

1984 BILL 75

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Second Session, 20th Legislature, 33 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 75**

**WORKERS' COMPENSATION AMENDMENT ACT, 1984**

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HON. MR. DIACHUK

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 75

1984

### WORKERS' COMPENSATION AMENDMENT ACT, 1984

(Assented to \_\_\_\_\_, 1984)

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

1 *The Workers' Compensation Act is amended by this Act.*

2 *Section 1(1) is amended*

(a) *by repealing clause (h)(ii) and substituting the following:*

(ii) a proprietor whose application is approved under section 10,

(iii) a corporation where the application of a director of the corporation is approved under section 10, and

(iv) a partnership where the application of a partner in the partnership is approved under section 10,

(b) *by repealing clause (v) and substituting the following:*

(v) "proprietor" means

(i) an individual who owns and operates a business

(A) the general business activity of which usually involves performing work for more than 1 person concurrently, and

(B) in connection with which he does not employ any workers,

and

(ii) any other individual or class of individuals deemed by a direction or order of the Board to be proprietors;

(c) *by repealing clause (y) and substituting the following:*

(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,

## Explanatory Notes

1 This Bill will amend chapter W-16 of the Statutes of Alberta, 1981.

2 Section 1(1) presently reads in part:

*1(1) In this Act,*

*(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 in so far as the latter, in its capacity as employer, submits to the operation of this Act;*

*(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 person, and*

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

*(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;*

(ii) a person whose application to the Board under section 10 is approved, and

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

but does not include a person who ordinarily resides outside Canada and is employed by an employer who is based outside Canada and carries on business in Alberta on a temporary basis;

*3 Section 2(2) is repealed and the following is substituted:*

(2) The Board shall consist of not fewer than 3 members appointed by the Lieutenant Governor in Council.

(2.1) The Lieutenant Governor in Council shall designate 1 member of the Board as chairman and may designate 1 or more other members as vice-chairmen.

(2.2) Where an appointment under subsection (2.1) results in a plurality of vice-chairmen, the Lieutenant Governor in Council may establish an order of precedence by which seniority of vice-chairmen shall be determined.

(2.3) At any time during which the office of chairman is vacant or the chairman is absent or unable to act as chairman, subject to section 4 the vice-chairman or the most senior vice-chairman, according to the order of precedence, who is available shall perform all the duties and functions, and may exercise all the powers, that are by this or any other Act or regulation imposed or conferred on the chairman.

*4 Section 4(1) and (2) are amended by adding “or vice-chairman” after “chairman” wherever it occurs.*

*5 Section 9 is amended by adding the following after subsection (1):*

(1.1) Notwithstanding subsection (1), an employer in an industry exempted under the regulations may apply to the Board for an order declaring that the Act applies to workers in his employment in that industry.

*6 Section 10(1) is repealed and the following is substituted:*

**10(1)** Subject to section 11, an employer, a partner in a partnership, a proprietor and a director of a corporation are not workers for the purposes of this Act unless they apply to the Board in

**3** Section 2(2) presently reads:

*(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.*

**4** Section 4 presently reads:

*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.*

**5** Section 9 presently reads in part:

*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.*

**6** Section 10(1) presently reads:

*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*

accordance with the regulations to have the Act apply to them as workers and the Board approves the application.

(1.1) The Board may issue to a proprietor whose application under subsection (1) is approved a personal coverage identification card in a form approved by it showing that the Act applies to the proprietor.

(1.2) No person shall

(a) have or use a document that purports to be a personal coverage identification card but was not issued pursuant to this Act, or

(b) have or use a personal coverage identification card that was issued to someone else or is otherwise invalid.

7 *Section 11 is repealed and the following is substituted:*

**11(1)** Where an individual performs any work in an industry to which this Act applies for any other person engaged in that industry (in this section called the principal) that individual shall, for all purposes of this Act, be deemed to be a worker of the principal except

(a) when the individual performing the work is himself

(i) an employer, or

(ii) the worker of an employer, other than the principal,

and is performing the work for the principal in his capacity as such an employer or worker,

(b) when the individual performing the work is a director of a corporation and is performing the work for the principal in his capacity as a director of the corporation,

(c) when the individual performing the work

(i) is a partner in a partnership that does not employ any other workers,

(ii) has his application as a partner approved by the Board under section 10, and

(iii) performs the work for the principal in his capacity as a partner in the partnership,

or

(d) when the individual performing the work is a proprietor in respect of whom the Board approves an application under section 10 and who is performing the work for the principal in his capacity as a proprietor.

(2) Notwithstanding anything in this Act, the Board may, in its discretion or on the application of any interested party, by order deem any person or class of persons performing work for or for the benefit of another person to be workers of that other person for the purposes of this Act.

*apply to him as a worker and the Board approves that application in accordance with the regulations.*

**7** Section 11 presently reads:

*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.*

8 Section 28(1)(b)(i) and (c) are amended by striking out “24” and substituting “72”.

9 Section 29 is amended

(a) by adding the following after subsection (2):

(2.1) Notwithstanding subsection (1), where an injured worker is attended to in a hospital or other treating agency, the Board may request the hospital or treating agency to furnish it with a report and, on receiving such a request, the administrator or person in charge of the hospital or treating agency shall ensure that the request is forthwith complied with.

(b) in subsection (3) by striking out “hospital” and substituting “a hospital or other treating agency”.



**8** Section 28(1) presently reads:

*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.*

**9** Section 29 presently reads in part:

*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.*

10 Section 34 is amended

(a) in subsection (2) by striking out “, on the application of the employer,”;

(b) in subsection (3) by striking out “no other person” and substituting “the worker on his request”.

11 Section 42 is amended

(a) in subsection (1) by striking out “under this Act” and substituting “, regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act”;

(b) in subsection (2) by adding “or the Board’s right to alter the amount of compensation if a change in disability occurs” after “5”;

(c) in subsection (3)(b) by striking out “10%” and substituting “25%”;

(d) by repealing subsection (4) and substituting the following:

(4) Subject to section 64(3), a lump sum payment made by the Board shall be computed on the basis of the rate of compensation being paid at the date the lump sum payment is approved by the Board.

(e) by adding the following after subsection (4):

(5) In the case of a lump sum payment in respect of an accident that occurred before January 1, 1974, the difference between

(a) the amount of the lump sum payment actually paid, and

(b) the lump sum payment that would have been payable had it been computed on the basis of the rate of compensation payable at the time of the accident

shall be paid to the Accident Fund out of the General Revenue Fund.

12 Section 47 is repealed and the following is substituted:

**47** If a worker who is entitled to compensation under this Act leaves Alberta and takes up residence in another jurisdiction, the Board may cease paying compensation under this Act to that worker unless

(a) the worker provides medical evidence in a manner satisfactory to the Board confirming the continuation of the disablement and the Board is satisfied that the period of disablement is not prolonged by the worker leaving Alberta, or

(b) the worker has been granted an award for permanent disability arising out of the accident.

**10** Section 34(2) and (3) presently read:

*(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.*

**11** Section 42 presently reads:

*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.*

**12** Section 47 presently reads:

*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.*

13 *Section 51 is repealed and the following is substituted:*

**51(1) The Board shall pay periodic compensation**

- (a) on a monthly basis in the case of permanent disability,
  - (b) 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 based on the worker's net earnings, and for that purpose the Board shall calculate the worker's net earnings in accordance with the regulations and based on a period or periods of time prior to the accident that, in the Board's opinion, fairly and justly represent the worker's net earnings at the time of the accident.
- (3) In making a calculation under subsection (2), the Board shall consider separately each source of employment the worker had at the time of the accident from which he no longer has the ability to earn wages or in which his ability to earn wages is impaired, due to the accident, regardless of whether the source of employment is in an industry to which this Act applies.
- (4) 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.
- (5) 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 net earnings, and
  - (b) in the case of permanent partial disability and temporary partial disability, a proportionate part of 90% of the worker's net earnings based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.
- (6) 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, \$675 per month, and
  - (b) in the case of permanent partial disability, a proportionate part of \$675 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.
- (7) Compensation for temporary total disability and temporary partial disability is payable to the worker only as long as the disability lasts, and compensation for temporary total disability shall be the greater of
- (a) the bi-weekly equivalent of the amount that he would have received under subsection (5) had he been permanently totally disabled, and

**13** Section 51 presently reads:

*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*

(b) his bi-weekly net earnings, if they are less than the sum referred to in subsection (6)(a).

(8) Where work is made available to a worker who is temporarily partially disabled and the Board is satisfied that the worker is medically and physically capable of doing the work and that, considering all the circumstances, it is fair and just to expect the worker to accept the work, the following applies, notwithstanding subsection (7):

(a) if the worker accepts the work, the Board shall pay periodic compensation to the worker if, in doing the work, the worker suffers an earnings loss that is caused by the residual disability, and in that case the compensation shall be in an amount that is a proportionate part of 90% of the worker's earnings loss, based on the Board's estimate of the degree to which the earnings loss is caused by the residual disability;

(b) if the worker refuses the work, the Board shall continue to pay periodic compensation to the worker in accordance with clause (a) as if the worker had accepted the work.

(9) Subsection (8) applies regardless of whether the work is in an industry to which this Act applies.

*14 Section 54 is amended*

(a) *by renumbering it as section 54(1);*

(b) *in subsection (1) by striking out "actual net earnings or average net earnings, as the case may be," and substituting "net earnings";*

(c) *by adding the following after subsection (1):*

(2) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act.

*15 Section 55 is amended*

(a) *by renumbering it as section 55(1);*

(b) *in subsection (1)*

(i) *in clause (a) by striking out "under this Act";*

(ii) *in clause (c) by striking out "actual net earnings or average net earnings, as the case may be," and substituting "net earnings";*

(c) *by adding the following after subsection (1):*

(2) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act.

*(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, \$675 per month, and*

*(b) in the case of permanent partial disability, a proportionate part of \$675 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 the greater of*

*(a) the bi-weekly equivalent of the amount that he would have received under subsection (7) had he been permanently totally disabled, and*

*(b) his average bi-weekly net earnings, if they are less than the sum referred to in subsection (8)(a).*

**14** Section 54 presently reads:

**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.*

**15** Section 55 presently reads:

**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.*

16 Section 56 is amended by striking out “actual net earnings or average net earnings, as the case may be,” and substituting “net earnings”.

17 Section 59 is amended

(a) in subsection (1) by striking out “under this Act”;

(b) by adding the following after subsection (1):

(1.1) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act.

18 Section 60 is repealed and the following is substituted:

**60(1)** In the case of an accident causing partial disability, if the Board is satisfied that the worker’s net earnings after the accident together with any compensation he is receiving with respect to that accident are less than his net earnings 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 percentage of the earnings loss is, in the Board’s opinion, caused by the residual disability.

(2) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act, but in the case of an accident that occurred before the coming into force of this Act section 51(4) does not apply and the calculation of net earnings shall be based on the maximum allowable earnings in effect at the time of the accident.

19 Section 63 is amended by striking out “in recognition of an impairment of earning capacity caused by the disfigurement or other injury”.

20 Section 69 is amended by adding the following after subsection (2):

(2.1) If more than 1 person is acting as a foster-parent, the Board shall divide any amount payable under subsection (1) or (2) proportionately among those persons according to the number of children in respect of whom they are acting as foster-parents.



**16** Section 56 presently reads:

*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.*

**17** Section 59 presently reads in part:

*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.*

**18** Section 60 presently reads:

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

**19** Section 63 presently reads:

*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.*

**20** Section 69 presently reads in part:

*69(1) A dependent spouse or a foster-parent receiving compensation under the former 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) \$675 per month, or*

*(b) the amount of pension that person would otherwise receive under the former Workers' Compensation Act as at December 31, 1981, plus 10% 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*

21 *Section 72(a) is amended by striking out “the dependent spouse”.*

22 *Section 73 is amended by adding the following after subsection (1):*

(1.1) Subsection (1) applies regardless of whether the accident referred to occurred before or after the coming into force of this Act.

23 *Section 82(1) is repealed and the following is substituted:*

**82(1)** Where a worker suffers an accident and is in need of medical aid, his employer shall, if the worker is in need of transportation, furnish at the employer's expense immediate transportation for the worker to a hospital or other treating agency, to a physician or to any other place that is appropriate for the treatment of the worker's condition.

(1.1) If a worker refuses an employer's offer of transportation under subsection (1) and the Board is satisfied that his refusal has prolonged or will prolong the recovery period, the Board may relieve the employer's accident experience record of the additional costs resulting from the refusal.

24 *Section 84 is amended by adding “, including assigned and apportioned costs” after “compensation”.*

25 *Section 87(4) is repealed and the following is substituted:*

(4) The Board shall have an actuarial evaluation of its liabilities 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 included in the annual report of the Board.

26 *Section 90 is amended*

(a) *in subsection (1) by striking out “to dependants of deceased workers” and substituting “arising from fatal accidents to workers”;*

(b) *by repealing subsection (2).*

*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 \$675.*

**21** Section 72 presently reads:

*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 dependent spouse in defraying costs resulting from the death of the worker, and*

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

**22** Section 73 presently reads in part:

*73(1) The Board may*

*(a) provide medical aid to a worker who suffers an accident, or*

*(b) pay for the cost of medical aid provided to a worker who suffers an accident.*

**23** Section 82 presently reads in part:

*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.*

**24** Section 84 presently reads:

*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.*

**25** Section 87(4) presently reads:

*(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).*

**26** Section 90 presently reads:

*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)*

27 *Section 91 is amended*

(a) *in subsection (1) by striking out “, allowing for any surplus or deficit in the class, the Board requires” and substituting “the Board chooses”;*

(b) *in subsection (2)*

(i) *in clause (a) by striking out “in an industry” and substituting “of industries”;*

(ii) *in clause (b) by adding “or types of coverage” after “employment”.*

28 *Section 94 is repealed and the following is substituted:*

**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 industry is sufficient for the time being, abate the contributions or defer their collection.

29 *The following is added after section 94:*

**94.1(1)** Subject to subsection (2), whenever an employer pays or ordinarily pays wages to his workers, he is at the same time deemed to have set aside and kept separate and apart from his own property an amount that is equivalent to the assessment contribution in respect of those wages, based on the Board's assessment in effect at that time, as if he had been obliged to pay the assessment contribution at that time.

(2) In a calculation under subsection (1), if the assessment has not yet been made under section 95(1) for the year in which the calculation is made, the calculation shall be based on the assessment for the immediately preceding year.

(3) The amount referred to in subsection (1) is deemed to be held in trust for the Board on and from the date it is deemed to have been set aside, whether or not it has in fact been set aside.

**94.2** The amount of any unpaid penalty imposed under this Act in relation to an assessment is deemed to have been set aside by the employer and kept separate and apart from his own property on and from the date the obligation to pay the penalty arises, and that amount is deemed to be held in trust for the Board on and from that date.

**94.3** In the event of any liquidation, receivership, winding-up, assignment or bankruptcy of the employer, an amount equal to the total amount that by sections 94.1 and 94.2 is deemed to be held in trust for the Board shall be deemed to be separate from and to form no part of the estate in liquidation, receivership,

*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).*

**27** Section 91 presently reads in part:

*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*

**28** Section 94 presently reads:

*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.*

**29** Deemed trust.

winding-up, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own property or from the property of the estate.

*30 Section 103 is amended by striking out "classes" and substituting "types".*

*31 Section 104 is amended by striking out "class or subclass of" wherever it occurs.*

*32 Sections 107, 108 and 109 are repealed.*

**30** Section 103 presently reads:

*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.*

**31** Section 104 presently reads:

*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.*

**32** Sections 107, 108 and 109 presently read:

*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.*

*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.*

*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 the purposes of subsection (1) is the amount apportioned to that accident under section 90.*

33 *Section 110 is repealed and the following is substituted:*

**110** If the Board considers it appropriate, it may adopt systems of rate modification in accordance with the guidelines it establishes in relation to the employer's accident experience record and may modify the assessment rate or grant a credit or rebate to the employer or levy a surcharge on him, as the case may be.

34 *Section 120 is amended by striking out "145" and substituting "146".*

35 *Section 126 is repealed and the following is substituted:*

**126(1)** Notwithstanding anything in any other Act, any 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)

creates a fixed, specific and continuing charge in favour of the Board

(d) on the property or proceeds of property, whether real or personal, of the employer in Alberta, including money payable to, for or on account of the employer, whether the property, proceeds or money is acquired or is to be acquired by the employer before or after the amount becomes due, and

(e) on any other property or proceeds of property, whether real or personal, in Alberta that is used by the employer in or in connection with, or produced by him in, the industry with respect to which he is assessed or the amount becomes due, whether the property is used or produced before or after the amount becomes due.

(2) Subject to subsection (3), section 127 and the *Land Titles Act*, the charge created by subsection (1) is payable in priority over all writs, judgments, debts, liens, charges, mortgages, rights of distress, assignments (including assignments of book debts) and other claims or encumbrances of whatever kind of any person, including the Crown, whether legal or equitable in nature, whether absolute or not, whether specific or floating, whether crystallized or otherwise perfected or not and whenever created or to be created.

(3) The charge created by subsection (1) does not have priority over wages due from the employer to his workers where the exercise of the priority would deprive the workers of any of their wages.

**126.1(1)** When an employer in an industry to which the Act applies defaults in the payment of all or part of a contribution



**33** Section 110 presently reads:

*110(1) The Board may, if it considers it 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.*

*(2) The amount of a super-assessment shall not exceed the assessment otherwise made under this Act by more than 1/3.*

**34** Corrects reference error.

**35** Section 126 presently reads:

*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.*

owing pursuant to an assessment, or all or part of any other money due to the Board under this Act, any assignment of his personal property made by the employer (including an assignment of book debts) is void as against the Board to the extent of money that has not at the time of default been paid under the assignment to or on behalf of the assignor, regardless of

- (a) whether the assignment is absolute or not, or
- (b) whether the assignment is made before or after the date the contribution or other money becomes due or the default occurs.

(2) When an employer in an industry to which this Act applies defaults in the payment of

- (a) all or part of a contribution owing pursuant to an assessment, or
- (b) all or part of any other money due to the Board under this Act,

any charge, whether specific or floating, that is contained in a debenture and any mortgage that is contained in a bill of sale as defined in the *Bills of Sale Act* that is created by the employer

- (c) on his personal property in Alberta, or
- (d) on any other personal property in Alberta that is used by the employer in or in connection with, or produced by him in, the industry with respect to which he is assessed or the money becomes due

is void as against the Board to the extent of money that has not, at the time of default, been paid under the charge or mortgage to the holder of it regardless of whether the charge or mortgage is created before or after the date the contribution or other money becomes due or the default occurs.

36 *Section 131(14) is amended by striking out "5" and substituting "4".*

37 *The following is added after the heading GENERAL and before section 132:*

**131.1(1)** An association of employers who are engaged in an industry to which this Act applies may apply to the Board in a manner acceptable to the Board for a grant under this section.

(2) On receiving an application, the Board may make a grant to the association in any amount the Board determines if it is satisfied

- (a) that a primary objective and purpose of the association is the promotion of education in accident prevention in the industry in which the employers are engaged, and
- (b) that the association sufficiently represents the interests of the employers and workers in that industry in Alberta.

**36** Corrects reference.

**37** Grants.

(3) A grant under subsection (2) shall be used for the purpose of assisting in the payment of the expenses of the association related to the promotion of education in accident prevention in the industry.

(4) The Board may make a grant subject to any terms and conditions it considers appropriate including, without limitation, terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(5) Any money paid by the Board under this section shall be charged against the industry represented by the association and levied as part of the assessment against the industry, and where the association represents more than 1 industry the Board may apportion the charge among the industries in the manner it considers appropriate.

38 *Section 141 is amended by adding the following after subsection (2):*

(3) Notwithstanding subsections (1) and (2) and section 29(3), where a matter is being reviewed or appealed under section 40 or 41 or 116 or 117,

(a) the worker, or the worker's personal representative or dependant in the case of the death or incapacity of the worker, or the agent of any of them, and

(b) the employer or his agent

are entitled to examine all information in the Board's files that is relevant to the issue under review or appeal, and those persons shall not use or release that information for any purpose except for the purpose of pursuing the review or appeal.

39 *Section 147(1) is amended by adding the following after clause (a):*

(a.1) exempting industries from the application of this Act;

40 *This Act comes into force on January 1, 1985.*

**38** Section 141 presently reads:

*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.*

**39** Lieutenant Governor in Council may make regulations.