

BILL 26

2002

WORKERS' COMPENSATION AMENDMENT ACT, 2002

(Assented to _____, 2002)

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

Amends RSA 2000 cW-15

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

2 Section 1(1) is amended

(a) by adding the following after clause (c):

(c.1) "assessment" means the process by which the premium that is payable under this Act by an employer is determined;

(b) by repealing clause (g);

(c) by adding the following after clause (v):

(v.1) "premium" means the amount that is payable by an employer pursuant to an assessment;

3 The following is added after section 1:

Insurance Act does not apply

1.1 The Insurance Act does not apply to the Board in respect of the provision of workers' compensation coverage to persons under this Act.

4 Section 4 is amended by adding “but subject to section 12(1),” **after** “section 3.”

5 Section 7(1) is amended by striking out “2 months” **and substituting** “3 months”.

6 The following is added after section 7:

Annual meeting open to public

7.1(1) The Board shall hold an annual general meeting, which must be open to the public.

(2) The Board shall publish notice of the annual general meeting in newspapers that, in the Board’s opinion, have general circulation in Alberta.

(3) The purpose of the annual general meeting is to discuss the reports presented under subsection (4) and any matters raised in relation to the reports by those present at the meeting.

(4) The Board shall ensure that the following reports are presented at the annual general meeting:

- (a) the report of the chair on behalf of the board of directors;
- (b) the report of the President;
- (c) the report referred to in section 93(4) for the preceding calendar year.

7 Part 2 is repealed and the following is substituted:

Part 2
Appeals Commission

Appeals Commission

10(1) The Appeals Commission is continued and consists of the following members appointed by the Lieutenant Governor in Council:

- (a) a chief appeals commissioner, who shall be the chair;

- (b) one or more appeals commissioners whom the Lieutenant Governor in Council considers to be representative of the interests of employers;
 - (c) one or more appeals commissioners whom the Lieutenant Governor in Council considers to be representative of the interests of workers;
 - (d) any temporary appeals commissioners appointed in accordance with subsection (3).
- (2) The following persons are not eligible to be or continue to be appeals commissioners:
- (a) employees of the Board;
 - (b) members of the board of directors.
- (3) One or more temporary appeals commissioners may be appointed for terms of not more than one year and are eligible for reappointment for additional terms of not more than one year each.
- (4) An appeals commissioner other than a temporary appeals commissioner may be appointed for a maximum term of 3 years and is eligible for reappointment for additional terms of not more than 3 years each.
- (5) The chief appeals commissioner is the chief executive officer of the Appeals Commission.
- (6) The chief appeals commissioner may designate one of the other appeals commissioners to act in the chief appeals commissioner's place as chief appeals commissioner and to assume all of the chief appeals commissioner's powers and responsibilities during the chief appeals commissioner's temporary absence.
- (7) Notwithstanding the resignation or the expiry of the term of office of an appeals commissioner, the appeals commissioner may continue to act as an appeals commissioner for the purpose of completing the appeals commissioner's duties in respect of matters arising before the effective date of the resignation or the expiry of the term of office.

(8) The Lieutenant Governor in Council shall set the remuneration that is payable to appeals commissioners.

Minister responsible for Commission

11 The Minister is responsible for the Appeals Commission.

Administration

12(1) Any officers and employees that are necessary for the purposes of carrying out the business and affairs of the Appeals Commission may be appointed in accordance with the *Public Service Act*.

(2) The chief appeals commissioner may designate employees of the Appeals Commission as officers of the Appeals Commission and may, in writing, delegate administrative powers, duties and responsibilities of the Appeals Commission to such officers.

(3) The costs of carrying on the operations of the Appeals Commission, as approved by the Minister, and the remuneration payable to the appeals commissioners shall be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

Meetings

13(1) The Appeals Commission may hold meetings of the Appeals Commission at any place in Alberta that the Appeals Commission determines.

(2) The Appeals Commission shall hold an annual general meeting, which must be open to the public.

(3) The Appeals Commission shall publish notice of the annual general meeting in newspapers that, in the opinion of the Appeals Commission, have general circulation in Alberta.

(4) The Appeals Commission shall ensure that the following are presented at the annual general meeting:

- (a) the report of the chief appeals commissioner, on behalf of the Appeals Commission;
- (b) information relating to the operations of the Appeals Commission from the most recent report of the Auditor General on the Minister's department.

Power of Appeals Commission

13.1(1) Subject to sections 13.2(11) and 13.4, the Appeals Commission has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act and the regulations in respect of

- (a) appeals from decisions under section 46 made by a review body appointed under section 45,
- (b) appeals from decisions under section 120 made by a review body appointed under section 119,
- (c) appeals from determinations of the Board under section 21(3), and
- (d) any other matters assigned to it under this or any other Act or the regulations under this or any other Act,

and the decision of the Appeals Commission on the appeal or other matter is final and conclusive and is not open to question or review in any court.

(2) The chief appeals commissioner may authorize a panel of 2 or more appeals commissioners to act on behalf of the Appeals Commission under subsection (1) and that panel may exercise the powers of the Appeals Commission for that purpose.

(3) The Appeals Commission may make rules governing the practice and procedure applicable to proceedings before it.

(4) The *Regulations Act* does not apply to rules made under subsection (3).

(5) The Appeals Commission has the same powers as the Court of Queen's Bench for compelling the attendance of witnesses and examining them under oath and for compelling the production and inspection of books, papers, documents and things.

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

(7) The Appeals Commission, at its discretion on the application of a person with a direct interest in the matter, or on its own motion, may reconsider any matter that it has dealt with and may confirm, rescind or amend any decision or order previously made by it.

(8) The Appeals Commission, at its discretion on the application of a person with a direct interest, may reconsider any appeal decision that was made by the members of the board prior to November 1, 1988 and may confirm, rescind or vary the decision.

(9) No proceedings by or before the Appeals Commission 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 Appeals Commission or any member of the Appeals Commission in respect of any act done or decision made in the honest belief that it was within the jurisdiction of the Appeals Commission.

Appeals

13.2(1) A person who has a direct interest in and is dissatisfied with

- (a) a decision under section 46 made by a review body appointed under section 45,
- (b) a decision under section 120 made by a review body appointed under section 119, or
- (c) a determination of the Board under section 21(3)

may, in accordance with this section, the regulations and the Appeals Commission's rules, appeal the decision or determination to the Appeals Commission.

(2) In considering an appeal from a decision under section 46, the Appeals Commission shall consider the records of the claims adjudicator and the review body relating to the claim.

(3) In considering an appeal from a decision under section 120, the Appeals Commission shall consider the records and information available to the review body relating to the matter under consideration.

(4) In considering an appeal from a determination of the Board under section 21(3), the Appeals Commission shall consider the records and information available to the Board relating to the matter under consideration.

(5) Where a decision or determination is appealed, the Board shall, on request, forward to the Appeals Commission

- (a) the records and information in its possession relating to the decision or determination, and
- (b) the written reasons for the decision or determination.

(6) In the hearing of an appeal under this section, the Appeals Commission

- (a) shall give all persons with a direct interest in the matter under appeal an opportunity to be heard and to present any new or additional evidence,
- (b) is bound by the board of directors' policy relating to the matter under appeal,
- (c) shall permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal,
- (d) may confirm, reverse or vary the decision or determination appealed,
- (e) may direct that its decision be implemented within a specified time period, and
- (f) may refer any matter back to the review body or the Board, as the case may be, for further action or decision, with or without directions.

(7) At the request of an affected person or the Board, the Appeals Commission may clarify any directions given in respect of a decision.

(8) The Appeals Commission shall not accept an appeal from a decision under section 46 or 120 unless a written notice of appeal that complies with the regulations is received within one year from the date that the appropriate review body made its decision.

(9) Notwithstanding subsection (8), if the chief appeals commissioner, or the appeals commissioner to whom the chief appeals commissioner delegates the chief appeals commissioner's duties, considers there is a justifiable reason for a delay, that commissioner may extend, with or without conditions, the deadline set out in subsection (8).

(10) There is no appeal from a decision made under subsection (9).

(11) At any stage of the proceedings before it, the Appeals Commission may by originating notice state in the form of a special case for the opinion of the Court of Queen's Bench any question of law or jurisdiction arising in the course of the proceedings, and may adjourn the proceedings for that purpose.

Board is bound by decision

13.3(1) The Board is bound by a decision of the Appeals Commission and by any decision rendered on an appeal or review of a decision of the Appeals Commission.

(2) The Board shall implement a decision referred to in subsection (1)

- (a) within the time prescribed in the decision, or
- (b) if no time is prescribed in the decision, then as soon as is practicable and, in any event, not later than 30 days after being notified of the decision.

Appeal

13.4(1) The Board and any person who has a direct interest in a decision of the Appeals Commission made pursuant to section 13.2 may appeal the decision to the Court of Queen's Bench on a question of law or jurisdiction.

(2) An appeal must be commenced by originating notice.

(3) An originating notice must include a concise statement of

- (a) the grounds on which the decision is being appealed, and
 - (b) the nature of the relief claimed.
- (4)** An originating notice must be filed with the Court and served on the Appeals Commission and the other parties to the appeal, all within 6 months after the date of the decision that is being appealed.
- (5)** The Court may not enlarge the time period referred to in subsection (4).
- (6)** Where the appellant is a person other than the Board, the appellant must also serve a copy of the originating notice on the Board.
- (7)** On being served with an originating notice the Appeals Commission shall forthwith forward to the clerk of the Court
- (a) the record of the proceedings before the Appeals Commission, which consists of
 - (i) the notice of appeal or other document that initiated the appeal before the Appeals Commission,
 - (ii) all documents forwarded to the Appeals Commission under section 13.2(5) that were considered by the Appeals Commission in reaching its decision,
 - (iii) the evidence and all exhibits and other documents received by the Appeals Commission, and
 - (iv) the decision of the Appeals Commission, with reasons,
- and
- (b) a certificate stating that the record is true and complete.
- (8)** The Court may receive any further evidence that the Court considers is necessary in order to determine a question of law or jurisdiction.
- (9)** The Court may stay the operation of the decision being appealed until final disposition of the appeal.

(10) The Court may direct that any person be added or struck as a party and that the originating notice be served on any other person that the Court considers appropriate.

(11) On the hearing of the appeal the Court may

- (a) confirm or set aside the decision of the Appeals Commission or any part of it, and
- (b) where it sets aside the decision, refer the matter back to the Appeals Commission for reconsideration in accordance with any directions the Court considers appropriate.

(12) If the Court finds that the only ground for appeal that is proven is a defect in form or a technical irregularity, and that no substantial wrong or miscarriage of justice has occurred, it may deny the appeal and confirm the decision of the Appeals Commission notwithstanding the defect or irregularity, and may order that the decision takes effect from the time and on the terms that the Court considers proper.

(13) The Court may make any award as to the costs of the appeal that it considers appropriate.

(14) An appeal from a decision of the Court under this section lies to the Court of Appeal.

Consensual resolution process privileged

13.5 Where, in the course of an appeal before the Appeals Commission, the Appeals Commission conducts a consensual resolution process, no oral or written statement made and no documents provided as part of the process may be admitted in evidence in any other proceeding before the Appeals Commission or any other tribunal or court without the consent of the person who made the statement or provided the document.

8 Section 15(2) and (3) are repealed.

9 Section 16(1) is repealed and the following is substituted:

Persons deemed workers

16(1) Where an individual performs any work for any other person in an industry to which this Act applies, that individual is deemed to be a worker of the other person, except when the individual

- (a) is performing the work as the worker of another employer,
- (b) is an employer and is performing the work as part of the business of the employer, whether by way of manual labour or otherwise,
- (c) is a director of a corporation and is performing the work as part of the business of the corporation, whether by way of manual labour or otherwise,
- (d) is a partner in a partnership who is a worker under section 15(1) and is performing the work as part of the business of the partnership, whether by way of manual labour or otherwise, in the industry for which coverage has been approved, or
- (e) is a proprietor who is a worker under section 15(1) and is performing the work as part of the business of the proprietorship, whether by way of manual labour or otherwise, in the industry for which coverage has been approved.

10 Section 17(1) is amended by striking out “section 12” and substituting “section 13.1”.

11 Section 19 is repealed and the following is substituted:

Prohibition

19(1) A person shall

- (a) make prompt and explicit answers to an inquiry made under section 18(3)(a), and
- (b) comply with a notice given under section 18(3)(a).

(2) No person shall

- (a) prohibit or interfere with the examination or removal of anything under section 18(3), or
- (b) otherwise obstruct, hinder or interfere with the Board, or a person acting on its behalf, in the making of an investigation under section 18.

12 Section 24(4) is amended by striking out “accident” wherever it occurs and substituting “personal injury or death of a worker”.

13 Section 26 is repealed and the following is substituted:

Time limit for claims

26(1) Subject to subsection (2), the Board shall not pay compensation

- (a) to a worker unless the worker reports the accident to the Board within 24 months after the date of the accident or the date on which the worker becomes aware of the accident, or
- (b) to a dependant unless the dependant reports the accident to the Board within 24 months after the date of the death of the worker.

(2) If a worker or dependant does not report an accident within the time prescribed by subsection (1), the Board may nevertheless pay compensation if it is satisfied that there are reasonable and justifiable grounds for the accident’s not being reported within the prescribed time or that the claim is a just claim and should be allowed despite the failure to report within the prescribed time.

14 Section 28(1) and (2) are repealed and the following is substituted:

Out-of-province accidents

28(1) If an accident happens while the worker is employed out of Alberta, the worker or the worker’s dependants are entitled to compensation under this Act if

- (a) the worker

- (i) is a resident of Alberta, or
 - (ii) has his or her usual place of employment in Alberta and the work out of Alberta is a continuation of the employment by the same employer or an employer that is related to that employer within the meaning of section 134,
- (b) the nature of the employment is such that, in the normal course of the employment, the work or service the worker performs is required to be performed both in and out of Alberta, and
 - (c) 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 and subject to any terms it considers appropriate,
- (a) waive any of the requirements of subsection (1)(a) and (b), and
 - (b) extend the period referred to in subsection (1)(c).

15 Section 32(4) is repealed.

16 Section 33 is repealed and the following is substituted:

Notice by employer

33(1) An employer who receives notice of an accident under section 32 or otherwise acquires knowledge of an accident or of an allegation of an accident

- (a) shall forthwith record the details of the accident as required by the regulations and forthwith provide a copy of that record to the worker,
- (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 to the Board within 72 hours after acquiring knowledge of the accident or the allegation, and at the same time give a copy of that notice to the worker, and

- (ii) if the employer 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 the employer acquires knowledge of it,
 - (c) shall, if the accident is one to which section 32(1)(b) applies, except in those cases where only first aid, as determined by the Board, is rendered, give notice of the accident to the Board within 72 hours after the employer 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) If an employer or a person who, in the opinion of the Board, is or might be an employer fails to
- (a) provide any information as required by this section, or
 - (b) reply to the Board's request for information within 30 calendar days after the date of that request,

the Board may investigate the accident and may charge the costs of the investigation to the employer or other person.

17 Section 45 is repealed and the following is substituted:

Review body

45(1) The Board shall appoint a review body for the purposes of section 46 consisting of not fewer than 3 persons, one of whom shall be designated as the chair.

(2) The chair of the review body may designate one or more members of the review body to conduct a review under section 46 on behalf of the review body.

(3) When one or more members of the review body are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the review body.

(4) Where a claims adjudicator or a physician referred to in section 42 or 43 made a decision or was involved in a matter that is the subject of a review under section 46, that person is

not eligible to conduct a review in respect of that decision or matter.

18 Section 46 is amended

- (a) **in subsection (1) by striking out** “claims services review committee” **and substituting** “review body appointed under section 45”;
- (b) **in subsections (2), (4), (5), (6) and (7) by striking out** “claims services review committee” **and substituting** “review body”.

19 The following is added after section 46:

Medical panels

46.1(1) Where it considers it appropriate to do so, the Board or the Appeals Commission may, in the course of evaluating a claim for compensation under this Act, refer any medical issue relative to the claim to a medical panel to be dealt with under this section.

(2) Where a difference of medical opinion arises in the course of the Board’s evaluation of a claim for compensation under this Act, the Board shall refer the matter to a medical panel to be dealt with under this section.

(3) A person is not eligible to be a member of a medical panel unless the person

- (a) is a registered practitioner under the *Medical Profession Act*, or
- (b) has a similar status under similar legislation in a jurisdiction outside Alberta.

(4) The Board may make rules governing

- (a) the appointment of the members of a medical panel,
- (b) the determination of what constitutes a difference of medical opinion for the purposes of subsection (2), and

(c) the practice and procedure applicable to proceedings before a medical panel.

(5) The medical findings of a medical panel are binding on the Board, the Appeals Commission and all other persons with a direct interest in the claim.

20 Section 56 is amended

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

(2.1) If the period or periods of time prior to the accident referred to in subsection (2) are, in the Board's opinion, insufficient to allow the Board to calculate the worker's net earnings, the Board may pay periodic compensation based on another amount as determined by the Board, subject to the maximum payable under subsection (4).

(b) in subsection (4) by adding "may" after "regard".

21 Section 81 is repealed.

22 Section 91(4) is amended by striking out "Rate Stabilization Reserve" and substituting "reserve fund".

23 Section 93 is amended

(a) by repealing subsection (1) and substituting the following:

Auditor

93(1) The Auditor General is the auditor of the Board and the Accident Fund.

(b) by repealing subsection (2);

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

(4) The Board shall, on or before May 31 in 2003 and each succeeding year, submit a report of its business and affairs during the preceding calendar year to the Minister, and the report must contain

- (a) the audited financial information in respect of the Board including, without limitation, the Board's financial statements, and
- (b) any other performance information that the Minister requires.

24 Section 94 is repealed and the following is substituted:

Employer liable for premiums

94 An employer in an industry to which this Act applies is liable for the payment of premiums.

25 Section 100 is amended by striking out “Contributions” and substituting “Premiums” and by striking out “contributions” wherever it occurs and substituting “premiums”.

26 Section 103(1) is repealed and the following is substituted:

Statement of wages by employer

103(1) An employer shall, at any time required by the Board, prepare and deliver to the Board a statement showing either or both of the following:

- (a) the amount of wages paid to workers employed by the employer in the period specified by the Board;
- (b) the amount that the employer estimates the employer will pay in wages to workers employed by the employer in the period specified by the Board.

27 Section 104 is amended by striking out “\$40 000, or such larger” and substituting “the”.

28 Section 111(4) is repealed.

29 Section 115 is repealed.

30 Section 119 is repealed and the following is substituted:

Review body

119(1) The Board shall appoint a review body for the purposes of section 120 consisting of not fewer than 3 persons, one of whom shall be designated as the chair.

(2) The chair of the review body may designate one or more members of the review body to conduct a review under section 120 on behalf of the review body.

(3) When one or more members of the review body are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the review body.

(4) Where an employee of the Board was involved in an assessment made under this Act, that person is not eligible to conduct a review in respect of that assessment.

31 Section 120 is amended

(a) in subsection (1) by striking out “assessment review committee” **and substituting** “review body appointed under section 119”;

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

(1.1) An administrative penalty under section 152.1 is considered to be an assessment for the purposes of this section.

(c) in subsections (2), (3), (4) and (5) by striking out “assessment review committee” **and substituting** “review body”.

32 Section 122 is repealed.

33 Section 123 is amended by striking out “125(2) or”.

34 Section 125(2) is repealed.

35 Section 127 is repealed and the following is substituted:

Certificate of default and financing statement

127(1) Where default is made in the payment of all or part of a premium or any other money due to the Board under this Act, the Board may

- (a) issue a 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, and
- (b) register a financing statement in the Personal Property Registry.

(2) A certificate or certified statement issued under subsection (1)(a), 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.

(3) Nothing in subsection (1) or (2) affects the priority of the Board under section 129.

(4) All reasonable costs and charges incurred or paid in respect of the filing of a certificate or certified statement under subsection (2) or in respect of any proceedings taken to collect the amount certified are recoverable in the same way as if they had been included in the amount certified in the certificate or certified statement when it was filed.

36 Section 133 is amended

- (a) in subsections (1), (2), (4) and (5) by striking out "lumber" wherever it occurs and substituting "primary timber products";**
- (b) by repealing subsection (3);**
- (c) in subsection (6) by striking out "lumber under" and substituting "primary timber products under" and by striking out "lumber was" and substituting "primary timber products were";**
- (d) by adding the following after subsection (6):**

(7) In this section, “primary timber products” includes boards, sawlogs, cordwood, chips, ties, lath, bolts, shakes, mine props, posts, poles, plywood peelers and other products deemed by the Board to be primary timber products.

37 Section 135 is amended

(a) by repealing subsection (2) and substituting the following:

(2) If any person fails to pay to the Board any money that the person is liable to pay under this Act within the time provided for that payment, the Board may by itself or by its agent or a civil enforcement agency collect the amount owing with costs by distress of

- (a) the goods of that person, or
- (b) any property, other than real property, or any proceeds of property that is subject to the charge under section 129.

(b) in subsection (6) by striking out “secretary or the secretary’s agent or other” wherever it occurs.

(c) by adding the following after subsection (6):

(6.1) At any time after making a seizure, the person executing the distress warrant may appoint the debtor or some other person in possession of the property seized as bailee if the debtor or other person executes a written undertaking in the prescribed form

- (a) to hold the property as bailee for the person executing the distress warrant, and
- (b) to deliver up possession of the property to the person executing the distress warrant on demand.

(6.2) Property held by a bailee under subsection (6.1) is deemed to be held under seizure by the person executing the distress warrant.

- (d) in subsection (8) by striking out “distrained” and substituting “seized”;
- (e) in subsection (9) by striking out “secretary or the secretary’s agent or the”;
- (f) in subsection (11) by striking out “distrained” and substituting “seized”;
- (g) in subsection (12) by striking out “secretary or the secretary’s agent or the”;
- (h) in subsection (13) by striking out “distress warrant other than the Board’s” and substituting “distress warrant or writ of enforcement other than the Board’s”.

38 The following is added after section 137:

Travel allowances, etc.

137.1 If, under the direction of the Board or the Appeals Commission, a worker is required to travel to a place other than the place where the worker resides, the Board may pay to the worker a travel allowance, a subsistence allowance and a wage loss allowance, or any of them, in accordance with the terms and conditions prescribed by an order of the board of directors of the Board.

39 Section 139 is amended by renumbering it as section 139(1) and by adding the following after subsection (1):

- (2) Where the Board considers that an employer has contravened subsection (1), in addition to any other action that may be taken by the Board pursuant to this Act, the Board may
 - (a) collect from the employer the amount of any deduction prohibited by subsection (1) as if it were a premium payable under this Act, and
 - (b) pay the amount collected to the worker from whom it was deducted or who paid it.

40 Section 140 is repealed and the following is substituted:

Agreements to waive Act void

140 No person shall enter into an agreement to waive or forego any of the benefits to which a worker or a worker's dependants are or might become entitled under this Act, and any such agreement is void.

41 The following is added after section 140:

Impeding reporting of accident

140.1 No employer shall, directly or indirectly, by agreement, threats, promises, persuasion or any other means, discourage or impede a worker of the employer, or the worker's dependant, from reporting an accident to the Board.

42 Section 150 is amended by striking out "money due pursuant to an assessment" **and substituting** "a premium payable under this Act".

43 The following is added after section 151:

Prohibition

151.1(1) No person shall, in connection with a claim for compensation,

- (a) knowingly provide false or misleading information to the Board,
- (b) fail to report to the Board, without lawful excuse, the person's return to work, or
- (c) fail to inform the Board of a material change in the person's circumstances that may affect the person's entitlement to compensation or other benefits under this Act or the amount of that compensation or those benefits.

(2) No person shall, in connection with an assessment or an employer account,

- (a) knowingly provide false or misleading information to the Board, or
- (b) have or use a document that purports to be a clearance certificate issued in respect of section 126, 129, 132, 133

or 134 but that was not issued by the Board or is otherwise invalid.

(3) No person shall knowingly make a false or misleading statement or representation to the Board to obtain payment for goods or services, whether or not the Board actually received the goods or services.

44 Section 152 is amended

(a) **by repealing subsections (1) and (2) and substituting the following:**

Offence

152(1) A person who contravenes this Act or a regulation or order made under it is guilty of an offence.

(2) Where a person is guilty of an offence referred to in subsection (1), the person is liable

- (a) to a fine of not more than \$25 000 and, where the offence is a continuing offence, a further fine of not more than \$10 000 for each day during which the offence continues, and
- (b) in the case of an individual, to imprisonment for a period not exceeding 6 months in addition to or instead of the fine.

(b) **by adding the following after subsection (4):**

(4.1) A person who pays an administrative penalty under section 152.1 in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

45 The following is added after section 152:

Liability of directors, officers

152.01 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or

not the corporation has been prosecuted for or convicted of the offence.

Administrative penalty

152.1(1) Where the Board is of the opinion that a person has contravened section 19, 33(1), 87, 103, 105, 106, 108, 109, 110, 138, 139, 140, 140.1, 145, 147(3) or 151.1, the Board may by notice in writing given to that person require that person to pay to the Board within the time specified in the notice an administrative penalty in respect of each contravention in the amount set out in the notice.

(2) A person who contravenes a provision referred to in subsection (1) is liable for the administrative penalty for each day or part of a day on which the contravention occurs and continues.

(3) An administrative penalty may not exceed \$25 000

- (a) for each contravention, or
- (b) for each day or part of a day on which the contravention occurs and continues,

as the case may be.

(4) A notice of administrative penalty may not be issued more than 2 years after the later of

- (a) the date on which the contravention to which the notice relates occurred, and
- (b) the date on which evidence of the contravention first came to the notice of the Board.

46 Section 153(1)(i) is amended by striking out “111(4).”.

47 Section 156(1) is amended by striking out “, the Appeals Commission”.

48 The following is added after section 157:

Part 8.1 Long-standing Contentious Matters

Review of long-standing contentious matters

157.1(1) In this section,

- (a) “award” means an award from the fund;
- (b) “fund” means a fund established pursuant to a regulation under subsection (2)(a);
- (c) “review body” means a review body established pursuant to a regulation under subsection (2)(c).

(2) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Board to establish as part of the Accident Fund a fund for the payment of awards to workers, dependants and employers who the review body determines are eligible for an award;
- (b) prescribing the amount or the maximum amount of the fund;
- (c) providing for the establishment of one or more review bodies to consider applications for awards and to make awards;
- (d) governing all aspects related to eligibility for and the payment of awards, including, without limitation, regulations
 - (i) governing the factors that a review body must or may consider in determining whether an applicant is eligible for an award and in determining the amount of an award;
 - (ii) respecting the form and contents of applications for awards;
 - (iii) respecting the process by which applications for awards are made and dealt with;

- (iv) respecting the time within which applications for awards must be received by a review body in order to be considered by the review body;
 - (v) authorizing the Board to pay from the fund the reasonable and necessary expenses as determined by the review body that were incurred by an applicant for an award in connection with the proceedings before the review body;
 - (vi) respecting the minimum or maximum amounts that may be applied for or awarded;
 - (vii) respecting the manner in which awards are allocated, both in respect of individual applicants and in respect of applicants generally;
 - (viii) respecting the manner in which awards are to be paid by the Board, and authorizing a review body to make an award subject to terms and conditions;
 - (ix) prescribing a date after which no awards may be made;
- (e) authorizing a review body to make rules governing its practice and procedure generally with respect to its operations;
 - (f) governing the administration of the fund by the Board generally;
 - (g) requiring a review body to submit reports on its operations and respecting the contents of such reports and the persons to whom they are to be submitted.

(3) Subject to subsection (4), the decision of a review body in respect of an award is final.

(4) A decision or proceeding of a review body in respect of an award may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the originating notice is filed with the Court of Queen's Bench and served on a review body no later than 30 days after the date of the decision or proceeding, or reasons in respect of it, whichever is later.

49(1) In the following provisions “contribution” is struck out wherever it occurs and “premium” is substituted:

section 105;
section 106;
section 107;
section 114(1);
section 117;
section 121(1), (2);
section 124(4);
section 126(1)(a), (2)(a);
section 128;
section 130(1), (2).

(2) Section 124(1) is amended by striking out “contributions” and substituting “premiums”.

50(1) The persons who are members of the Appeals Commission on the coming into force of section 7 continue as members until their terms expire or they are otherwise replaced or reappointed under Part 2 of the *Workers’ Compensation Act*.

(2) The persons who are members of the claims services review committee or the assessment review committee immediately before the coming into force of section 17 or 30, as the case may be, continue as members of the appropriate review body under section 45 or 119 of the *Workers’ Compensation Act* until their terms expire or they are otherwise replaced or reappointed.

51(1) Sections 4, 7, 10, 17, 18, 30, 31 and 50 come into force on September 1, 2002.

(2) Sections 26, 28, 32, 33, 34, 39, 40, 41, 43, 44, 45, 46 and 47 come into force on January 1, 2003.

Explanatory Notes

1 Amends chapter W-15 of the Revised Statutes of Alberta 2000.

2 Section 1(1) presently reads in part:

1(1) In this Act,

- (g) *“construction” includes reconstruction, repair, alteration, renovation, painting, decorating and demolition;*

3 Insurance Act does not apply to workers’ compensation benefits.

4 Section 4 presently reads:

4 Without limiting the generality of section 3, the Board may, notwithstanding any other enactment, hire the employees it considers necessary for the purposes of administering this Act and carrying out the business and affairs of the Board.

5 Section 7(1) presently reads:

7(1) Meetings of the board of directors shall be held at the call of the chair at any place in Alberta that the chair determines, and in no case shall more than 2 months elapse between meetings of the board.

6 Requirement to hold annual general meeting that is open to public.

7 New Part respecting Appeals Commission. Part 2 presently reads:

10(1) There is hereby established an Appeals Commission, to be appointed by the Lieutenant Governor in Council, consisting of

- (a) *a chief appeals commissioner, who shall be the chair,*
- (b) *one or more appeals commissioners whom the Lieutenant Governor in Council considers*

to be representative of the interests of employers,

(c) one or more appeals commissioners whom the Lieutenant Governor in Council considers to be representative of the interests of workers, and

(d) any temporary appeals commissioners appointed in accordance with subsection (3).

(2) The following persons are not eligible to be or continue to be appeals commissioners:

(a) employees of the Board;

(b) members of the board of directors.

(3) One or more temporary appeals commissioners may be appointed for terms of not more than one year, and are eligible for reappointment for additional terms of not more than one year each.

(4) An appeals commissioner other than a temporary appeals commissioner shall be appointed for a maximum term of 3 years and is eligible for reappointment for additional terms of not more than 3 years each.

(5) The chief appeals commissioner may designate one of the other appeals commissioners to act in the chief appeals commissioner's place as chief appeals commissioner and to assume all of the chief appeals commissioner's powers and responsibilities during the chief appeals commissioner's temporary absence.

(6) The remuneration of the appeals commissioners shall be prescribed by the Lieutenant Governor in Council and paid out of the Accident Fund.

(7) Meetings of the Appeals Commission shall be held at any place in Alberta that it determines.

(8) Notwithstanding the resignation or expiry of the term of office of an appeals commissioner, the appeals commissioner may continue to act as an appeals commissioner for the purpose of completing the

appeals commissioner's duties in respect of matters arising before the effective date of the resignation or expiry of the term of office.

11 The operating costs of the Appeals Commission must be paid by the Board from the Accident Fund.

12(1) Subject to section 13(7), the Appeals Commission has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act and the regulations in respect of

- (a) appeals from decisions of the claims services review committee under section 46,*
- (b) appeals from decisions of the assessment review committee under section 120,*
- (c) appeals from determinations of the Board under section 21(3), and*
- (d) any other matters assigned to it under this or any other Act or the regulations under this or any other Act,*

and the decision of the Appeals Commission on the appeal or other matter is final and conclusive and is not open to question or review in any court.

(2) The chief appeals commissioner may authorize a panel of 2 or more appeals commissioners to act on behalf of the Appeals Commission under subsection (1) and that panel may exercise the powers of the Appeals Commission for that purpose.

(3) Section 17(2) to (6) apply to the Appeals Commission as if it were the Board.

(4) The Appeals Commission may make rules governing the practice and procedure applicable to appeals before it and generally with respect to its operations.

13(1) An interested party who is dissatisfied with

- (a) a decision of the claims services review committee or assessment review committee referred to in section 12(1), or*
- (b) a determination of the Board under section 21(3)*

may, in accordance with the regulations and the Appeals Commission's rules, appeal the decision or determination to the Appeals Commission.

(2) In considering an appeal from a decision of the claims services review committee, the Appeals Commission shall consider the

records of the claims adjudicator and the review committee relating to the claim.

(3) In considering an appeal from a decision of the assessment review committee, the Appeals Commission shall consider the records and information available to the assessment review committee relating to the matter under consideration.

(4) In considering an appeal from a determination of the Board under section 21(3), the Appeals Commission shall consider the records and information available to the Board relating to the matter under consideration.

(5) In considering an appeal under this section, the Appeals Commission shall give all interested parties an opportunity to be heard and to present any new or additional evidence.

(6) The Appeals Commission may confirm, reverse or vary the decision or determination appealed, and the Appeals Commission's decision may be enforced in the same way as if it were made by the Board.

(7) In the hearing of appeals under this section, the Appeals Commission is bound by policy determined by the board of directors that relates to the matter under appeal, and where the board of directors considers that the Appeals Commission has not properly applied that policy or the provisions of this Act and the regulations that are applicable to the matter under appeal, the board of directors may in writing direct the Appeals Commission to rehear the matter and to give fair and reasonable consideration to that policy or those provisions.

(8) The board of directors may stay the decision of the Appeals Commission pending a rehearing of the subject-matter of the decision under subsection (7).

(9) An appeal from a decision of the claims services review committee or the assessment review committee shall not be accepted unless a written notice of appeal is received by the Appeals Commission within one year from the date that the claims services review committee or assessment review committee made its decision.

(10) Notwithstanding subsection (9), if the chief appeals commissioner, or the appeals commissioner to whom the chief appeals commissioner delegates the chief appeals commissioner's duties, considers there is a justifiable reason for a delay, that commissioner may extend, with or without conditions, the deadline for commencing an appeal to the Appeals Commission.

(11) There is no appeal from a decision made under subsection (10).

8 Section 15(2) and (3) presently read:

(2) 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.

(3) 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.*

9 Section 16(1) presently reads:

16(1) Where an individual performs any work in an industry to which this Act applies for any other person engaged in that industry, called in this section 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 or herself
 - (i) an employer, or*
 - (ii) the worker of an employer, other than the principal,
and is performing the work for the principal in the individual’s 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 the individual’s 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 the individual’s application as a partner approved by the Board under section 15, and*
 - (iii) performs the work for the principal in the individual’s 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 15 and who is performing the work for the principal in the individual’s capacity as a proprietor.*

10 Consequential to renumbering change.

11 Section 19 presently reads:

19 A person who

- (a) fails to make prompt and explicit answers to an inquiry made under section 18(3)(a),*
- (b) fails to comply with a notice given under section 18(3)(a),*
- (c) prohibits or interferes with the examination or removal of anything under section 18(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 18*

is guilty of an offence.

12 Section 24(4) presently reads:

(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.

13 Section 26 presently reads:

26(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.

14 Section 28 presently reads in part:

28(1) If an accident happens while the worker is employed out of Alberta, the worker or the worker's dependants are entitled to compensation under this Act if

- (a) the worker is a resident of Alberta or the worker's 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).

15 Section 32(4) presently reads:

(4) A worker or dependant who fails to give notice as required by subsection (2) or (3) 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 the employer's 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.*

16 Section 33 presently reads:

33(1) An employer who receives notice of an accident under section 32 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 72 hours after the employer acquires knowledge of the accident or the allegation and shall give a copy of that notice to the worker, and*
 - (ii) *if the employer 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 the employer acquires knowledge of it,*
- (c) *shall, if the accident is one to which section 32(1)(b) applies, give notice of the accident or of the allegation of the happening of the accident to the Board within 72 hours after*

the employer 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 after 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.

17 Section 45 presently reads:

45(1) The Board shall appoint a claims services review committee consisting of not fewer than 3 persons, one of whom shall be designated as the chair of the claims services review committee.

(2) The chair of the claims services review committee may designate one or more members of the claims services review committee to conduct a review under section 46 on behalf of the claims services review committee.

(3) When one or more members of the claims services review committee are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the claims services review committee.

(4) Where a claims adjudicator or a physician referred to in section 42 or 43 made a decision or was involved in a matter that is the

subject of a review under section 46, that person is not eligible to conduct a review in respect of that decision or matter.

18 Section 46 presently reads:

46(1) Where a person has a direct interest in a claim for compensation in respect of which a claims adjudicator has made a decision, that person may, within one year from the day the decision was issued by the claims adjudicator, seek a review of the decision by the claims services review committee.

(2) On receiving a request for a review, the Board shall cause all the information in the Board's possession in respect of the matter that is the subject of the review to be reviewed by the claims services review committee.

(3) For the purposes of subsection (1), any decision made by a claims adjudicator prior to June 1, 1995 is deemed to have been issued on June 1, 1995.

(4) Unless otherwise allowed by the claims services review committee, a request for a review must be in writing and must

- (a) set out the date and place of the accident and the claim number,*
- (b) identify the decision or issue that is to be reviewed, and*
- (c) set out the reasons as to why the decision or issue should be reviewed.*

(5) The claims services review committee

- (a) must receive the representations, if any, made on behalf of any one or more of the interested parties, and*
- (b) may confirm, vary or reverse any decision made in respect of the claim.*

(6) For the purposes of a review, the claims services review committee may require the worker or the worker's 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 38 applies.

(7) The one-year period referred to in subsection (1) may be extended if the chair of the claims services review committee or the chair's delegate considers there is a justifiable reason for extending the time period.

(8) Where the one-year period is extended under subsection (7), the person extending the time period may do so with or without conditions.

(9) There is no appeal from a decision made under subsection (7).

19 Appointment of medical panels to review conflicting medical opinions.

20 Section 56 presently reads in part:

(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.

(4) In computing net earnings for the purposes of this Act, no regard be taken of the aggregate gross annual earnings of the worker in excess of an amount prescribed by order of the Board.

21 Section 81 presently reads:

81 If, under the direction of the Board or the Appeals Commission, a worker is required to travel to a place other than the place where the worker resides, the Board may pay to the worker a travel allowance, a subsistence allowance and a wage loss allowance, or any of them, in accordance with the terms and conditions prescribed by an order of the board of directors of the Board.

22 Section 91(4) presently reads:

(4) In addition to the funds referred to in subsection (3), the Board may maintain a Rate Stabilization Reserve sufficient to meet costs arising from extraordinary events that might otherwise

(a) unfairly burden employers in the short term, or

(b) prevent full funding of the Accident Fund.

23 Section 93 presently reads in part:

93(1) The financial statements of the Board shall be audited at the direction of the Auditor General by an independent auditor appointed, in consultation with the Board, by the Auditor General, with the cost of the audit to be borne by the Board.

(2) The independent auditor's report produced pursuant to subsection (1) shall be addressed to the board of directors of the Board and the Auditor General.

(4) 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.

24 Section 94 presently reads:

94 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 the employer and other contributions required of the employer under this Act.

25 Change in terminology.

26 Section 103(1) presently reads:

103(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 the employer in the previous year, and*
- (b) the amount that the employer estimates the employer will pay in wages to workers employed by the employer in the current year.*

27 Section 104 presently reads:

104 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, or such larger amount established under section 56(4), for that year, the excess amount shall be deducted from the amount of the payroll before it is used as a basis for assessment.

28 Section 111(4) presently reads:

(4) If an employer fails to prepare and deliver to the Board within the prescribed time a statement under sections 103 to 110, the employer shall pay to the Board as a penalty an amount prescribed by the regulations.

29 Section 115 presently reads:

115 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 the worker so employed.

30 Section 119 presently reads:

119(1) The Board shall appoint an assessment review committee consisting of not fewer than 3 persons, one of whom shall be designated as the chair of the assessment review committee.

(2) The chair of the assessment review committee may designate one or more members of the assessment review committee to conduct a review on behalf of the assessment review committee.

(3) When one or more members of the assessment review committee are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the assessment review committee.

(4) Where an employee of the Board was involved in an assessment made under this Act, that person is not eligible to conduct a review in respect of that assessment.

31 Section 120 presently reads:

120(1) Where a person has a direct interest in an assessment made under this Act, that person may, within one year from the day that a decision was made in respect of the assessment, seek a review of the decision by the assessment review committee.

(2) On receiving a request for a review, the Board shall cause all the information in the Board's possession in respect of the matter that is the subject of the review to be reviewed by the assessment review committee.

(3) Unless otherwise allowed by the assessment review committee, a request for a review must be in writing and must

(a) set out the date that the decision that is to be reviewed was made,

(b) identify the decision or issue that is to be reviewed, and

(c) set out the reasons as to why the decision or issue should be reviewed.

(4) The assessment review committee

(a) must receive the representations, if any, made on behalf of any one or more of the interested parties, and

(b) may confirm, vary or reverse the decision.

(5) The one-year period referred to in subsection (1) may be extended if the chair of the assessment review committee or the chair's delegate considers there is a justifiable reason for extending the time period.

(6) Where the one-year period is extended under subsection (5), the person extending the time period may do so with or without conditions.

(7) There is no appeal from a decision made under subsection (5).

32 Section 122 presently reads:

122 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 the employer's employ that occurs during the period of default, require the employer to pay to the Board an amount equal to the lesser of

- (a) 50% of the amount of compensation payable to the worker, and*
- (b) \$500.*

33 Section 123 presently reads:

123 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 125(2) or 152.

34 Section 125 presently reads:

125(1) If an employer defaults in providing security to the Board under section 124, 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 the employer's default continues.*

35 Section 127 presently reads:

127(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 secretary may

- (a) issue a certificate or certified statement setting out the basis of the payment to be made, the amount remaining unpaid, the person by whom it is payable and directing the payment of the amount by that person, and*
- (b) register a financing statement in the Personal Property Registry in respect of the charge arising under section 129.*

- (2) In addition to any other rights or remedies provided under this Act, the registration of a financing statement entitles the Board to conduct civil enforcement proceedings as if it were an enforcement creditor and the person in respect of whom the financing statement was registered was an enforcement debtor.*

(3) Nothing in subsection (2) affects the priority of the Board under section 129.

36 Section 133 presently reads:

133(1) Except in the case of a retail sale of lumber by a retail dealer in the ordinary course of the retail dealer's 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 the purchaser's 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 the purchaser, 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.

37 Section 135 presently reads in part:

(2) If any person fails to pay to the Board any money that the person is liable to pay under this Act within the time provided for that payment, the secretary may by himself or herself or his or her agent or by a civil enforcement agency collect the amount owing with costs by distress of the goods of that person.

(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 the secretary's 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 the secretary or the secretary's agent or other person executing the distress warrant 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 herself or with the assistance of any persons the secretary or the secretary's agent or other person executing the distress warrant 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.

(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 the secretary's 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.

(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 that other person or that that other person 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 the secretary's 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 civil enforcement agency, goods of the person against whom the warrant is issued are already under seizure or distraint by the same civil enforcement agency, or are subsequently seized or distrained by the civil enforcement agency, under a distress warrant other than the Board's, the goods are, from the time of the placing of the Board's warrant in the hands of the civil enforcement agency, or from the time the seizure or distraint is made, as the case may be, deemed to have also been seized or distrained on by the civil enforcement agency, under the Board's warrant.*

38 Board may pay travel allowances, etc.

39 Section 139 presently reads:

139 Except as authorized by this Act, no employer shall, either directly or indirectly, deduct from the wages of the employer's workers any part of any sum that the employer is or might become liable to pay to the Board or require or permit any of the employer's workers to contribute in any manner toward indemnifying the employer against any liability that the employer has incurred or might incur under this Act.

40 Agreements to waive Act are void.

41 Impeding reporting of accident to Board.

42 Section 150 presently reads:

150 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.

43 Prohibitions respecting false and misleading information.

44 Section 152 presently reads in part:

152(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, 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 the person was convicted, is guilty of an additional offence and liable to a fine of not more than \$500 a day for each day the person's failure continues.

45 Liability of directors and officers. Board may require payment of administrative penalties.

46 Section 153(1)(i) presently reads:

153(1) The Lieutenant Governor in Council may make regulations

(i) respecting the amount of the penalty payable under sections 111(4), 112(2) and 121(2);

47 Section 156(1) presently reads:

156(1) Except for sections 1, 6, 77 and 80 of the Financial Administration Act, the Financial Administration Act does not apply to the Board, the Appeals Commission or the Accident Fund.

48 New provisions governing long-standing contentious claims.

49 Consequential changes in terminology.

50 Transitional provision.

51 Coming into force.