any year to dependants of deceased workers shall, irrespective of the year in which the accident that caused the death occurred, be apportioned equally among all fatal accidents accepted in that year by the Board.

(2) The capital value of increases in monthly payments to foster parents, dependent spouses and dependent children authorized under section 69(2) and (3) in respect of accidents occurring before January 1, 1974 shall not be included in determining the cost of capitalized awards for the purposes of subsection (1).

General assessment

91(1) In accordance with and for the purposes specified in the regulations, the Board shall assess and levy on employers a sum based on a percentage of payroll or on some other rate that, or a specific sum that, allowing for any surplus or deficit in the class, the Board requires.

(2) For the purposes of assessments under this Act, the Board may

(a) establish classes and subclasses in an industry,

(b) establish differentials and proportions in the rates as between

the different kinds of employment in the same class or subclass as the Board considers proper, and

(c) where any particular industry is shown to be so circumstanced or conducted that the hazard is greater or less than the average of the class or subclass to which the industry is assigned, impose on the industry a special assessment to correspond with the hazard.

Assessment procedure

92(1) An assessment 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) It is not necessary that assessments on 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.

Assessment for purposes of Occupational Health and Safety Act

93 The Board may include in its assessment on employers amounts that will enable the Board to carry out its obligations under section 30 of *The Occupational Health and Safety Act* and pay those amounts to the Provincial Treasurer.

Assessments due

94 Contributions pursuant to an assessment made under this Act are due on January 1 in the year for which the assessment is made, but the Board may collect those contributions in half-yearly, quarterly, monthly or other instalments and if it considers that the amount available in the Accident Fund in respect of a particular class or subclass is sufficient for the time being, abate the contributions or defer collection of them.

Publication of assessment

95(1) The Board shall publish in The Alberta Gazette a notice containing a statement of percentages and rates determined and fixed by the Board and of the industries to which they respectively apply and, subject to subsection (2) and the Board's powers in this Part to subsequently alter the amount of the assessment, that publication constitutes the making of an assessment on, and notice of it to, each employer in an industry named in the notice for the year or other period named in the notice, computed on the payroll of the employer at the applicable percentage or rate set out in the notice.

(2) Publication of a percentage or rate under subsection (1) does not limit the right of the Board to increase or decrease that percentage or rate from time to time, if notice of the increase or decrease is also published in The Alberta Gazette, and on that publication the new 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.

Basis of payments

96 Payments on account of their respective assessments shall in the first instance be made by employers in amounts determinable by and based on

- (a) the estimates furnished by them under sections 97 to 104, or
- (b) the estimates made by the Board under section 105.

Statement of wages
by employer

97(1) An employer shall, not later than January 20 in each year, or at any other time required by the Board, prepare and deliver to the Board a statement showing

- (a) the amount of wages paid to workers employed by him in the previous year, and
- (b) the amount that he estimates he will pay in wages to workers employed by him in the current year.

(2) An employer who is obliged to prepare and deliver a statement under this section shall include on his payroll any person, other than a director of a corporation, who renders service to the employer, whether or not the employer is under a legal obligation to pay that person any wages, salary or other remuneration, and if that person is not being paid any wages or salary, or is being paid a nominal remuneration, the Board shall, for the purposes of assessment, fix a sum that in its opinion represents a reasonable wage or salary for the service rendered by the person, having regard to the nature of the service, 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 employer.

Maximum wages

98 Where the assessment is based on the payroll of the employer and the payroll shows in a year gross earnings in respect of any worker in excess of \$40 000 for that year, the excess amount shall be deducted from the amount of the payroll before it is used as a basis for assessment.

Employer commencing
business

99 If an employer commences or recommences carrying on an industry to which this Act applies, he shall, within 15 days, notify the Board of that fact by registered mail and prepare and deliver to the Board the statement required by section 97 with respect to the remainder of the current year and any other information the Board requires, and that employer is, in respect of the part of the then current year during which he carried on that industry, liable for payment to the Accident Fund of a contribution pursuant to the assessment for that year.

Employer ceasing
to be employer

100 If an employer ceases to be an employer he shall, within 10 days thereafter, notify the Board of that fact by registered mail, and shall at the same time prepare and forward a statement of the total amount of wages earned by all his workers for the portion of the then current year during which he was an employer and is in respect of that period, liable to pay a contribution to the Accident Fund pursuant to the assessment for that year.

Assessment in case
of exemption

101 On the exemption of an industry from the application of this Act, the employers in that industry are, in respect of the part of the

then current year during which this Act was applicable to that industry, liable for payment to the Accident Fund of a contribution pursuant to the assessment for that year.

Employers' records

102 An employer shall keep in Alberta in the form and detail required by the Board a careful and accurate account of all wages paid to his workers and of any other features and particulars of his operations the Board may require.

Persons who might be employers

103 The Board may require a person who, in its opinion might be an employer in an industry to which this Act applies, to prepare and deliver to the Board a statement signed by him giving full particulars concerning the nature of the different classes of work carried on by him and any particulars required by the Board concerning his payroll or other matters pertaining to his work, and that person shall prepare and deliver the statement as prescribed by the Board.

Separate statements for each class or subclass

104 If the business of an employer consists of more than 1 class or subclass of industry, the Board may require of the employer separate statements under sections 97 to 103 as to each class or subclass of industry and the employer shall prepare and deliver those statements as prescribed by the Board.

Basis of assessment when no statement

105(1) The Board may base the assessment on what the Board estimates the probable amount of payroll or other basis of assessment to be if

(a) an employer does not prepare and deliver the statement prescribed in sections 97 to 104 to the Board within the prescribed time, or

(b) the statement referred to in clause (a) does not, in the Board's opinion, reflect the probable amount of payroll of the employer or other applicable basis of assessment.

(2) If the amount estimated by the Board under subsection (1) 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 on the other basis of assessment.

(3) If the amount estimated by the Board under subsection (1) is more than the actual amount of payroll or other basis of assessment, the Board shall credit the employer with the amount by which he was over-assessed.

(4) If an employer fails to prepare and deliver to the Board within the prescribed time a statement under sections 97 to 104, he shall pay to the Board as a penalty an amount prescribed by the regulations.

Presumption of payroll

106(1) Unless a statement or other satisfactory evidence of an employer's payroll for any period is submitted to or obtained by the Board, the payroll estimated by the employer under this Part or by

the Board under section 105, as the case may be, shall, for all purposes under this Act, be deemed to be the actual payroll of the employer.

(2) If, in his statement to the Board of the amount or estimated amount he will expend for wages during the then current year, an employer underestimates that amount, he shall pay as a penalty to the Board an amount prescribed by the regulations.

(3) If, in a statement referred to in subsection (2) the employer overestimates the wages, the Board shall credit him with the amount he is over-assessed as a result of the overestimate.

Reduction of contribution

107 If, in the opinion of the Board,

(a) the ways, works, machinery and appliances of an employer conform to modern standards so as to reduce the hazard of accidents to a minimum,

(b) all proper precautions are being taken by the employer for the prevention of accidents, and

(c) the accident record of the employer has been consistently good,

the Board may reduce the amount of any contribution to the Accident Fund for which the employer is liable in an amount it considers appropriate.

Additional assessment

108 If in the opinion of the Board,

(a) an employer does not take sufficient precautions for the prevention of accidents to workers he employs, or

(b) the working conditions are not safe or the first aid requirements required by *The Occupational Health and Safety Act* or regulations under that Act have not been complied with,

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

Contravention of other legislation

109 (1) If an accident causing injury or death to a worker in respect of which compensation is payable occurs and, in the opinion of the Board, the injury or death was due entirely or mainly to the failure of an employer to comply with *The Occupational Health and Safety Act* or with regulations or an order made under that Act, the Board may levy and collect from the employer as a contribution to the Accident Fund, a sum of money not exceeding 1/2 of the cost of the claim in respect of the injury or death.

(2) In the case of the death of a worker, the cost of the claim for

	<p>the purposes of subsection (1) is the amount apportioned to that accident under section 90.</p>
Merit credits and super-assessments	<p>110(1) The Board may, if it considers appropriate, adopt a system of merit credits and super-assessments and may, in accordance with the guidelines it establishes in relation to the employer's accident experience record, grant a credit or rebate to an employer or levy a super-assessment on him, as the case may be.</p> <p>(2) The amount of a super-assessment shall not exceed the assessment otherwise made under this Act by more than 1/3.</p>
Work in industry not under Act	<p>111(1) If an employer 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 the worker is injured in the course of that other work, that other work is deemed for the purposes of this Act, to be in an industry of that employer to which this Act applies and the Board may require the employer to pay to the Board an additional contribution in an amount not more than the greater of</p> <p>(a) the full cost of the claim in respect of the injury, and</p> <p>(b) \$1000.</p> <p>(2) A 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 worker's employer.</p>
Additional liability of employer	<p>112 If a worker or a group of workers of an employer employ a worker as a checkweigher, checker or in a similar occupation, the employer shall pay to the Board an amount sufficient to pay the assessment in respect of the worker so employed, and may deduct that amount from the wages of the worker or group of workers who employed him.</p>
Minimum assessment	<p>113 No assessment levied by the Board against an employer in respect of any industry carried on by him to which this Act applies shall be less than \$25.</p>
Contribution payable without demand	<p>114 The full amount of a contribution owing pursuant to an assessment made under this Part is payable by an employer, notwithstanding the absence of a specific demand or request for payment made by the Board.</p>
Liability where no assessment	<p>115 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 or so much thereof as the Board considers just and equitable, and payment of that amount may be enforced as if the employer had been assessed for that amount.</p>
Review of assessment	<p>116(1) On the written request of any person who has a direct interest in an assessment under this Act, the Board shall cause the circum-</p>

stances relating to the assessment to be reviewed by an assessment review committee appointed by the Board.

(2) The assessment review committee shall consist of not less than 3 persons.

(3) A panel of at least 2 members of the assessment review committee may conduct a review under this section and a decision of the panel is a decision of the committee.

(4) The assessment review committee shall receive representations on behalf of all interested parties and may confirm, vary or reverse any decision made in respect of the assessment.

Appeal to members of Board

117(1) If an interested party is dissatisfied with a decision of the assessment review committee, he may appeal to the members of the Board in accordance with the regulations.

(2) In considering an appeal from the assessment review committee the members of the Board shall consider the records and information available to the Board relating to the matter under consideration and shall give all interested parties an opportunity to be heard and present any new or additional evidence.

(3) The members of the Board may confirm, reverse or vary the decision appealed from.

Non-payment of contribution

118(1) The Board has a cause of action against the employer in respect of any amount of a contribution under this Act that remains unpaid.

(2) If a contribution is not paid at the time when it becomes payable, the employer shall pay to the Board as a penalty for his default an amount prescribed by the regulations.

Penalty

119(1) If an employer fails to prepare and forward to the Board any statement, return or other information, or pay any contribution as required by this Act, the regulations or an order made by the Board, the Board may, in respect of each accident suffered by a worker in his employ that occurs during the period of default, require the employer to pay to the Board an amount equal to the lesser of

- (a) 1/2 the amount of compensation payable to the worker, and
- (b) \$500.

Board may waive penalty

120 The Board may waive the payment of all or part of a penalty imposed on an employer pursuant to this Act or the regulations, except a fine under section 122(2) or 145.

Board may require security

121(1) The Board may serve notice on an employer to furnish to it security in the amount and form the Board considers sufficient to provide security for the payment of contributions pursuant to as-

assessments that are or might be levied against the employer in respect of the then current year.

(2) The employer shall, within 15 days after being served with the notice, provide the security to the Board.

(3) If the Board at any time considers that the security provided is no longer sufficient, due to an increase in the number of workers employed by the employer, it may require further security from the employer, and subsections (1) and (2) apply.

(4) If the employer defaults in the payment of any contribution that is payable to the Board by him and is levied in the period for which the security is given, the Board may do all things it considers necessary, having regard to the nature of the security, to realize on it.

(5) The proceeds of security realized on under subsection (4) shall be applied by the Board in the following priority:

- (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 on the security;
- (c) in payment of the balance, if any, to the persons legally entitled to it.

Order to cease to employ workers

122(1) If an employer defaults in providing security to the Board under section 121, the Board may order the employer to cease to employ workers until the default is remedied to the Board's satisfaction.

(2) An employer who contravenes an order under subsection (1) is guilty of an offence and liable to a fine of not more than \$200 for each day his default continues.

Liability of principal, contractor and subcontractor

123(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 contribution pursuant to an assessment relating to that work, and
- (b) that amount 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 that amount.

(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 contribution pursuant to an assessment relating to that work, and

(b) that amount 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 that amount.

(3) A principal may withhold from any money payable to a contractor the amount that 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 money payable to a subcontractor the amount that 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.

Certificate of default

124(1) Where default is made in the payment of all or part of a contribution owing pursuant to an assessment or any other money due to the Board under this Act, the Board may issue its certificate or certified statement 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) A certificate issued under subsection (1), 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 Court of Queen's Bench 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.

Prohibition from carrying on business

125 If an employer defaults in the payment of a contribution owing pursuant to an assessment and an execution issued on a judgment entered or certificate filed under section 124 with respect to the contribution is returned with a certificate from a sheriff or his deputy stating that he was unable to wholly satisfy the execution, and the judgment debtor continues to carry on business in an industry to which this Act applies in which workers are employed, a judge of the Court of Queen's Bench, on application made on behalf of the Board by originating notice may, without the issue of any writ or the commencement of any action, restrain the judgment debtor from carrying on business in an industry to which this Act applies until the contribution, together with the costs of the application, is paid.

Priority of amount due to Board

126 Notwithstanding anything in any other Act, the amount due to the Board by an employer

(a) pursuant to an assessment made under this Act,

(b) in respect of any amount that the employer is required to pay to the Board under this Act, or

(c) on any judgment for an amount referred to in clause (a) or (b)

is a charge on the property or proceeds of property of the employer, including money payable to, for or on account of the employer, within Alberta, and 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 from that employer in cases where the exercise of the priority would deprive the workers of their wages.

Filing certificate
against title to land

127 The Board may file

(a) a certified copy of the certificate, or

(b) the certified statement

referred to in section 124 in the land titles office for the district in which any real property of the employer is situated, and thereupon all the real property of the employer situated in that district is bound by the certificate or certified statement to the same extent as it would be by a registered judgment or mortgage, and any judgment entered with respect to the certificate or certified statement binds the property from the date of the filing in the land titles office.

Sale of business

128(1) In the case of a sale of an industry to which this Act applies or of the stock or equipment in bulk used in connection with that industry, the purchaser shall demand of the vendor and the vendor shall deliver to the purchaser, before the purchaser pays any of the purchase price for the industry, stock or equipment, a certificate from the Board stating that it has no claim under this Act against the vendor of the industry, stock or equipment.

(2) If the vendor fails to provide the certificate, the purchaser is liable to the Board for an amount equal to the amount due from the vendor to the Board, up to an amount equal to the fair market value of the industry, stock or equipment.

Sale of lumber

129(1) Except in the case of a retail sale of lumber by a retail dealer in the ordinary course of his business, a purchaser of lumber shall demand of the vendor and the vendor shall deliver to the purchaser, before the purchaser pays any of the purchase price for the lumber, a certificate from the Board stating that it has no claim under this Act against the producer or vendor of the lumber.

(2) If the vendor fails to provide the certificate, the purchaser is liable to the Board for an amount that is equal to the amount due from the producer or vendor to the Board but not greater than the fair market value of the lumber.

(3) In addition to his liability under subsection (2), the purchaser is liable to the Board in any further amount per 1000 feet board measure of the lumber so purchased that the Board by written notice to the purchaser requires.

(4) A purchaser of lumber to whom this section applies shall keep in the form and detail that the Board requires, accounts of all lumber purchased by him, and when required shall submit those accounts for examination by the Board or any authorized officer of the Board.

(5) Money owing to the Board by a purchaser of lumber under this section may be paid out of the purchase price of the lumber, and that payment constitutes a payment to the vendor on account of the purchase price of the lumber.

(6) Money owing to the Board by a purchaser of lumber under this section is payable not later than the last day of the month following the month in which the lumber was purchased and may be collected from the purchaser in the same way as if it were owing pursuant to an assessment for that amount against the purchaser.

Non-arm's length
transactions

130(1) In this section,

(a) "related group" means a group of persons each member of which is related to every other member of the group;

(b) "related persons" or "persons related to each other" means

(i) individuals connected by blood relationship, marriage or adoption,

(ii) a corporation and

(A) a person who controls the corporation, if it is controlled by 1 person,

(B) a person who is a member of a related group that controls the corporation, or

(C) any person related to a person described by paragraph (A) or (B),

(iii) any 2 corporations

(A) if they are controlled by the same person or group of persons,

(B) if each of the corporations is controlled by 1 person and the person who controls one of the corporations is related to the person who controls the other corporation,

(C) if one of the corporations is controlled by 1 person and that person is related to any member of a related group that controls the other corporation,

(D) if one of the corporations is controlled by 1 person and that person is related to each member of an unrelated group that controls the other corporation,

(E) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or

(F) if each member of an unrelated group that controls one of the corporations is related to at least 1 member of an unrelated group that controls the other corporation.

(2) For the purposes of this subsection,

(a) a corporation is associated with another if

(i) one of the corporations controls the other,

(ii) both of the corporations are controlled by the same person or group of persons,

(iii) each of the corporations is controlled by 1 person and the person who controls one of the corporations is related to the person who controls the other, and one of those persons owns directly or indirectly 1 or more shares of the capital stock of each of the corporations,

(iv) one of the corporations is controlled by 1 person and that person is related to each member of a group of persons that controls the other corporation, and one of those persons owns directly or indirectly 1 or more shares of the capital stock of each of the corporations, or

(v) each of the corporations is controlled by a related group and each of the members of one of the related groups is related to all of the members of the other related group, and one of the members of one of the related groups owns directly or indirectly 1 or more shares of the capital stock of each of the corporations,

(b) related persons shall be deemed not to deal with each other at arm's length, and

(c) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

(3) If a corporation that is in default of the payment of any money due to the Board sells, assigns or transfers ownership of any stock or equipment used in connection with an industry to which this Act applies to a related person or an associated corporation, the purchaser, assignee or transferee is liable to the Board for an amount equal to

the amount due from the corporation to the Board, up to the fair market value of the stock or equipment sold, assigned or transferred.

Distress

131(1) Subject to subsection (2), *The Seizures Act* does not apply to anything done under this section.

(2) If any person fails to pay to the Board any money that he is liable to pay under this Act within the time provided for such payment, the secretary may by himself or his agent or by a sheriff, deputy sheriff, assistant sheriff, sheriff's bailiff or some other person authorized in writing by the sheriff collect the amount owing with costs by distress of the goods of that person, and the costs chargeable shall be the same as those allowed under *The Seizures Act*.

(3) No distress shall be made and no levy shall be made under any distress under this section unless the Board executes and delivers a proper warrant in that behalf to a person authorized by subsection (2) to make and levy a distress.

(4) No person to whom a distress warrant is delivered for execution is bound to proceed unless he has been furnished with security in an amount he considers reasonably sufficient to indemnify him in respect of his fees, charges and expenses, and any claims for damages in respect of the distress and levy, and anything done in relation to it.

(5) A person executing a distress warrant under this section shall

- (a) serve on the debtor, and if there is more than 1 debtor, on each of them, or on an adult member of the debtor's household,
- (b) attach to the goods to be seized or some or all of them, or
- (c) post up in some conspicuous place on the premises on which the goods or some part of them are at the time of seizure,

a notice of seizure setting out the name of the creditor and debtor, a description of the goods seized and the nature of the indebtedness.

(6) For the purpose of effecting the seizure of goods authorized by a distress warrant under this section, or of obtaining the possession of goods that have been previously seized, the secretary or his agent or other person executing the distress warrant

(a) has the right to enter on any land or premises on which any goods subject to distress under the warrant are situated, and to seize, sell or remove the goods that 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 any persons he requests, break open the door or doors of any building, other than a private dwelling house, in which any goods liable to seizure are contained, and on the order of a judge of the Court of Queen's

Bench may similarly break open the door or doors of a private dwelling house.

(7) A seizure made pursuant to this section is a continuing seizure until the secretary by notice in writing releases the seizure or until the goods under seizure have been sold.

(8) The person executing the distress warrant may, in accordance with the regulations, sell by public auction the goods distrained or so much of them as is necessary to pay the money due with all lawful costs.

(9) If goods seized under this section are offered for sale and remain unsold, the secretary or his agent or the person executing the distress warrant may sell the goods by private contract, either to the Board or any other person, if the price offered for the goods is, in the opinion of the person executing the distress warrant, a fair and reasonable price having regard to all the circumstances.

(10) A sale of goods seized under this section is without warranty of title and the purchaser acquires no more than the precise interest in the goods that can be sold under the power of distress.

(11) If the goods distrained are sold for more than the amount due and costs, and if no claim to the surplus is made within 6 months from the date of the sale by any other person on the ground that the goods 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 goods were when the distress was made.

(12) If a claim to the surplus under subsection (11) is contested, the surplus money shall be paid by the secretary or his agent or the person executing the distress warrant to the clerk of the Court of Queen's Bench of the judicial district within which the seized goods were situated, who shall retain the surplus until the respective rights of the parties have been determined by action at law or otherwise.

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

(14) A distress warrant under this section placed in the hands of a sheriff, assistant sheriff, deputy sheriff or sheriff's bailiff, constitutes the Board an execution creditor within the meaning of section 5 of *The Execution Creditors Act* and Form A in the Schedule to that Act,

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 Execution Creditors Act*.

PART 7

GENERAL

Board order
ceasing to employ
workers

132 If an employer is in default of payment of any money due by him to the Board and the default continues for at least 30 days, the Board may order the employer to discontinue and thereafter refrain from employing any worker, and the employer shall not thereafter employ a worker until he pays to the Board all money due to it from him.

Unauthorized
deductions

133 Except as authorized by this Act, no employer shall, either directly or indirectly, 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 require or 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.

Agreements to
waive Act void

134 A worker may not agree with his employer to waive or to forego any of the benefits to which he or his dependants might become entitled under this Act, and every such agreement is void.

Compensation not
assignable

135 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.

Overpayments

136 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.

Right of set off

137 Without limiting the Board's remedies for recovery, any money due the Board under this Act may be set off against any compensation that may be or that may become payable to the person indebted to the Board.

Forms, notices,
etc.

138 All books, returns, notices, reports, forms or other documents or papers and copies thereof required to be kept, prepared, posted or forwarded in accordance with this Act or the regulations shall be in a form approved by the Board.

Posting of notices

139 An employer shall post and keep posted in a conspicuous place on the premises where the work performed by his workers is being carried on, and where they may be readily seen by his workers, any notices the Board requires to be posted.

Service of documents

140 An order, notice or other document issued, made or given by the Board under this Act may be served on the person for whom it is intended by registered mail, and, if served by registered mail, is deemed to be received at the time it would have been delivered in the ordinary course of mail, unless there are reasonable grounds for believing that the person did not receive the order, notice or document at that time or at all.

Confidentiality of information

141(1) No member, officer or employee of the Board and no person authorized to make an investigation under this Act shall, except in the performance of his duties or under authority of the Board, divulge or allow to be divulged any information obtained by him in making the investigation or that comes to his knowledge in connection with the investigation.

(2) No member or officer or employee of the Board shall divulge information respecting a worker or the business of an employer that is obtained by him in his capacity as a member, 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, the Government of Alberta or another province.

Board records privileged

142 The books, records, documents and files of the Board and all reports, statements and other documents filed with the Board or provided to it are privileged and are not admissible in evidence in any action or proceeding without the consent of the Board.

Board's certificate

143 A certificate purporting to be signed by the secretary

(a) setting out the substance of any order, ruling or decision of the Board, or

(b) setting out information from any books, records, documents or files of the Board in the form of an extract or description

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the signature or official character of the person signing it.

Enforcement of other amounts payable

144 If money is payable under this Act by an employer to the Accident Fund or the Board, the Board may enforce payment of that money in the same manner as if it were money due pursuant to an assessment.

Offence

145(1) A person who contravenes this Act or a regulation or order made under it is guilty of an offence and, where no other penalty is provided for that contravention, is liable to a fine of not more than \$500.

(2) A person who is convicted for contravening this Act or a regulation or order under it and fails after the conviction to comply with the provision of the Act, regulation or order for the breach of which he was convicted, is guilty of an additional offence and liable to a fine of not more than \$500 a day for each day his failure continues.

(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 for a contravention of this Act shall be commenced without the consent of the Board and no prosecution shall be commenced more than 24 months after the subject matter of the prosecution arose.

(5) In the case of a prosecution for a contravention of this Act or the regulations that consists of failing to prepare and forward to or provide the Board with any report, statement or other document or of failing to pay any money to the Board in accordance with this Act, a certificate purporting to be signed by the secretary certifying that the report, statement, document or money has not been received by the Board shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the signature or official character of the person signing it.

Regulations

146(1) The Lieutenant Governor in Council may make regulations

- (a) governing applications by persons for inclusion within the application of the Act;
- (b) governing the giving of notice of an accident;
- (c) governing the recording by an employer of the particulars of an accident or the allegation of the happening of an accident under section 28(1);
- (d) governing the payment for additional medical aid to injured workers, including the amount to be paid;
- (e) prescribing amounts payable and the conditions of eligibility for travel allowance, subsistence allowance and wage loss allowance under section 76;
- (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) respecting the amount of the penalty payable under sections 105(4), 106(2) and 118(2);
- (j) defining "net earnings" for the purposes of this Act;
- (k) defining "occupational disease" for the purposes of this Act and deeming employment in specified industries or processes to be the cause of specified occupational diseases;
- (l) prescribing the legal costs and fees payable for the purposes of sections 17(3) and 29(2);

- (m) prescribing the amounts payable under sections 72 and 74;
- (n) governing pensions payable to Board members;
- (o) governing any other matter necessary to carry out this Act according to its purpose.

(2) The Lieutenant Governor in Council may, in respect of persons to whom this Act does not apply, make regulations

- (a) authorizing the Board to make orders declaring that the Act applies to any class of those persons;
- (b) designating those classes of persons in respect of whom the Board may make an order under a regulation made under clause (a);
- (c) prescribing terms and conditions or either of them that must be met by those persons;
- (d) prescribing
 - (i) the amount of compensation payable, or
 - (ii) the method of determining the amount of compensation payable,

to those persons.

(3) Where the Board makes an order under a regulation made under subsection (2)(a) declaring that this Act applies to a class of persons, the persons in that class are, for the purposes of this Act, considered to be workers employed by the Government of Alberta.

Additional powers
of Board

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

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

Exemption from
The Regulations
Act

148 Notwithstanding *The Regulations Act*, no order, ruling, decision or direction of the Board made under this Act needs to be published in *The Alberta Gazette*.

PART 8
TRANSITIONAL AND CONSEQUENTIAL

Transitional

149(1) Except where this Act specifically states otherwise, it applies only to accidents that occur on or after January 1, 1982 and to benefits, rights and privileges arising out of them.

(2) Except where this Act specifically states otherwise, claims in respect of accidents occurring before January 1, 1982 shall be administered in accordance with the law in effect at the time the accident occurred and, for that purpose, the predecessors of this Act shall be deemed to be of full force and effect insofar as they relate to those accidents and the benefits and other rights and privileges related to them, except to the extent that those benefits, rights or privileges are expressly modified or revoked by any subsequent *Workers' Compensation Act* or by this Act, or by amendments to any of those Acts indicating their application to those benefits, rights or privileges.

Consequential amendments

150(1) *The Alberta Home Mortgage Corporation Act* is amended in section 14 by repealing clause (c) and substituting the following:

(c) section 86 of *The Workers' Compensation Act, 1981*.

(2) *The Alberta Housing Act* is amended in section 9.1 by striking out "section 61 of *The Workers' Compensation Act*" and substituting "section 86 of *The Workers' Compensation Act, 1981*".

(3) *The M.L.A. Compensation Act* is amended

(a) in section 2(b)(i)

(i) in paragraph (A) by striking out "section 42 and section 47, subsection (1) of *The Workers' Compensation Act*" and substituting "section 51 of *The Workers' Compensation Act, 1981*",

(ii) in paragraph (B) by striking out "section 43 and section 47, subsection (1) of *The Workers' Compensation Act*" and substituting "section 51 of *The Workers' Compensation Act, 1981*";

(b) in the following provisions by striking out "*The Workers' Compensation Act*" and substituting "*The Workers' Compensation Act, 1981*":

section 2(b)(ii), (e) and (f);
section 6;
section 7;
section 8(1) and (2).

(4) In the following provisions "*The Workers' Compensation Act*"

is struck out and ‘The Workers’ Compensation Act, 1981’ is substituted:

The Blind Workers’ Compensation Act

section 2(a), (c) and (d)(i);
section 3(1)(a);
section 4;
section 5;

The Companies Act

section 266(1)(d);

The Criminal Inquiries Compensation Act

section 15(1)(a);

The Forests Act, 1971

section 21;

The Motor Vehicle Accident Claims Act

section 20;

The Occupational Health and Safety Act

section 23;

The Proceedings Against the Crown Act

section 3(1).

Repeal

151 *The Workers’ Compensation Act is repealed.*

Coming into force

152 This Act comes into force on January 1, 1982.