

# BILL

No. 33 of 1928.

An Act to amend The Workmen's Compensation Act  
(Accident Fund).

(Assented to \_\_\_\_\_, 1928.)

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

**1.** This Act may be cited as "*The Workmen's Compensation Act (Accident Fund) Amendment Act, 1928.*"

**2.** *The Workmen's Compensation Act (Accident Fund)*, being chapter 177 of the Revised Statutes of Alberta, 1922, is amended as to section 2 thereof, by adding to paragraph (q) thereof, the following: "and shall include the driver of a vehicle doing work for another, whether the former supplies the vehicle or does not supply it, provided that the relationship of master and servant exists between such driver and the said other person."

**3.** Section 6 of the said Act is hereby struck out and the following substituted therefor:

"**6.**—(1) The chairman shall hold office for ten years from the date of his appointment and the two other commissioners shall hold office for eight years from the said date and all commissioners subsequently appointed shall hold office for ten years from the date of their appointment:

"Provided, however, that every member of the board appointed upon the coming into force of this Act shall hold office until another is appointed in his stead or until the provisions of this section have been made applicable to him by Order in Council, whichever first happens:

"Provided further, that any commissioner may be removed from office by the Lieutenant Governor on address of the Legislative Assembly.

"(2) No commissioner shall engage in any other business or employment for remuneration."

**4.** Section 13 of the said Act is amended as to subsection (1) thereof, by adding at the end thereof, the following: "nor shall any action be maintained or brought against the board or any commissioner in respect of any act or decision done or made in the honest belief that the same was within the jurisdiction of the board."

**5.** Section 16 of the said Act is amended by striking out subsection (2) thereof, and inserting in lieu thereof the following:

“(2) Upon the application of a majority of the workmen engaged in any establishment, undertaking, trade or business, or in any branch, subdivision or component part thereof, or of the persons employing workmen so engaged, the board may declare the same to be an industry to which this Act applies.

“(2a) A similar application may be made by a majority of the workmen of any one person or by such person, whereupon the board may declare the establishment, undertaking, trade or business of such person, or the branch, subdivision or component part thereof affected, to be an industry within the meaning of this Act:

“Provided, however, that the board shall not give effect to any application made under either this subsection or subsection (2) affecting persons excluded from the provisions of this Act by paragraphs (a), (b), and (c) of section 7.”

**6.** Section 20 of the said Act is amended—

(a) by striking out subsection (4) thereof, and substituting therefor the following:

“(4) No assessment less than fifty dollars shall be levied in respect of the employments mentioned in classes 1 and 6 of Schedule I hereto, and in all other cases, no assessment shall be less than five dollars”; and

(b) by adding thereto as subsections (7), (8) and (9) thereof, the following:

“(7) Within three days after the granting of any building permit involving an expenditure of over one hundred dollars in any municipality, city or town, written notice thereof shall be given to the board by the person whose duty it is to keep a record of such permits.

“(8) Any such person shall be liable upon summary conviction to a fine of twenty dollars for each contravention of the provisions of the preceding subsection.

“(9) The holder of any such permit shall be an employer within the meaning of this Act, and this Act shall apply to the employment of other persons by such holder.”

**7.** Section 34 of the said Act is amended by striking out subsections (1a) and (6), and substituting therefor the following:

“(1a) When a workman is frost-bitten under circumstances arising out of or in the course of his employment, such occurrence shall be deemed to be an accident within the meaning of this Act.

“(6) No compensation shall be payable in respect of the first three days of disablement.”

8. Section 35 of the said Act is hereby struck out.

9. Section 37 of the said Act is hereby struck out and the following substituted therefor:

“37.—(1) Where an accident which would entitle the workman or his dependants to compensation under this Act, if it had happened in the Province, happens while he is employed elsewhere than in the Province, the workman or his dependant shall be entitled to compensation under this Act, if the workman is a resident of the Province and the nature of the employment is such that in the course of the work or service which the workman performs, it is required to be performed both within and without the Province.

“(2) Where an accident which would entitle the workman or his dependants to compensation under this Act, if it had happened in the Province, happens while he is employed in a state or province where there is no system of state insurance, similar to that effected by this Act, then such injured workman shall be entitled to compensation under this Act, if the place or chief place of business of the employer is situate in the Province, and the residence or usual place of employment of the workman is in the Province and his employment out of the Province has immediately followed his employment by the same employer within the Province, and has lasted less than six months.

“(3) If any workman entitled to compensation under the provisions of this section has any right of action in respect to his injuries, he shall assign all compensation or damages to be recovered thereunder to the board.

“(4) In the event of the board directing any such injured workman to take any such action, the workman shall commence and prosecute the action with diligence, and in the event of his not so doing, the board may refuse to pay any compensation or may withhold any part of the compensation otherwise payable:

“Provided that in the event of any such injured workman taking any such action, save upon the direction of the board, he shall forfeit all claim to compensation or to further compensation, as the case may be.

“(5) Except as provided by subsections (1) and (2) of this section, no compensation shall be payable under this Act, where the accident to the workman happens elsewhere than in the Province.

“(6) The board shall, in computing the levy upon any employer, make such allowances in respect of assessments paid by that employer to any extra-provincial authority or in respect of damages or compensation paid by him, as may be fair and just, taking all the circumstances of the case into consideration.”

**10.** Section 38a is added to the said Act immediately after section 38, as follows:

**"38a.—(1)** Where an accident happens to a workman in the course of his employment under such circumstances as would ordinarily entitle him or his dependants to take an action against some person other than his employer, the workman or his dependants, if entitled to compensation under this Act, shall not be entitled to bring such action, but the board shall be entitled to bring the said action, and for the purpose of such action shall represent the said workman and shall be entitled by way of subrogation, to the damages, compensation and other rights and remedies to which the workman would be entitled if he had taken the action personally.

**"(2)** Where the workman is injured through the negligence of an employer other than his employer or through the negligence of a workman of such first mentioned employer, the board may direct that the compensation shall be charged against the class to which such first mentioned employer belongs."

**11.** Section 39 of the said Act is amended by striking out subsection (1) thereof, and substituting therefor the following:

**"(1)** When a workman to whom compensation is payable leaves the Province of Alberta, he shall not thereafter be entitled to receive compensation, unless permission to leave the Province is first granted by the board:

**"Provided, however, that if the medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature, and the board so directs, the workman shall be entitled to the amount of periodical payments accruing due while a resident without the Province, if he proves in such manner as may be prescribed, his identity and the continuance of the disability in respect of which the same is payable."**

**12.** Section 43 of the said Act is amended by adding thereto as subsections (3) and (4) thereof, the following:

**"(3)** The Lieutenant Governor in Council may at any time appoint from the medical staff of the University of Alberta, an advisory board to whom the board may refer such cases for examination as it sees fit.

**"(4)** Upon any such reference being made, the advisory board shall upon written request of the workman or his employer, give an opportunity to him of appearing before it in person."

**13.** Section 44a is added to the said Act, immediately after section 44, as follows:

**"44a.—(1)** No compensation shall be payable in respect of hernia, unless—

- “(a) it is clinical hernia of a disabling character, and of recent primary demonstrability; and
- “(b) the onset thereof can be shown to have been immediately preceded by a strain or other accident; and
- “(c) it can be shown that at the time of the occurrence of the strain or other accident, the workman immediately reported his condition to his employer or ceased work at the time and reported within twenty-four hours of so ceasing work.

“(2) If the workman does not submit himself to be operated on for radical cure within two weeks of the occurrence, compensation shall cease to be payable upon the expiry of such two weeks.

“(3) Then the period of disability shall be deemed to cease upon the expiry of forty-two days from the day of any such operation:

“Provided, however, that the said period of forty-two days may be extended by the board, if satisfied that complications have arisen from the operation.”

**14.** Section 45 of the said Act is amended by adding thereto as subsections (3) and (4) thereof, the following:

“(3) With a view to providing for the re-training of workmen who have been permanently disabled, and otherwise removing any handicap resulting from their injuries, the board may take such measures and make such expenditures as it may, in its discretion, deem necessary or expedient, and the expense thereof shall be borne out of the accident fund, and may be collected in the same manner as moneys required to pay compensation or expenses of administration:

“Provided that the total expenditure under the provisions of this section shall not exceed twenty thousand dollars in any calendar year.

“(4) Whenever the board is satisfied that the earning capacity of any workman assisted under the provisions of the preceding subsection, has been increased to an appreciable degree by reason of such assistance, it shall have power to make a corresponding reduction in the amount of compensation payable to him.”

**15.** Section 46 of the said Act is amended by inserting after the words “at the request of the workman” the words “or employer.”

**16.** Section 49, subsection (1), of the said Act, is amended—

- (a) as to paragraph (a) thereof, by striking out the words “one hundred dollars” and inserting in lieu thereof the words “one hundred and twenty-five dollars”;

- (b) by adding thereto as paragraph (f) thereof the following:
- “(f) Where the dependants are aliens residing outside of the Dominion of Canada, and entitled to compensation under clause (a), (b), (c), (d) or (e) of this subsection, the board may, in lieu of awarding such dependants compensation on the scale provided by clause (a), (b), (c), (d) or (e), award such lesser sum by way of compensation as, according to the conditions and cost of living in the place of residence of such dependants, will in the opinion of the board, maintain them in a like degree of comfort as dependants of the same class residing in the Dominion and receiving the full compensation authorized by this Act would enjoy.”

**17.** Section 52 of the said Act is amended as to subsection (1) thereof, by striking out the words “sixty-two and one-half per cent” and substituting therefor the words “sixty-six and two-thirds per cent.”

**18.** Section 53 of the said Act is amended as to subsection (1) thereof by striking out the words “sixty-two and one-half per cent” and substituting therefor the words “sixty-six and two-thirds per cent.”

**19.** Section 55 of the said Act is amended by striking out the words “sixty-two and one-half per cent” and substituting therefor the words “sixty-six and two-thirds per cent.”

**20.** Section 56 of the said Act is amended—

- (a) by striking out subsection (1) thereof, and substituting therefor the following:

“(1) In ascertaining the average weekly earnings of a workman for the purpose of this Act, the board shall take into consideration the actual earnings of the workman during the previous twelve months, where the same are ascertainable, and where the same are not ascertainable the board may take into consideration any number of weeks during which the workman has been employed by any employer previous to the happening of the accident. For the purpose of this section, the word ‘employer’ is used in the ordinary sense and shall not be limited to the definition contained in this Act.”

- (b) by striking out subsection (5) thereof; and
- (c) as to subsection (6) thereof, by striking out the word and figures “53 and 55,” and substituting therefor the words and figures “52 to 55 inclusive.”

**21.** Section 60 of the said Act is amended by striking out subsection (6) thereof, and substituting therefor the following:

"(6) When the board provides, or is liable to pay for, medical and surgical attention, including nursing, hospitalization, drugs, dressings, X-ray, special treatments, transportation, and the several matters and things which the board is empowered by this Act to provide for injured workmen, the amount payable to any person in respect of such medical and surgical attention shall be fixed by the board and no action shall lie against the board in respect of any amount greater than that fixed by it, nor in any event against the injured workman, his employer, or any other person in respect of such medical and surgical attention.

"(6a) The board shall have power to make a *per diem* subsistence allowance to any injured workman, when he is under its direction, undergoing treatment at a place other than that in which he resides, but such subsistence allowance shall not be greater than two dollars and one-half, or less than one dollar and one-half."

**22.** Section 66 of the said Act is amended—

- (a) as to subsection (1) thereof, by striking out the words "exceeding five hundred dollars" and inserting in lieu thereof the words "less than five dollars";
- (b) as to subsection (2) thereof, by striking out the words "twenty-five dollars" and inserting in lieu thereof the words "not less than five dollars."

**23.** Section 69 of the said Act is amended by adding thereto as subsection (2) thereof, the following:

"(2) Upon the direction of the Lieutenant Governor in Council, restaurants and retail shops, or either of such classes of employment shall be added to schedule II of this Act, and upon such addition being made, the board shall have power to define 'restaurant' or 'retail shop' and to decide whether any establishment is or is not a restaurant or retail shop within the meaning of such definition."

**24.** Section 70 of the said Act is amended by striking out paragraph (d) thereof.

**25.** Schedule II is amended by adding thereto the words "hotels and commercial greenhouses."

**26.** "The Enumeration of Industrial Diseases" at the end of the schedules to the Act is hereby repealed and the following substituted therefor:

ENUMERATION OF INDUSTRIAL DISEASES.

DESCRIPTION OF DISEASE	DESCRIPTION OF PROCESS.
Anthrax.	Handling of wool, hair, bristles, hides and skins.
Glanders.	Care of equine animals suffering from glanders; handling of carcasses of such animals.
Lead poisoning or its <i>sequelae</i> .	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its <i>sequelae</i> .	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its <i>sequelae</i> .	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its <i>sequelae</i> .	Any process involving the use of arsenic or its preparations or compounds.
Infection or inflammation of the skin or contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases or vapours.	Any industrial process involving the handling or use of oils, cutting compounds or lubricants or involving contact with dust, liquids, fumes, gases or vapours.
Pneumoconiosis, which shall be deemed to be— Silicosis. Siderosis. Lithosis.	Quarrying, cutting, crushing, grinding or polishing of stone, or grinding or polishing of metal; mining.
Poisoning by benzol or by nitro and amidoderivatives of benzol, anilin and others.	Any industrial process involving the use of benzol or a nitro or anilin derivative of benzol or its preparations or compounds.
Subcutaneous cellulitis of the hand (Beat Hand).	Mining or other industries which require continued use of hand tools.

27. This Act shall come into force on.....



No. 33.

SECOND SESSION  
SIXTH LEGISLATURE  
18 GEORGE V  
1928

**B I L L**

An Act to amend The Workmen's  
Compensation Act (Accident Fund).

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. REID.

EDMONTON:  
W. D. MCLEAN, ACTING KING'S PRINTER  
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