

REDRAFTED BILL.

BILL

No. 43 of 1919.

An Act to amend The Workmen's Compensation Act, 1918.

(Assented to , 1919.)

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

The Workmen's Compensation Act, 1918, being chapter 5 of the Statutes of Alberta, 1918, is amended as follows:

1. Section 2: By adding after the word "Act" in the first line thereof the words "and in the schedules hereto".

(2) By inserting after the word "corporation" in the eighth line of paragraph (f) thereof the words "and shall include the Crown in the right of the province, and any permanent board or commission appointed thereunder, in respect of any employment whatsoever."

(3) By striking out the whole of paragraph (g) thereof and substituting therefor the following:

"(g) 'Employment' means and includes employment in any establishment, undertaking, trade or business within the scope of this Act, and in the case of any undertaking not as a whole an industry within the scope of this Act, includes any department or part of such undertaking as would if carried on separately be an industry within the scope of this Act."

(4) By striking out the whole of paragraph (o) thereof and substituting therefor the following:

"(o) 'Workman' shall include a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and shall also include any person engaged in training for mine rescue work or who, with the knowledge and consent of the management, is doing recovery work after an explosion, accident or catastrophe."

(5) By adding the following paragraph:

"(r) 'Manufacturing' shall include making, preparing, altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity."

2. Section 13: By adding thereto the following subsections:

“(3) The decisions of the board shall be upon the real merits and justice of the case, and it shall not be bound to follow strict legal precedent.

“(4) Without thereby limiting the generality of the provisions of subsection 1 it is declared that the exclusive jurisdiction of the board shall extend to determining—

“(a) The question whether an injury has arisen out of or in the course of an employment within the scope of this Act;

“(b) The existence and degree of disability by reason of any injury;

“(c) The permanence of disability by reason of any injury;

“(d) The degree of diminution of earning capacity by reason of any injury;

“(e) The amount of average earnings;

“(f) The existence, for the purpose of this Act, of the relationship of any member of the family of a workman as defined by this Act;

“(g) The existence of dependency;

“(h) Whether or not any industry or any part, branch, or department of any industry is within the scope of this Act, as defined in the schedules hereto, and the class to which any industry or any part, branch or department of any industry within the scope of this Act should be assigned;

“(i) Whether or not any workman in any industry within the scope of this Act, as defined in the schedules hereto, is within the scope of this Act and entitled to compensation thereunder.”

3. Section 20: By repealing the same and substituting therefor the following section:

“**20.** For the purposes of this Act and to cover the cost of the administration thereof the board shall from time to time as it may deem expedient, and at least quarterly, make an assessment of such amount as the board may consider necessary or proper on each employer for the period which has elapsed since the next preceding assessment was made, but in no event shall the assessment be less than at the rate of \$2.50 per month.

“(2) The sums to be so assessed may be either a percentage of the payroll of the employer or a specific sum as the board may determine.

“(3) Where the payroll includes the wages or salary of a workman who has been paid more than \$165 in any calendar month, the excess shall be deducted from the amount of the payroll for that month, and the assessments shall be based on the amount of it as so reduced.

“(4) The assessment may be made in such manner and form as the board may deem adequate and expedient.

“(5) Upon the board so requiring, an employer in any industry under this Act shall be entitled to and shall deduct from the wages of any workmen in his employment and pay to the board an amount fixed by the board sufficient in the aggregate to meet the assessment upon any person or persons employed by such workmen in such industry.”

4. Section 25: By repealing the same and substituting therefor the following:

“25. Where default is made in the payment of any assessment or any special assessment or any part thereof, the board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it, and the person by whom it was payable, and such certificate, or a copy of it, certified by the secretary under the seal of the board to be a true copy, may be filed with the Clerk of the Supreme Court or the Clerk of the District Court of any district, and when so filed shall become an order of the court and shall be enforced as a judgment of the court.

“(2) The board shall have the like power and be entitled to the like remedies of enforcing payment of any sum (other than an assessment) which an employer is required to pay to the board under any of the provisions of this Act, as it possesses or is entitled to in respect of assessments.”

5. Section 27: By striking out all the words between the word “shall” in the second line of the first subsection thereof and the word “before” in the sixth line thereof.

6. Section 30: By adding thereto the following subsection:

“(2) There shall be included among the debts which under *The Assignments Act*, *The Trustee Ordinance*, or *The Companies Winding Up Ordinance* are, in the distribution of the property in the case of an assignment or death, or in the distribution of the assets of a company being wound up under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment the liability wherefor accrued before the date of the assignment or death or before the commencement of the winding up, and the said Acts shall have effect accordingly.”

7. Section 34: By repealing the whole of subsection 2 thereof and substituting therefor the following:

“(2) Compensation shall not in general be payable out of the accident fund to an employer or a member of the family of an employer, but the board may in its discretion deem an employer or member of his family to be a workman within the meaning of this Act, and may require the employer

to pay such assessment as the board may determine, and in such case the employer, member of his family or his or their dependants, as the case may be, shall be entitled to compensation under this Act upon compliance with section 21 hereof:

"Provided, however, that where an employer or member of his family is at the time of the accident carried on the payroll of the employer, and his wages are included in the then last statement furnished to the board under sections 26 and 27, such employer or member of his family shall be deemed to be a workman within the Act and shall upon the compliance of the employer with said section 21 be entitled to compensation accordingly."

8. Section 35: By striking out same and substituting therefor the following:

"35. In the case of any injury to a workman after the expiry of two years from his arrival in Canada, it shall be conclusively presumed that he has, at the time of such injury, no dependants other than his father and mother or either of them, save such dependants as are resident in Canada.

"(2) The above period shall in the case of a workman who is not of British nationality be a period of one year, in lieu of two years.

"(3) This section shall not take effect until January 1st, 1920."

9. Section 36: By adding thereto the following subsections:

"(2) Where any work within the scope of this Act is undertaken for any person, in this section referred to as the principal, by a contractor it shall be the duty of the principal to see that any sum which the contractor or any subcontractor is liable to contribute to the accident fund in respect of the work so undertaken is paid, and if any such principal fails to do so he shall be personally liable to pay it to the board, and the board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

"(a) Where contribution to the accident fund is claimed from the principal, in this Act reference to the principal shall be substituted for reference to the employer.

"(b) Where the principal is liable to contribute to the accident fund under this section, he shall be entitled to be indemnified by any person who shall have paid the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the board.

"(c) Nothing in this section shall prevent the board from levying or collecting contribution to the accident fund on or from the contractor or any subcontractor instead of on or from the principal.

“(3) Subject to the provisions of this Act it shall not be lawful for any employer, either directly or indirectly, to deduct from the wages of his workmen any part of any sum which the employer is or may become liable to pay to the board or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Act.”

10. Section 43: By adding thereto the following subsection:

“(3) Upon the board being satisfied that a workman’s recovery from any injury coming within this Act has been prevented or retarded by his own misconduct, it may reduce, suspend or terminate any payment to such workman under this Act.”

11. Section 45: By adding thereto the following subsection:

“(2) Where in the case of any claim for compensation the board is of the opinion that the injury may be alleviated to some appreciable extent by the supplying of any apparatus usually provided in such cases, it may supply such apparatus to the workman, and the cost thereof may be taken from the accident fund, but any such action shall not affect in any way the payments made to the workman.”

12. Section 48: By striking out the figures “75” where they appear in paragraph (a) thereof, and substituting the figures “100”.

13. Section 51: By repealing the first subsection thereof, and substituting therefor the following subsection:

“**51.** Where permanent total disability results from the injury the amount of compensation shall be a weekly payment of \$10, and where there are dependants, the further sum of \$2 for the first dependant and \$1 for each additional dependant until the total weekly compensation reaches \$16, but in no case exceeding in the whole \$2,500.

“(a) For the purposes of this section, a dependant shall mean the husband, wife or child of a workman, dependent upon his earnings and no other.”

14. Section 58: By striking out the same and substituting therefor the following:

“**MEDICAL AID.**

“**58.** No plan for providing medical aid to workmen coming within the provisions of this Act shall be valid, and after the passing of this section no employer shall be entitled to retain from the moneys earned by any such workman in his employment any sum as a contribution

towards the cost of medical aid under any such plan, unless and until after investigation of the facts such plan is found on the whole to be efficient, and is approved of by the board:

"Provided the board may at any time for cause withdraw its approval to any such plan, and no plan shall be valid after such approval has been withdrawn.

"(2) Where any plan as mentioned in this section is approved of by the board, an employer shall be entitled to retain from the moneys earned by any workman in his employment such sum as a contribution towards the cost of medical aid as may be provided therein.

"(3) When no such plan has been approved of, the board may from time to time as it deems necessary require any employer to retain from the moneys earned by any workman in his employment such sum to cover medical aid as may be determined by the board, and to pay the sum so retained to the board, and the moneys so received by the board shall form part of the accident fund, and shall constitute a special fund to be used in defraying the cost of medical aid to the workmen so contributing."

15. Section 69: By striking out the whole of said section and substituting therefor the following:

"**69.** This Act shall not apply to—

"(a) Persons engaged as travelling salesmen or in clerical work and not exposed to the hazards incident to the nature of the work carried on in the industry;

"(b) Persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;

"(c) Outworkers;

"(d) Persons employed in an industry of an itinerant nature, assessments with regard to whom it is impracticable or difficult to collect;

"(e) Persons employed by—

"The Canadian Pacific Railway Company,

"The Canadian National Railways,

"The Grand Trunk Pacific Railway Company,

"The Edmonton, Dunvegan and British Columbia Railway Company,

"The Central Canada Railway Company,

"The Alberta and Great Waterways Railway Company, as—

"locomotive engineers, locomotive firemen, wipers, hostlers, watchmen on locomotives, coal passers, conductors, trainmen, train baggagemen, train brakemen, train flagmen, yard masters, assistant yard masters, yard agents, transfer men, yard conductors, yard foremen, switchmen, yardmen, ground switch tenders, pilots, engine herders, station masters, depot masters, station agents, assistant agents,

despatchers and telegraphers, steam shovel and dredge men, steam shovel engineers, cranesmen and firemen, watchmen on steam shovels, oilers, jackmen, ditcher engineers and firemen, watchmen on ditchers, dumpmen, Lidgerwood engineers, cablemen, locomotive crane engineers, rotary snowplow engineers, maintenance of way employees, sectionmen, section foremen, bridge and building foremen and men, towermen, signal maintainers and repairmen, pump repairmen, pumpmen, extra gang foremen, snowplow and Flanger foremen, pile drivers, ditchers and hoisting engineers, track and bridge watchmen, signal men or watchmen on highway or railway crossings, nor to pipe fitters, blacksmiths, plumbers, painters, tinsmiths, masons, concrete foremen and men, brick-layers and plasterers employed in connection with maintenance of way of the said railways."

16. Schedule 2: By inserting after the word "utilities" in the fifth line thereof the words "operation of municipal police forces; municipal fire departments;"

(2) By inserting a semi-colon after the word "elevators" in the sixth line thereof.

(3) By striking out the word "and" before the word "warehouses" in the sixth line thereof and substituting therefor the words "operation of".

(4) By inserting before the word "ice" in the twelfth line thereof the words "wood yards; coal yards;" and by inserting a semi-colon after the word "ice".

(5) By striking out the word "or" where it first appears in the thirteenth line thereof and substituting the word "and".

(6) By striking out the word "thereto" in the thirteenth line thereof, and substituting the word "to".

(7) By striking out all words after the word "theatres" in the fifteenth line thereof and inserting the following words: "and by way of specific enumeration, but not so as in any way to interfere with or affect the generality of the preceding words hereof, the following classes of industries."

CLASSIFICATION.

Class 11. Lumbering, logging, river-driving, rafting, booming, rossing, bark peeling, saw-mills, shingle-mills, lath-mills, manufacture of veneer, excelsior, staves, spokes, or headings, lumber yards (including the delivery of lumber) carried on in connection with saw-mills, the creosoting of timbers, pulp and paper mills.

Class 12. Manufacture of furniture, fixtures, organs, pianos, piano actions, canoes, small boats, coffins, wicker

and rattan ware, mattresses, bed-springs, artificial limbs, cork articles, cork carpets or linoleum, upholstering, picture framing.

Class 13. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, brooms or brushes, carpet sweepers, wooden toys, articles and wares or baskets, matches or shade rollers; lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories; cooperage, not including the making of staves or headings; carpenter, joiner, or cabinet work in shop; lumber yards (including the delivery of lumber).

Class 14. Reduction of ores and smelting; preparation of metals or minerals; boring and drilling, including sinking of artesian wells; manufacture of calcium carbide, carborundum or alundum, abrasives or abrasive articles other than stone.

Class 15. Sand, shale, clay or gravel pits; marble works, stone cutting or dressing; manufacture of brick, tile, terra-cotta, fire-proofing, sewer pipe, roof tile, plaster blocks, plaster board, slate or artificial stone; manufacture of brick, stone or artificial stone paving blocks, or cement or concrete blocks, quarries, stone crushing, lime kilns; manufacture of cement.

Class 16. Manufacture of glass, glass products, glassware, porcelain or pottery.

Class 17. Rolling mills; manufacture of heavy forgings, including ship anchors.

Class 18. Foundries; gas or electric welding; manufacture of stoves, furnaces, cast hot water boilers, radiators, or metal sanitary ware, water fixtures or bedsteads.

Class 19. Fabrication of structural steel, iron or metal; ship building or ship repairing, manufacture of boilers, engines, locomotives, riveted pipes, tubing or tanks; safes, heavy machinery, cranes, or metal siding, ceiling, roofing, shingles, window frames or the like.

Class 20. Machine shops, metal stamping works, or blacksmith shops; manufacture of light forgings, carriage mountings, wires, cables, bolts, nuts, nails, screws, tools, cutlery, hardware; tin, sheet metal or sheet metal enamelled wares or articles not otherwise specified; metal wares, instruments, utensils and articles; wire goods, screens, cold drawn shafting, cold drawn tubing, firearms, ammunition shells (without explosives), windmills, gas or electric light fixtures, light machinery, scales, cash registers, typewriters, adding machines, dry batteries, cameras, sporting goods, metal toys, buttons of metal, ivory, pearl or horn, ivory articles, rubber stamps, pads or stencils.

Class 21. Manufacture of agricultural implements, thresh-

ing machines, waggons, carriages, sleighs, vehicles, motor-cycles, bicycles, tricycles, toy waggons or sleighs, baby carriages, or aeroplanes; car shops.

Class 22. Manufacture of gold or silverware, plated ware, watches, watch-cases, clocks, jewellery, or musical instruments.

Class 23. Manufacture of fire works, gunpowder, ammunition, nitro-glycerine, dynamite, gun-cotton or other high explosives, torpedoes, fuses or cartridges.

Class 24. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers; manufacture of chemicals, corrosive acids, or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, including the handling and delivery thereof; wood alcohol, celluloid articles; the manufacture, transmission and distribution of natural or artificial gas or oil, and all operations connected therewith; the cutting, storing, handling and delivery of natural ice.

Class 25. Distilleries, breweries; manufacture of spirituous or malt liquors; malt, alcohol, wine, vinegar, cider, mineral water, soda waters, or methylated spirits.

Class 26. Manufacture of non-hazardous chemicals, drugs, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations; shoe-blackening or polish, yeast, baking powder or mucilage; tar, or tarred, pitched or asphalted paper.

Class 27. Milling; manufacture of cereals or cattle foods; warehousing or handling of grain or operation of grain elevators, threshing machines, clover mills, or ensilage cutters.

Class 28. Manufacture or preparation of meats or meat products or glue; packing houses, abattoirs; manufacture of fertilizers not incidental to any other industry.

Class 29. Tanneries.

Class 30. Manufacture of leather goods and products, belting, whips, saddlery, harness, trunks, valises, trusses, imitation leather, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Class 31. Sugar refineries; manufacture of dairy products, butter, cheese, condensed milk or cream, biscuits, confectionery, chewing gum, spices, condiments, salt or any kind of starch; bakeries; canning or preparation of fruit, vegetables, fish or food-stuffs; pickle factories.

Class 32. Manufacture of tobacco, cigars, cigarettes or tobacco products.

Class 33. Flax mills; manufacture of textiles or fabrics; spinning, weaving and knitting manufactories, manufacture of yarn, thread, hosiery, cloth, blankets, carpets,

canvas, bags, shoddy, felt, felt hats, cordage, ropes, fibre, asbestos goods, hair cloth and other hair goods; work in manilla or hemp.

Class 34. Manufacture of men's or women's clothing, white-wear, shirts, collars, corsets, hats other than felt, caps, furs, robes, feathers or artificial flowers, quilts, clothing pads, tents, awnings, gloves, mittens, neckties, or other articles not otherwise specified made from fabrics; the erection of awnings.

Class 35. Power laundries; dyeing, cleaning or bleaching.

Class 36. Printing, photo-engraving, engraving, lithographing, book-binding, embossing; manufacture of stationery, paper, cardboard boxes, bags, wall-paper, or papier-mache.

Class 37. Heavy teaming or cartage; safe-moving or moving of boilers, heavy machinery, building stone and the like; warehousing, storage; teaming and cartage; scavenging, street cleaning or removal of snow or ice; scrap and junk dealers; wood yards (including the delivery of wood); coal yards (including the delivery of coal).

Class 38. Steel building and bridge construction; installation of elevators, fire-escapes, boilers, engines or heavy machinery; the erection of windmills.

Class 39. Bricklaying, mason work, stone setting; plastering; concrete or cement work in or connected with buildings; excavation work for or connected with buildings; structural carpentry; lathing; installation of pipe organs; house wrecking or house moving; painting, decorating or renovating; glazing or installation of plate glass; the business of window-cleaning; sheet metal work; roofing; the erection of lightning rods; electric wiring of buildings or installation of lighting fixtures; plumbing, heating or sanitary engineering; gas or steamfitting.

Class 40. Road or street making or repairing; bridge or culvert construction not otherwise classified; manufacture of asphalt material or paving material not otherwise classified; concrete or cement work not otherwise classified; sewer construction, tunnelling, shaft sinking, well digging; construction or operation of a waterworks system; excavation work for foundations other than for or in connection with buildings; trenching, less than six feet deep, for gas pipes, water pipes or wire conduits; excavation work not otherwise classified where the depth is more than six feet and the width is less than half the depth.

Class 41. Construction, installation or operation of electric power lines or appliances, and power transmission lines, construction or operation of an electric light system; construction and operation of power plants and electric light work; construction or operation of telegraph or

telephone lines, construction or operation of telephone lines and works for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company.

Class 42. Construction or operation of railways or canals; construction or operation of drydocks; construction of piers, wharves, breakwaters or other harbor improvements; stevedoring; operation of and work upon wharves; dredging, subaqueous construction or pile driving; fishing; operation of boats.

Class 43. Moving pictures and theatres.

Class 44. Manufacture of automobiles; motor trucks; repairs of same in public garages.

Class 45. The operation of the business of express companies which operate on or in conjunction with a railway.

Class 85. Employment by the City of Calgary in any of the industries enumerated in the above classes.

Class 86. Employment by the City of Edmonton in any of the industries enumerated in the above classes.

Class 87. Employment by the City of Lethbridge in any of the industries enumerated in the above classes.

Class 88. Employment by the City of Medicine Hat in any of the industries enumerated in the above classes.

Class 89. Employment by other municipalities in any of the industries enumerated in above classes.

Class 90. Employment by the Provincial Government of Alberta.

Class 111. All industries, trades, businesses and occupations mentioned in Schedule 2 of the Act not otherwise classified.

No. 43.

SECOND SESSION
FOURTH LEGISLATURE
9 GEORGE V
1919

BILL

An Act to amend The Workmen's
Compensation Act, 1918.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. STEWART.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A. D. 1919