

Bill No. 7 of 1943.

A BILL RESPECTING WORKMEN'S COMPENSATION.

NOTE.

This Bill repeals *The Workmen's Compensation Act, Revised Statutes of Alberta, 1942, chapter 284*, and enacts a new Act in substitution for it.

The changes made, although numerous, are in large part of a merely minor nature consisting of revisions and extensions of existing provisions making for a greater clarity and more effective application of existing provisions and having to do more particularly with matters of administration. This note deals only with changes of major importance.

The definition of "accident" in section 2 (a) is extended to include "disablement arising out of and in the course of the employment".

Section 3 now provides for a Board of three Commissioners, formerly it provided for "not more than three Commissioners".

Section 9 gives the Board authority to establish its own superannuation fund. It is now under the general Superannuation Act.

The proviso to subsection (4) of section 19 authorizes payment of compensation for the first three days of disability when the workman is disabled for more than fourteen days. Formerly it was payable only when the disability exceeded thirty days.

Subsection (5) of section 19 is changed by reason of conditions caused by the war. It provides that the period of limitation for making a claim shall not run against dependants residing within enemy alien territory or territory occupied by the enemy—this at the request of the Secretary of State for the purpose of bringing it in line with the general provision in the Regulations Respecting Trading with the Enemy. The subsection also provides that pensions to such dependants, although dating back to the date of the accident, will be payable to the dependant only from the cessation of the war and the consequent undistributed surplus will be applied and disbursed in further benefits to widow dependants in necessitous circumstances because of illness of themselves or dependent children.

Subsection (4) of section 25 now limits the subrogation in favour of the Board of the rights of a workman against

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a third party to his rights in respect of the personal injury suffered by him thereby leaving to the workman his rights in respect of such property damages as he may have suffered.

In section 25 the provisions as to notice of accident are changed. Formerly notice had to be given to the employer on the date of the accident if able to do so and in any event before he voluntarily left the employment in which he was injured. By the amendment it is provided that notice shall be given as soon as practicable and the Board may award compensation in any event if in its opinion "the claim is a just one and ought to be allowed".

Section 27 now provides a right of appeal from an award of the Board to "a specialist in the particular class of injury or ailment in respect of which the workman is claiming compensation". The former provisions relating to a panel of medical practitioners has been struck out.

Subsection (4) of section 31 provides that, where a lump sum payment has been accepted by a workman in full of his claim, he shall not be entitled to any further payment in respect of the "degree of disability" in respect of which it was paid. Formerly it read "for or in respect of the accident or injury arising thereout or consequent thereupon." This would allow for the reopening of a claim where there is a change in the degree of disability.

Section 33 changes the scale of compensation payable as follows:

(1) The pension payable to widows or invalid widowers entitled to compensation, has been raised from \$35.00 to \$40.00 a month;

(2) A provision for the payment to widows or foster mothers as the case may be, of an additional sum not exceeding \$100.00 "for such additional pre-burial expenses that may be reasonably necessary consequent upon the death of the deceased workman";

(3) To children dependants under the age of eighteen years the pension is increased to \$12.00 to all dependent children. Formerly it was \$12.00 for the eldest child and \$10.00, \$9.00 and \$8.00 for the others;

(4) For dependants other than widows or invalid widowers or children, the amount payable has been raised from \$30.00 to \$35.00 and in the whole from \$65.00 to \$70.00 a month;

It is further provided by section 33 as follows:

(a) That where reduced pensions are payable to aliens according to the standard of living obtaining in the countries in which they reside, the capital cost of the pension is to be on the same standard as pensions awarded to Canadian dependants and the undistributed surplus accruing therefrom is to be placed in a reserve and paid,—

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first—to widow dependants in necessitous circumstances because of illness to themselves or their dependent children up to an additional \$15.00 a month, and

second—to increasing pensions awarded to widows and child dependants prior to the application of this Act in order to bring them up to an equality with the pensions payable to widow and child pensioners under this Act;

(b) That in cases where a fatally injured workman leaves no dependants an amount will be fixed by the Board equivalent to what would have been payable had the workman left a widow and the amount so accruing to be paid into a reserve fund and disbursed by the Board to injured workmen whose disability is enhanced because of similar or other injuries previously suffered.

There are important changes in section 44. The cost of medical aid under the existing Act is charged to workmen and is provided by deductions from their wages or salaries by the employer. Under this Bill the cost of medical aid is removed entirely from the workman and is provided by the Board out of funds furnished by assessment against employers. This has been accomplished by deleting from the existing Act subsections (2), (3) and (4) of section 44, which subsections provided for contributions from workmen for the maintenance of the Medical Aid Fund. The result of the change, therefore, is that workmen no longer will be charged with the cost of medical aid in lieu of which it now becomes a charge against industry. Provision is made for reimbursement to employers who have an approved arrangement for furnishing medical aid to their employees. By an extension of subsection (5) of the same section, the Board is empowered to establish,—

- (a) hospitals where in its opinion it may be considered necessary, and
- (b) therapeutic clinics for the rehabilitation of injured workmen.

By the introduction of section 60 (1) to (8) the Board is empowered to require employers to furnish security for assessments if and when the Board should deem it necessary.

W. S. GRAY,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 7 of 1943.

An Act respecting Workmen's Compensation.

(Assented to _____, 1943.)

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

SHORT TITLE.

1. This Act may be cited as "*The Workmen's Compensation Act.*"

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,—
- (a) "Accident" includes a wilful and intentional act, not being the act of the workman, and shall also include a chance event occasioned by a physical or natural cause, as well as disablement arising out of and in the course of the employment;
 - (b) "Accident Fund" means any fund provided for the payment of compensation, and other outlays and expenses authorized under this Act;
 - (c) "Assessment" includes rates, levies and all other charges imposed by the Board under the provisions of this Act;
 - (d) "Board" means "The Workmen's Compensation Board."
 - (e) "Child" includes an illegitimate child, and any child of any child, and the child of a husband or wife by a former marriage;
 - (f) "Compensation" includes medical aid;
 - (g) "Construction" includes reconstruction, repair, alteration, renovating, painting, decorating, and demolition;
 - (h) "Dependants" means such of the members of the family of a workman as were wholly or partially dependent upon his earnings at the time of his death or who, but for the incapacity due to the accident, would have been so dependent:

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that

other person for the provision of the ordinary necessities of life suitable for persons in his class and position;

- (i) "Employer" means every person, firm, association, body or corporation having in his or its service one or more workmen and shall include the Crown in the right of the Province and the Crown in the right of the Dominion of Canada in so far as the latter, in its capacity as master, may submit to the operation of the Act;
- (j) "Employment" means employment in an industry or any part, branch, or department of an industry;
- (k) "Industrial disease" means any of the diseases mentioned in the enumeration of industrial diseases contained in Schedule 3, and any other disease which by the regulations is declared to be an industrial disease;
- (l) "Industry" means any establishment, undertaking, trade and business included in the Schedules hereto, whether the same be carried on in conjunction with other occupations or separately;
- (m) "Invalid" means a person who is physically or mentally incapable of earning;
- (n) "Manufacturing" includes making, preparing, altering, repairing, renovating, dyeing, cleaning, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any raw material, goods, article or commodity;
- (o) "Medical Aid" includes the several matters and things which the Board is empowered by this Act to provide for injured workmen and may as and when the Board sees fit include nursing, hospitalization, drugs, dressing, X-ray treatment, special treatment by all those who are licensed to practise the healing art in the Province, transportation, and such other matters and things as the Board may authorize or provide;
- (p) "Member of a family" means and includes wife, husband, parent, grandparent, stepparent, child, grandchild, stepchild, brother, sister, half-brother, half-sister, and a person who stood in *loco parentis* to the workman or to whom the workman stood in *loco parentis*, whether related to him by consanguinity or not so related; and where the workman is the parent or grandparent of an illegitimate child, shall include such child, and where the workman is an illegitimate child shall include each of his parents or grandparents;
- (q) "Mine" means a mine as defined by *The Mines Act*;
- (r) "Mine rescue and first aid work" includes the equipment necessary for such work, the repairs thereof, the training necessary for such work, and the supplies used therein;

- (s) "Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for use or sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;
- (t) "Permanent total disability" shall be conclusively presumed in all cases where the injuries suffered consist of or include,—
 - (i) total and permanent loss of the sight of both eyes;
 - (ii) the loss of both feet at or above the ankle;
 - (iii) the loss of both hands at or above the wrist;
 - (iv) the loss of one hand at or above the wrist and one foot at or above the ankle;
 - (v) any injury to the spine resulting in permanent and complete paralysis of legs or arms or one leg and one arm;
 - (vi) any injury to the skull resulting in incurable imbecility or insanity;
- (u) "Person" includes female as well as male persons, and bodies corporate;
- (v) "Physician" means an authorized person skilled in the art of healing;
- (w) "Regulations" means regulations made by the Board under the authority of this Act, so long as, and to the extent that, they, under and by the aforesaid authority, remain in effect;
- (x) "Secretary" means Secretary of The Workmen's Compensation Board;
- (y) "Wages," "pay-roll," "pay-roll statements," where such terms are used in this Act, shall include production or other relative or descriptive terms when the assessment is based thereon;
- (z) "Workman" means 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 include any person engaged in training for mine rescue work or who, with the knowledge and consent of the management or the person in charge of an authorized mine rescue crew, is doing recovery work after an explosion, accident or catastrophe, and includes the employees of a contractor contracting for the performance of mining operations for another person engaged in the industry of mining, and also such contractor whilst actually working, and includes the driver of a vehicle doing work for another, whether the former supplies the vehicle or does not supply it, providing that the relationship of master and servant exists between the driver and the other person.

THE BOARD.

3. There is hereby constituted a commission for the administration of this Act, to be called "The Workmen's Compensation Board," which shall consist of three commissioners to be appointed by the Lieutenant Governor in Council and shall be a body corporate.

4.—(1) One of the commissioners shall be appointed by the Lieutenant Governor in Council to be Chairman of the Board.

(2) In the case of death, illness or absence from the Province of a commissioner, or of his inability to act from any cause, the Lieutenant Governor in Council may appoint some person to act *pro tempore* in his stead, and the person so appointed shall have all the powers and perform all the duties of a commissioner.

5.—(1) The Chairman shall hold office for ten years from the date of his appointment, and the other commissioners shall hold office for ten years from the date of appointment:

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

(2) Each commissioner shall devote the whole of his time to the performance of his duties under the Act: Provided that it shall not be deemed a contravention of this subsection for a commissioner to engage in such private or personal associations as he may see fit if such engagement be not inconsistent with the adequate performance of his duties under this Act.

6. The office of the Board shall be situated in the City of Edmonton and its sittings shall be held there except where it is expedient to hold sittings elsewhere and in that case sittings may be held in any part of the Province.

7. A commissioner shall receive such salary as may be fixed by the Lieutenant Governor in Council.

8.—(1) The Board may appoint such officers as it may deem necessary for carrying out the provisions of this Act and may prescribe their duties and fix their remuneration.

(2) Every person so appointed shall hold office during the pleasure of the Board.

(3) For the purpose of its administration the Board may acquire, either by purchase or otherwise, such premises as it may deem necessary.

9.—(1) The Board may establish and maintain a fund to be known as the Superannuation Fund for the purpose of paying superannuation allowances to its members and

employees or allowances upon the disability, death or retirement of its employees, by contributions from the members and employees of the Board and from the Accident Fund.

(2) Upon the establishment of such fund the deductions and contributions provided for by sections 25 and 26 of *The Superannuation Act* shall cease to be payable.

JURISDICTION OF THE BOARD.

10.—(1) The Board shall have exclusive jurisdiction to examine, inquire into, hear and determine, all matters and questions arising under this Act, and the action or decision of the Board thereon shall be final and conclusive and shall not be open to question or review in any court, and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceedings in any court or be removable by *certiorari* or otherwise into any court, 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.

(2) Nothing in subsection (1) of this section shall prevent the Board from reconsidering any matter which has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board shall have authority to do.

(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, and no decision or ruling of the Board shall be binding upon it as a precedent for any other decision or ruling, the intent of this provision being that each case shall be decided on its own merits.

(4) All awards heretofore made or purporting to have been made by, on behalf of or on the authority of the Board and each and every of them, are validated and declared to be legal, valid and binding and shall not be open to question in any court.

(5) (a) The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production and inspection of books, papers, documents and things.

(b) The Board may cause depositions of witnesses residing within or without the Province to be taken before any person appointed by the Board in manner similar to that prescribed by the rules of the Supreme Court.

(6) (a) The Board may act upon the report of any of its officers and any inquiry which it shall be deemed necessary to make may be made by a commissioner, or by an officer of the Board or by some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(b) The person appointed to make the inquiry shall for the purposes thereof have all the powers conferred upon the Board.

(7) Every copy or extract from an entry of any book or record of the Board, and of any document filed with the Board certified by the Secretary of the Board to be a true copy or extract, shall be received in any court as *prima facie* evidence of the matter so certified without proof of the Secretary's appointment, authority, or signature.

(8) Without thereby limiting the generality of the provisions of subsection (1) of this section it is declared that the exclusive jurisdiction of the Board shall extend to determining,—

- (a) 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 an 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 amounts of any refunds or adjustments of assessments which, in its discretion, it may deem proper to make;
- (g) the existence, for the purpose of this Act, of the relationship of any member of the family of an employer or of a workman as defined by section 2, paragraph (h), of this Act;
- (h) the existence of dependency;
- (i) whether or not an industry or any part, branch, or department of any industry is within the scope of this Act, 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;
- (j) whether or not any person, or aggregation of persons, is an employer within the meaning of the Act, and if so whether or not any employee is a workman within the meaning of the Act, and if so, whether or not any such workman is entitled to compensation under the Act.

11. The Board may in any case where it is deemed necessary, and shall on the application of any employer or workman interested in any order, ruling or decision of the Board, issue a certificate under the seal of the Board, embodying the substance of any such order, ruling or decision.

REGULATIONS.

12. The Board may make such regulations and prescribe such forms as may be deemed expedient for carrying out

the provisions of the Act, and not inconsistent therewith and any such regulations shall come into force at the expiration of thirty days from the date of their publication in *The Alberta Gazette*.

13.—(1) The Board is empowered,—

- (a) to add to, withdraw or rearrange any of the industries which are or may be included in the Schedules hereto;
- (b) to divide any industry into one or more classes, and any class into one or more subclasses;
- (c) to exclude from the operation of this Act workmen employed in those certain works, projects and undertakings now being or that hereafter may be performed for the United States Government and for whom compensation for injury by accident arising out of and in the course of their employment therein has been otherwise provided for.

(2) Paragraph (c) of subsection (1) shall be deemed to have been in effect from the first day of June, 1942.

(3) 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:

Provided, however, that the Board shall not give effect to any application made under any of the provisions of this subsection, affecting persons excluded from the provisions of the Act by paragraphs (a), (b) and (c) of section 73 nor to any such application affecting persons excluded by paragraph (d) except with the consent of the employer.

(4) The inclusion of any industry, establishment, trade or business, or of any employer, employee or workman, within the scope of the Act, under or pursuant to an application made under any of the provisions of this section, shall continue and remain in effect, until the Board upon application or of its own volition, rescinds the same.

(5) The Board may establish such subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as may be deemed just, and where any particular industry is shown to be so circumstanced or conducted that the hazard is greater than the average of the class or subclass to which the industry is assigned, the Board may impose upon the industry a special rate, differential or assessment, to correspond with the excessive hazard of such industry.

14. If any question arises as to whether or not any establishment, undertaking, trade or business, or any part thereof, is an industry to which this Act applies, the question shall be decided by the Board, and its decision thereon shall be final.

ACCIDENT PREVENTION.

15.—(1) The Board shall have power,—

- (a) to investigate from time to time employments and places of employment within the Province, and determine what suitable safety devices or other reasonable means or requirements for the prevention of accidents shall be adopted or followed in any or all employments or places of employment;
- (b) to determine the requirements for the proper sanitation of the employer's premises;
- (c) to determine what suitable devices or other reasonable means or requirements for the prevention of disease shall be adopted or followed in any or all employments or places of employment;
- (d) to make regulations whether of general or special application, and which may apply to both employers and workmen, for the prevention of accidents, and the prevention of diseases and provision for proper sanitation in employments or places of employment.

(2) The Board or any member of it or any officer or person authorized by it for that purpose may at any time enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them, for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, and whether the sanitary and health conditions are proper, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which the employer should contribute to the Accident Fund.

(3) Where, in any employment or place of employment, safety devices are in the opinion of the Board, necessary for the prevention of accidents or of disease, the Board may order the installation or adoption of such appliances or devices and may fix a reasonable time within which they shall be installed or adopted, and the Board shall give notice thereof to the employer and the employer shall post or cause to be posted, in a conspicuous place upon the place of employment a copy of the notice, which shall remain so posted until the order has been complied with and the employer so notifies the Board and the Board has authorized its removal.

(4) In any case where safety devices or appliances are, by order of the Board, required to be installed or adopted or are prescribed by the regulations and the employer fails, neglects or refuses to install and adopt such safety devices or appliances in any employment or place of employment

in accordance with the terms of the regulations and to the satisfaction of the Board, or where, under the circumstances, the Board is of the opinion that conditions of immediate danger exist in any employment or place of employment which would be likely to result in injury to any person, the Board may, in its discretion, order the employer forthwith to close down the whole or any part of such employment or place of employment and the industry carried on therein and the Board shall notify the employer of the order and a copy of the order, to be provided by the Board shall, if the Board so requires, be posted by the employer in a conspicuous place upon the employer's premises:

Provided that nothing herein contained shall take away or abridge any of the powers and duties of the Provincial Board of Health or local boards of health, as constituted under *The Public Health Act*;

Provided further, that the Board, or any member of it, or any officer appointed by it, may forthwith report to the Provincial Board of Health any breach of *The Public Health Act* or regulations of the Provincial Board of Health, passed under said Act.

(5) Where an accident causing injury to a workman in respect of which compensation is payable has occurred, and where, in the opinion of the Board, the accident was due entirely to the failure of the employer to comply with the directions of the Board, or with the regulations made under this Act, the Board may levy and collect from the employer as a contribution to the Accident Fund, a sum of money not exceeding one-half of the amount of the compensation payable in respect of the injury and the payment of such sum may be enforced in the same manner as the payment of an assessment may be enforced.

(6) The Board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under this section.

(7) Where in the opinion of the Board sufficient precautions are not taken for the prevention of accidents to workmen in the employment of any employer, or where the sanitary and health conditions are not proper or the first aid requirements provided by the Act, or regulations, have not been complied with, the Board may add to the amount of any contribution to the Accident Fund for which the employer is liable, such a percentage thereof as the Board may deem just and may assess and levy the same upon the employer.

(8) The powers conferred by the next preceding subsection may be exercised from time to time and as often as in the opinion of the Board occasion may require.

16.—(1) No employer shall, for the purpose of any industry within the scope of this Act, commence the operation of or operate or carry on any mine, plant, or establishment which has not been in operation for the period of seven

months last preceding, and in which power-driven machinery is used, until leave therefor is obtained from the Board as provided by this section.

(2) Application for leave under this section shall be made to the Board in writing, signed by the employer, and stating that the mine, plant, or establishment is ready for operation. Upon receipt of the application, the Board or some member of the Board, or some other person appointed by the Board for that purpose, shall make an inspection of the mine, plant or establishment and if on such inspection the mine, plant or establishment is found to be reasonably free from danger to persons employed therein, the Board shall grant leave for the operation of the mine, plant or establishment. Pending inspection, the Board may, by a temporary permit, grant leave to the employer for the operation of the mine, plant or establishment.

17.—(1) The Board shall engage in and carry on the education and instruction in accident prevention and first aid work of workmen and others and may impart such education and instruction by demonstration, exhibits, lectures, classes or otherwise and shall hold examinations and issue certificates to persons whom it may deem sufficiently skilled in such matters as to warrant the issue to them of such certificates.

(2) Certificates issued by the Board under subsection (1) hereof may be cancelled by the Board at any time when, in its opinion, the holder thereof does not continue to have the necessary qualifications in accident prevention and first-aid work.

ADDITIONAL DUTIES.

18. Notwithstanding anything herein contained, the Board in addition to the duties imposed upon it by this Act, may administer any other Act or perform any other duty that may be referred or assigned to it at any time by the Lieutenant Governor in Council, and for that purpose all powers, authorities and functions expressed or provided in such other Act shall be vested in and exercisable by the Board.

COMPENSATION.

19.—(1) Where in any employment to which this Act applies, personal injury by accident arising out of and in the course of the employment is caused to a workman, compensation shall be paid unless the injury is attributable solely to the serious and wilful misconduct of the workman and death or serious disablement does not result from it.

(2) Where the personal injury consists of disease, in part due to the employment and in part due to causes other than the employment, compensation shall be paid in the same proportion to the whole of the compensation that

would have been payable had the personal injury been wholly due to the employment, as the part thereof that is due to the employment is in proportion to the whole of the personal injury.

(3) Where a workman is found dead at a place where the workman had a right in the course of his employment to be, it shall be presumed that his death was the result of personal injury by accident arising out of and in the course of his employment, unless there be evidence sufficient to rebut the presumption.

(4) If the injury does not disable the workman longer than the period of three days, from earning full wages at the work at which he was employed, no compensation, other than medical aid, shall be payable under this Act. If the injury disables the workman longer than the period of three days, no compensation, other than medical aid, shall be payable for the first three days of disability: Provided that where the disability is of more than fourteen days' duration compensation shall be payable from the date of disability.

(5) No compensation shall be payable in respect of any claim for the same unless the claim is made to the Board within twelve months from the happening of the accident, or where death results from such accident, within twelve months from the date of the death:

Provided that the said period of twelve months whether it began to run before or after the commencement of the present war shall not run against any person who resides within the territory of a state or sovereign for the time being at war with His Majesty or within territory occupied by such a state or sovereign, during the duration of the present war;

Provided further that in case of pensions payable to or for dependants residing during the present war in enemy territory or in territory occupied by the enemy, under awards made after the cessation of the present war in respect of accidents occurring prior to or during the war, the capital value of the pension or pensions shall be computed from the date of the death in respect of which the pension or pensions are or may be awarded, but the pensions in such cases shall become payable to or for the dependants to or for whom they are awarded only upon the conclusion of the war or at such other time as may be permitted by *The War Measures Act* or the Regulations Respecting Trading with the Enemy, and the pension payments that would otherwise have been payable to or for such dependants shall be applied and disbursed for the same purposes and in the manner provided in paragraphs (k) and (l) of subsection (1) of section 33.

20.—(1) Compensation shall not be payable out of the Accident Fund to an employer or the members of the family of an employer dwelling in his house unless application to come within the scope of this Act has been received and approved by the Board.

(2) The application shall contain the names of the employer and members of the family of the employer, together with the estimated amount of wages for the current year or balance thereof for the employer and members of the family of the employer, and in cases where no regular or stated wage is paid or received, the sum or sums in lieu of wages, not exceeding two thousand dollars or less than twelve hundred dollars, for or in respect of which the employer or members of the family of the employer desire protection.

(3) Upon compliance with the provisions of this section and of section 54 (1) of this Act, such employer and members of his family shall be deemed workmen and they and their dependants shall be entitled to compensation as provided by this Act.

(4) Assessments shall be levied upon the said estimates and compensation shall be payable on the basis of the same.

21.—(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 dependants 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 by the law of the country or place in which the accident happens the workman or his dependants are entitled to compensation or other remedy in respect of it, he or they, as the case may be, shall be bound to elect whether they will claim compensation or other remedy under the law of that country or place or compensation under this Act, and to give notice of such election; and if such notice of election is not given it shall be presumed that they have elected not to claim compensation under this Act: Provided that where there is in existence an agreement under the provisions of subsection (4) any right of election shall be subject to the terms of such agreement.

(3) Notice of the election shall be given to the Board within thirty days after the happening of the accident, or, in case it results in death, within thirty days after the death, or within such longer period as, either before or after the expiration of such thirty days, the Board may allow.

(4) The Board may enter into an agreement with the Workmen's Compensation Board of any other province of Canada providing for the payment of compensation in conformity to the provisions of this Act for injuries to workmen who are employed under such conditions that part of the work incidental to the employment is performed in Alberta and part of the work in another province, for the purpose of ensuring to such workmen or their dependants

payment of compensation either in conformity to this Act or in conformity to the Act in force in the other province relating to workmen's compensation.

22.—(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 in a province, state or territory where there is no system of state insurance, similar to that effected by this Act, then the injured workman shall be entitled to compensation under this Act,—

- (a) if the place or a chief place of business of the employer is situate in the Province, and
- (b) the residence or usual place of employment of the workman is in the Province, and
- (c) his employment out of the Province has immediately followed his employment by the same employer within the Province, and
- (d) has lasted less than twelve months.

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

(3) 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.

Provided further that the provisions of subsections (1), (2) and (3) shall not apply to employment in those certain works, projects and undertakings, by or for the Government of the United States of America in the North-west Territories and the Yukon Territory or to workmen employed therein.

(4) Except as provided by sections 21 and 22, no compensation shall be payable under this Act, where the accident to the workman happens elsewhere than in the Province.

23.—(1) Except as authorized by 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 he 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 him against any liability which he has incurred or may incur under this Act.

(2) It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants may become entitled under this Act and every agreement to that end shall be absolutely void.

(3) No sum payable as compensation or by way of commutation of any periodical payment in respect of it shall be capable of being assigned, charged or attached nor shall any claim be set off against it by operation of law or otherwise unless with the approval of the Board.

24.—(1) No action shall lie for the recovery of compensation, but all claims for compensation shall be determined by the Board.

(2) The provisions of this Act shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependants are or may be entitled against the employer of the workman for or by reason of any accident happening to him while in the employment of the employer and no action in respect thereof shall lie.

(3) Any party to an action may upon notice to the other party or parties thereto, apply to the Board for adjudication and determination of the question of the plaintiff's rights to compensation under this Act, or as to whether the action is one the right to bring which is taken away by this section, and such adjudication and determination shall be final and conclusive.

(4) Where an accident happens to a workman in the course of his employment entitling him or his dependants to compensation under this Act and the circumstances thereof are such as to entitle him or his dependants to an action against some person other than his employer, the Board shall be subrogated to the rights of the workman or his dependants as against such other person for the whole or any outstanding part of the claim of the workman or his dependants against such other person for or in respect of the personal injury suffered by him.

(5) Where an accident happens to a workman in the course of his employment in such circumstances as entitle him or his dependants to an action against some person other than his employer, the workman or his dependants may, subject to the provisions of the next preceding subsection, bring such action.

(6) In any case within the provisions of subsection (4), neither the workman nor his dependants nor the employer of the workman shall have any right of action in respect of the personal injury suffered by the workman as a result of the accident against an employer in any industry within the scope of this Act; and in any such case where it appears to the satisfaction of the Board that a workman of an employer in any class is injured owing to the negligence of an employer or of the workman of an employer in another class

within the scope of this Act, the Board may direct that the compensation awarded in such cases shall be charged against the last mentioned class.

(7) Where the Board has become subrogated to the rights or any part thereof of a workman or the dependant or dependants of a deceased workman, under the provisions of subsection (4) of this section, no payment or settlement shall be made to or with the workman or dependant or dependants, for or in respect of such rights or for or in respect of any claim, cause of action or judgment therefor or arising thereout, without the consent of the Board, and any payment or settlement made in contravention hereof, shall be entirely null and void, and of no effect against the Board and as against such workman, dependant or dependants.

25.—(1) In every case of injury to a workman by accident in any industry within the scope of this Act, it shall be the duty of the workman, or in the case of his death the duty of a dependant, as soon as practicable, after the happening of the accident, to give notice thereof to the employer.

(2) The notice shall give the name and address of the workman and shall be sufficient if it states in ordinary language the cause of the injury and where the accident happened.

(3) Failure to give notice as required by virtue of subsections (1) and (2), unless excused by the Board, on the ground,—

- (a) that notice for some sufficient reason could not have been given; or
- (b) that the employer or his superintendent or agent in charge of the work where the accident happened had knowledge of the injury; or
- (c) that the Board is of opinion that the claim is a just one and ought to be allowed,

shall be a bar to any claim for compensation under this Act.

(4) Notice of the accident shall also be given by the injured workman to the Board either by mailing or delivering it to the office of the Board.

(5) Every employer to whom this Act applies having knowledge of the happening of an accident to a workman in his employ, shall forward to the Board within twenty-four hours after the same comes to his knowledge, notification of the happening of the accident, and shall also, in the event of the injured workman returning to his work or being able to return to his work, forward to the Board within twenty-four hours after the fact of the return or ability to return comes to his knowledge, notification thereof and make such further and other reports respecting the accident and workman as may be required by the Board.

(6) Every employer who fails to make any report required by virtue of this section, unless excused by the Board on the ground that the report for some sufficient reason

could not have been made, shall be guilty of an offence and liable upon summary conviction to a penalty not exceeding fifty dollars and costs and in default of payment to imprisonment for a period not exceeding three months.

(7) A physician who attends an injured workman shall forward to the Board,—

- (a) a report within two days after the date of his first attendance upon the workman; and
- (b) upon the first and fifteenth days of each month progress reports, during such time as the injured workman is unable to work as a result of the injuries; and
- (c) a final report within three days after the workman is in his opinion able to resume work; and
- (d) from time to time such reports in respect of the injury in such form as may be required by the Regulations or by the Board.

(8) The physician shall also give all reasonable and necessary information, advice, and assistance to the injured workman and his dependants in making application for compensation, and in furnishing in connection therewith such certificates and proofs as may be required, without charge to the workman.

26.—(1) A workman who claims compensation or to whom compensation is payable under this Act shall submit himself for medical examination in such manner and at such time and place as the Board may require.

(2) A workman shall not be required to submit himself for examination save as required by the Board.

(3) If a workman does not submit himself for examination as and when required by the Board so to do, or in any way obstructs an examination, his right to compensation or if he is in receipt of a periodical payment, his right thereto shall be suspended until the examination has taken place.

27.—(1) If and when a workman has applied to the Board for compensation under the provisions of this Act, and claims,—

- (a) a greater disability than that found by the Board; or
- (b) a continuance of compensation beyond the period allowed by the Board; or
- (c) error on the part of the Board in some feature or circumstance of his claim as affected by his physical condition; or
- (d) that the medical opinion upon which the disputed finding was made, is erroneous,

the Board after consultation with the workman's attending physician shall appoint a duly qualified medical practitioner recognized as a specialist in the particular class of injury

or ailment in respect of which the workman has claimed compensation to examine the workman and certify to the Board as to,—

- (a) the condition of the workman;
- (b) his fitness for employment;
- (c) if unfit the cause of such unfitness;
- (d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation, and
- (e) such other matters as may in his opinion or in the opinion of the Board be pertinent to the claim,

and such certificate shall be conclusive as to the matters certified unless the Board at any time directs otherwise.

(2) The Board may also of its own motion refer a claim to such a medical practitioner and the latter shall examine the claimant and certify in the manner provided in subsection (1) of this section.

28. When a workman to whom compensation is payable leaves the Province, he shall not thereafter be entitled to receive compensation, unless permission to leave the Province is granted by the Board;

Provided, however, that if, in the opinion of the Board, 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.

29. 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.

30.—(1) Where in any case, in the opinion of the Board, it will be in the interest of the Accident Fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is in its opinion the only means of avoiding heavy payment for permanent disability, the expense of the operation or treatment shall be paid out of the Accident Fund.

(2) Where in the case of any claim for compensation the Board is of the opinion that the injury would be alleviated to some appreciable extent by the supplying of any apparatus usually provided in such cases, it shall supply such apparatus to the workman, and the cost thereof shall be defrayed out of the Accident Fund, but any such action shall not affect in any way the payments made to the workman.

(3) When any workman has been permanently disabled and desires to be trained for a new vocation or to submit himself to special treatment for the purpose of removing any handicap resulting from his injuries which prevents him from following his original vocation, the Board may, upon the request of the workman, take such measures and make such expenditures as it may in its descretion deem necessary or expedient, and the expenses thereof shall be paid out of the Accident Fund.

(4) Whenever the Board is satisfied that the earning capacity of any workman assisted under the provisions of subsection (3) has been increased to an appreciable degree by reason of the assistance, it shall have power to make a corresponding reduction in the amount of compensation payable to him.

(5) The Board shall provide for the repair, maintenance and renewal of any apparatus provided by the Board pursuant to subsection (2) whether such apparatus was provided before or after enactment hereof, which becomes in need of repair, maintenance and renewal by reason of accident or ordinary wear and tear and through no misconduct on the part of the workman so long as the disability in respect of which such apparatus was supplied continues, and the cost thereof shall be defrayed out of the Accident Fund.

(6) Notwithstanding anything herein contained, the Board shall, in addition to the other compensation provided by this Act, have authority to assume the expenses of replacement and repair of broken dentures, when the breakage is occasioned by accidental injury arising out of and in the course of the employment of the workman.

(7) If an autopsy is deemed by the Board necessary to enable it to determine the cause of any death, the Board may direct that the autopsy be made within a time to be fixed by the Board, and, if the dependant or dependants refuse to permit the autopsy, the Board may reject any claim for compensation under this Act. The expense of the autopsy shall be paid out of the Accident Fund.

(8) Where the death of a workman to whom this Act applies occurs whilst he is confined to a hospital the hospital authority shall report the same to the Board immediately after the death has occurred.

31.—(1) Any payment to a workman may be reviewed on the Board's own motion or at the request of the workman or employer and on the review the Board may put an end to or diminish the payment or may increase it to a sum not beyond the maximum hereinafter prescribed.

(2) Where compensation is payable the Board may commute the payments payable to a workman or a dependant to a lump sum.

(3) The Board may in any case where in its opinion, the interest or pressing need of the workman or any dependant

residing in Alberta warrants it, advance or pay to or for the workman or the dependant such lump sum as the circumstances warrant and as the Board may determine, and any sum so advanced or paid shall be on account of and chargeable against the compensation payable to the workman.

(4) Where a lump sum payment has been made by the Board to a workman or a dependant as a settlement in full of his claim and has been so accepted by the workman or dependant, such workman or dependant shall not be entitled to receive or be paid, any further or other compensation for or in respect of the degree of disability for which he was being compensated, provided that this subsection shall not in any way affect the application of the provisions of subsection (5) of section 30 of this Act.

(5) In case of death or permanent total disability, or in case of permanent partial disability where the impairment of the earning capacity of the workman exceeds ten per cent. of his earning capacity at the time of the accident, no commutation of periodical payments shall be made except upon the application of and at an amount agreed to by the dependant or workman entitled to the payments.

(6) Where application is made by the dependants, in case of death, or by the workman, in case of permanent disability, to commute any periodical payments payable pursuant to this Act for the purpose of residing in a country other than Canada, the Board may, in lieu of commuting at the full capitalized value thereof, award such lesser sum by way of compensation as according to the conditions and cost of living in the proposed place of residence of the dependants or workman, will in the opinion of the Board, maintain such persons in a like degree of comfort as they would enjoy had they remained in the Province and received the full compensation authorized by this Act. The difference between the ordinary commuted value at the date of commutation and the sum actually awarded shall be applied and disbursed for the purposes and in the manner and order provided in paragraphs (k) and (l) of subsection (1) of section 33.

(7) Where any person entitled to compensation under this Act is committed to a jail or prison, compensation shall not be payable to him for the period of his confinement therein, but the Board may pay the whole or any part of the compensation to any dependant of any person so committed.

(8) If any person entitled to compensation under this Act is committed to any institution, the compensation otherwise payable to or in respect of such person may in the discretion of the Board be paid to the governing body of the institution.

32. Where a workman is entitled to compensation and it is made to appear to the Board,—

- (a) that he is no longer residing in the Province but that the spouse or child or children under eighteen years of age are still residing therein without ade-

quate means of support and are, or are apt to become, a charge upon the municipality where they reside or upon private charity; or

- (b) that he, although still residing in the Province, is not supporting the spouse and children as aforesaid and an order has been made against him by a court of competent jurisdiction, for the support and maintenance of the spouse or children or for alimony—

the Board may divert the compensation in whole or in part from the workman for the benefit of the spouse or children of the workman.

SCALE OF COMPENSATION.

33.—(1) Where death results from the injury, the amount of the compensation shall be,—

- (a) the necessary expenses of the burial of the workman, not exceeding one hundred and twenty-five dollars;
- (b) where a widow or invalid widower is the sole dependant, a monthly payment of forty dollars;
- (c) in addition to the provisions of paragraph (b) a sum to the widow not exceeding one hundred dollars for such additional pre-burial expenses that may be reasonably necessary consequent upon the death of the deceased workman;
- (d) where the dependants are a widow or an invalid widower and a child or children under the age of eighteen years, a monthly payment of forty dollars as aforesaid with an additional monthly payment of twelve dollars in respect of each such child;
- (e) where the only dependants are children, a monthly payment of twenty dollars to each child under the age of eighteen years;
- (f) where the only dependants are persons other than those mentioned in the foregoing paragraphs a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding thirty-five dollars per month to a parent or parents and not exceeding in the whole seventy dollars per month;
- (g) in the case provided for by paragraph (f) of this subsection, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived that he would have continued to contribute to the support of the dependants;
- (h) the Board may from time to time require such proof of the necessities, conditions and existence of any dependants in receipt of compensation payments under paragraph (f) of this subsection as may be

deemed necessary by the Board and pending the receipt of such proof may withhold further payments;

- (i) where the dependants are aliens residing outside of the Dominion of Canada, and entitled to compensation under paragraphs (a), (b), (c), (d), (e) or (f) of this subsection, the Board may, in lieu of awarding the dependants compensation on the scale provided by paragraphs (a), (b), (c), (d), (e) or (f), award such lesser sum by way of compensation as, according to the conditions and cost of living in the place of residence of the 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;
- (j) where under the provisions of paragraph (i) of this subsection a lesser sum is awarded to alien dependants residing outside of the Dominion of Canada, the Board shall, notwithstanding such award, create and provide the same reserve as if the award had been made according to the scale provided by such of the paragraphs (a), (b), (c), (d), (e) or (f) of this subsection as would, except for the provisions of said paragraph (i), be applicable;
- (k) where by reason of the payment of such lesser sum to any dependants residing outside of the Dominion of Canada there remains an undistributed accumulation of money in the reserve provided, the Board shall apply such accumulation every six months as follows:

To widow dependants in necessitous circumstances because of the illness of themselves or their dependent child or children under the age of eighteen years, such additional amount as the Board may see fit up to but not exceeding to each such widow fifteen dollars a month during the duration of such illness;
- (l) if after such widow dependants are provided for there remains at the end of any six-month period an accumulation undistributed, the same shall be applied for the purpose of permanently increasing the pensions awarded by the Board to widow and child dependants prior to the date of the coming into force of this Act and after said date in respect of accidents occurring before, in order to bring such pensions so far as practicable, up to an equality with the pensions payable to widow and child pensioners under this Act, commencing with the pension awarded to widow and child dependants resulting from the accident next preceding the date of the coming into force of this Act, and continuing in like manner with other preceding awards to widow and child pensioners until the whole of such surplus has

been so applied and the order of precedence of such awards shall be determined by the date of the death in respect of which any pension is payable; all increases so made shall be capitalized and full reserves maintained as if such increases were pensions newly awarded;

- (m) in the case of pension payments which have been suspended by the Board under the provisions of *The War Measures Act*, Revised Statutes of Canada, 1927, Chapter 206, or regulations thereunder and such further pension payments, as may, for the same or similar reasons, be suspended, they shall be applied and disbursed for the purposes and in the manner and order provided in paragraphs (k) and (l) of this subsection;
- (n) where a workman leaves no dependants, such sum or sums as the Board may deem reasonable for the medical and surgical attendance, hospitalization, nursing, care and maintenance, furnished him, shall be paid by the Board, to the persons furnishing the same;
- (o) where a workman leaves no widow there shall nevertheless be computed an amount equal to the average capitalized cost of pensions awarded during the next preceding three years to the dependants of fatally injured workmen leaving widows, and there shall also be computed the capitalized cost of pensions awarded to the dependants, if any, of the fatally injured workman; and the larger of the amounts so calculated shall be charged against the Accident Fund, and any excess of the amount so charged, over the capitalized cost of the awards made, shall be transferred to and be placed in a special reserve to provide for such part of the cost of claims of workmen suffering enhanced disabilities because of similar or other injuries previously suffered as in the opinion of the Board is due to such previous injury; Provided that the term "average capitalized cost of pension" for purposes of this paragraph shall be deemed to include the additional charges occasioned by the provisions of paragraphs (i) and (j).

(2),—

- (a) Where the workman leaves no widow or the widow subsequently dies and it seems desirable to continue the existing household and an aunt, sister or other suitable person acts as foster-mother in keeping up the household and maintaining and taking care of the children entitled to compensation, in a manner which the Board deems satisfactory, the foster-mother while so doing shall be entitled to receive the same compensation for herself and the children as if she were the widow of the deceased, and in such case the children's part of the payments shall

be in lieu of the monthly payments which they would otherwise have been entitled to receive;

- (b) "Foster-mother" may include a natural mother;
- (c) "Existing household" in this section means any household where all the children entitled to compensation are maintained and taken care of by one foster-mother;
- (d) As long as any payment is being made in respect of a child under the provisions of the next preceding two paragraphs, no other payment shall be made in respect of the child;
- (e) All payments to foster-mothers under the provisions of this section shall cease when all the children have either reached the age of eighteen years or have died;
- (f) Compensation shall be payable to an invalid child without regard to the age of the child, and payments to the child shall continue as long as in the opinion of the Board, it might reasonably have been expected, had the workman lived, he would have continued to contribute to the support of the child;
- (g) Where the Board is of the opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as it may deem best for the advantage of the child.

(3) Where there are both total and partial dependants the compensation may be allotted partly to the total and partly to the partial dependants.

(4) Where a payment to any one of a number of dependants ceases, the Board shall readjust the payments to the remaining dependants so that the remaining dependants shall thereafter be entitled to receive the same compensation as though they had been the only dependants at the time of the death of the workman.

(5) If a dependent widow marries, the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum of four hundred and eighty dollars, and the lump sum shall be payable within one month after the date of her marriage.

(6) Subsection (5) shall not apply to payments to a widow in respect of a child, but the payments provided in paragraph (d) of subsection (1) of section 33 hereof in respect of a child other than an invalid child shall cease when the child attains the age of eighteen year or dies.

PERMANENT TOTAL DISABILITY

34. Where permanent total disability results from the injury, the amount of the compensation shall be a weekly

payment during the life of the workman equal to sixty-six and two thirds per cent of the average weekly earnings of the workman employed at similar work in the same occupation as shown by the records of the Board for the eight consecutive years immediately preceding the first day of January preceding the date of the injury.

PERMANENT PARTIAL DISABILITY.

35.—(1) Where permanent partial disability results from the injury, the Board shall estimate the impairment of earning capacity from the nature and degree of the disability by reason of the injury and award compensation based upon the aforesaid rate in such case accordingly. The earnings used for purposes of computing the claim shall be the average weekly earnings of workmen employed at similar work in the same occupation as shown by the records of the Board for the eight consecutive years immediately preceding the first day of January preceding the date of the injury, and the compensation shall be payable during the lifetime of the workman.

(2) Where the impairment of the earning capacity of the workman does not exceed ten per cent of his earning capacity instead of such weekly payment the Board shall unless in its opinion it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.

(3) Notwithstanding the provisions of this section the Board may, in case a workman has been seriously and permanently disfigured about the face or head or otherwise permanently injured, recognize an impairment of earning capacity, and may allow lump sums or periodical payments or both, as compensation.

TEMPORARY TOTAL DISABILITY.

36. Where temporary total disability results from the injury, the amount of the compensation shall be a weekly payment so long as the disability lasts, equal to sixty-six and two-thirds per cent of his average weekly earnings, as computed by subsection (1) of section 39.

TEMPORARY PARTIAL DISABILITY.

37. Where temporary partial disability results from the injury, the Board shall estimate the impairment of earning capacity from the nature and degree of the disability by reason of the injury and award compensation on that basis at the aforesaid rate according to the method of computation prescribed by subsection (1) of section 39 but such compensation shall be payable only so long as the disability lasts.

38. In case of workmen suffering injury by accident arising out of and in the course of the employment whilst doing rescue work in a mine after an explosion, accident or catastrophe or in any other industry or the premises thereof during or immediately after a fire or other catastrophe, for the preservation or saving of human life, the compensation payable in such case shall be computed on the basis of one hundred per cent in lieu of the sixty-six and two-thirds per cent as herein otherwise provided.

COMPUTATION OF COMPENSATION.

39.—(1) The average weekly earnings of a workman for the purposes of this Act shall be based upon the actual earnings of the workman during the previous twelve months in industries to which this Act applies where the same are ascertainable;

Provided, however, that if by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average earnings which are being earned by a person in the same grade of employment for the previous twelve months;

Provided further that nothing in this section shall apply to any case in which the basis of compensation is fixed by sections 34 and 35.

(2) For the purpose of ascertaining the amount of compensation payable under the provisions of sections 34 to 38 inclusive, average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated, but not so as in any case to exceed two thousand dollars per annum.

(3) Where in any case it seems more equitable, the Board may award compensation, having regard to the earnings of the workman at the time of the accident.

(4) Where the workman had entered into concurrent contracts of service with two or more employers in industries to which this Act applies under whom he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(5) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of the employment, the sum so paid shall not be reckoned as part of the earnings.

40.—(1) The amount of compensation to which an injured person shall be entitled for temporary total or permanent total disability under the provisions of this Act, shall not be less than twelve dollars and fifty cents per week,

or where his average earnings are less than twelve dollars and fifty cents per week, the amount of such earnings.

(2) The Board may, wherever it is deemed advisable, provide that the payments of compensation may be monthly or semi-monthly instead of weekly or where the workman or dependant is not a resident of Alberta or ceases to reside therein the Board may fix the periods of payment or commute the compensation as it may deem proper;

Provided, however, that if a workman or dependant entitled to compensation at the rate of twenty dollars a month or more files with the Board a request in writing that the compensation payable to him be paid semi-monthly, the compensation payable to such workman or dependant shall thereafter be paid semi-monthly.

(3) Where a workman or dependant is under the age of twenty-one years or is under any other legal disability, the compensation to which he is entitled may be paid to him or be applied in such manner as the Board may deem best for his advantage.

(4) Where the workman was at the date of the accident under twenty-one years of age, and it is established to the satisfaction of the Board that under normal conditions his wages would probably increase, that fact shall be considered in arriving at his average earnings.

41.—(1) In fixing the amount of a payment, regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer, and any sum deducted under this section from the compensation otherwise payable may be paid to the employer out of the Accident Fund: Provided that where such payment, allowance or benefit, has been charged against the workman for repayment to his employer whether such workman is on relief or otherwise, such payments of compensation as may be made by the Board to the employer shall be by him credited to the account so charged.

(2) For the purpose of ascertaining the amount of compensation due, such amount may be computed on a daily basis.

INDUSTRIAL DISEASES.

42.—(1) Where,—

(a) a workman suffers from an industrial disease, as defined by this Act and is thereby disabled from earning full wages at the work at which he was employed; or

(b) the death of the workman is caused by such industrial disease—

and the disease is due to the nature of the employment in which the workman was employed at any time within the

twelve months previous to the date of the disablement, whether under one or more employments, the workman or his dependants shall be entitled to compensation under this Act as if the disease were a personal injury by accident arising out of and in the course of that employment, and the disablement shall be treated as the happening of an accident.

(2) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the enumeration of industrial diseases contained in Schedule 3 and the disease contracted is the disease in the first column of the said Schedule set opposite to the description of such process the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(3) The Board may by the Regulations require every physician treating a patient who is suffering from an industrial disease to report to the Board such information relating thereto as it may require.

(4) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply, if the disease is the result of an injury in respect of which he is entitled to compensation under this Act.

(5) "Silicosis" means a fibrotic condition of the lungs caused by dust containing silica and evidenced by specific X-ray appearances accompanied by a substantially lessened capacity for work.

(6) In any case of silicosis contracted either before or after this enactment, in which it is made to appear to the Board that the failure of the workman to submit his claim to the Board within the time provided by subsection (5) of section 19 involves hardship on the workman, and if in the opinion of the Board the claim is a just one and ought to be allowed, the Board may in its discretion in such case increase the period for the making of the claim to such an extent as the Board deems fair and reasonable; provided,—

- (a) that nothing herein shall entitle a workman or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis, unless the workman has been a resident in this Province for a period of at least five years last preceding his disablement, and has been actually exposed to dust containing silica in employment in this Province for periods amounting in all to at least five years preceding his disablement; three months of which shall have been in the three-year period last preceding his disablement;
- (b) that the workman did not have silicosis or tuberculosis before exposure to dust containing silica in employment in this Province;
- (c) that if the workman has been exposed to the inhalation of dust containing silica elsewhere than in this

Province before working for the said periods, the amount of compensation payable shall be reduced by the proportion that the period he has worked elsewhere than in this Province so exposed bears to the total period he has worked so exposed;

- (d) that any workman who had heretofore ceased or may hereafter cease to be usually and regularly employed in this Province in employment in which he was exposed to dust containing silica, shall file his claim for disability therefrom within five years from the date of leaving such employment.

MEDICAL AID.

43. In addition to the compensation herein already provided for the Board shall have authority to furnish or provide for the injured workman such medical or other remedial attention, including nursing, hospitalization, drugs, dressings, X-ray treatment, special treatments and transportation as it may deem reasonably necessary at the time of the injury, and thereafter during the disability to cure and relieve from the effects of the injury, and the Board shall have full power to adopt rules and regulations with respect to furnishing medical aid to injured workmen entitled thereto and for the payment thereof.

44.—(1) Where any employer has established or hereafter establishes in connection with any industry carried on by him an arrangement for furnishing medical aid to his workmen exclusively, which in the opinion of the Board is at least as favourable to the workman as that herein provided for, the Board, after investigating the facts and considering the wishes of both workman and employer, may approve such arrangement, and as long as such approval remains unrevoked such arrangement may be continued in lieu of the medical aid herein provided for, and if the industry is in Schedule 1 the employer shall be entitled to such reimbursement out of the Accident Fund or to such reduction in his rate of assessment as the Board shall deem just.

(2) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished, shall be determined by the Board.

(3) When the Board provides or is liable to pay for medical or other remedial attention as hereinbefore provided, the amount payable to any person in respect of such, or any, attention, shall be as the Board shall direct and no action shall lie against the Board for or 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 attention.

(4) The Board may make a per diem allowance on account of his subsistence to an injured workman when under

its direction, he is undergoing treatment at a place other than wherein he resides, provided, however, that the allowance shall not exceed two and one-half dollars and that it shall be charged to the Accident Fund.

- (5) The Board shall have full power and authority,—
- (a) to contract with doctors, nurses and hospitals, or any other institutions for any medical aid required;
 - (b) to construct, equip, maintain and conduct, one or more hospitals at one or more points in the Province as may in the opinion of the Board be necessary or advisable, for the purpose of adequately providing the medical aid authorized by section 43 of this Act;
 - (c) to establish, equip, maintain and conduct therapeutic clinics for the treatment and rehabilitation of injured workmen.

Provided that upon the establishment of a hospital under the authority herein provided, the Board may extend the services of a hospital so established, to persons other than those entitled to medical aid under the provisions of this Act, to such extent and on such terms and conditions as it may see fit.

(6) Without in any way limiting the power of the Board under this section to supervise and provide remedial aid, in every case where the Board is of the opinion that the exercise of such power is expedient, the Board may permit the injured workman to select as his medical attendant such duly qualified and competent physician as he may desire.

(7) Every employer shall at his own expense furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital, or to a physician, or to the workman's home or to such other place as in the opinion of the Board the condition of the workman required him to be sent and any employer failing so to do shall be liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the workman or by anyone for him, or as may be provided by the Board and the amount for which the employer is made liable by such order, shall be added to and become part of the next maturing assessment of the employer.

(8) All moneys in the hands of the Board that have or hereafter may accrue from deductions or payments for medical aid shall after the thirty-first day of December, 1943, be transferred to the Accident Fund.

(9) No account for medical services shall be recognized by the Board or be recoverable unless the account is filed with the Board within three months from the discharge of the workman by the physician who gave the medical care in the case, or within three months of the date upon which the workman returned to work following the accident, whichever period is the shorter.

45.—(1) Employers, whenever required by the Board so to do, shall at their own expense, install, maintain and provide, such first aid appliances and service as the Board may direct and after having done so shall advise the Board accordingly.

(2) Every employer shall keep, in a book provided and kept for that purpose only, a record of all cases in which first aid treatment has been given to a workman for or in respect of any injuries suffered by him and the record shall set out the name of the workman, the nature of the injuries, the date they were suffered, the date they were treated and the nature of the treatment together with the name and address of the person giving the treatment, and every such book shall be open at any and all times to inspection by the Board or any member or representative thereof.

ACCIDENT FUND.

46. An Accident Fund shall be provided by contributions to be made in the manner herein provided by all employers and compensation payable in respect of accidents and the costs of administration shall be paid out of the Accident Fund thus provided.

47. Where at any time there is not money available in the Accident Fund for payment of the compensation which has become due, the Lieutenant Governor in Council may direct that the same be advanced out of the General Revenue Fund and in that case the amount advanced shall be repaid to the Provincial Treasurer after the next assessment.

48. Separate accounts shall be kept of the amounts collected and expended in respect of each employer, but for the purpose of paying compensation the Accident Fund shall nevertheless be deemed one and indivisible.

49. If in the opinion of the Board it is necessary to provide and maintain a reserve fund to meet the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in future years with payments which are to be made in such years in respect of accidents which have previously happened, the Board may from time to time set apart an amount from the assessments for that purpose and the amount so set apart shall form a reserve fund and may be invested by the Board in securities in which a trustee may by law invest moneys.

50.—(1) The accounts of the Board shall be audited by the Provincial Auditor.

(2) The Board shall, on or before the thirty-first day of March in each year, make a report to the Lieutenant Governor in Council of its transactions during the next preceding calendar year.

(3) Every such report shall be forthwith laid before the Legislature if the Legislature is then in Session, and if it is not then in Session within fifteen days after the opening of the next Session.

ASSESSMENT.

51.—(1) The Board shall from time to time assess and levy upon the employers in each of the classes and subclasses, such percentage of the pay-roll, or such other rate, or such specific sum as, allowing for any surplus or deficit in the class as the Board may require,—

- (a) to pay the expenses of the Board in the administration of this Act including mine rescue and first aid work, and of such other Acts, duties and services, as it may be required to administer or perform;
- (b) to provide and pay all amounts payable from the Accident Fund;
- (c) to provide capitalized reserves sufficient to pay all compensation payable in future years in respect of such accidents as have occurred or may occur during the period for which the assessment has been made;
- (d) to provide a disaster reserve to meet the loss arising or likely to arise from disaster or other circumstances which, in the opinion of the Board, would unfairly burden the employers in any class;
- (e) to provide a silicosis reserve for the payment of all moneys that may be or hereafter become payable by the Board for or in respect of silicosis by charge upon, as an accident cost, such of the classes or subclasses and in such amounts as the Board may from time to time determine;
- (f) to provide such other reserves as the Board may deem advisable to ensure as nearly as possible within each class uniform assessments from year to year.

(2) In the case of classes mentioned in Schedule 2 of this Act, the Board shall not, in computing the amount of its levy, take into consideration the provisions of a capitalized reserve or a reserve fund to meet loss arising from a disaster.

(3) Assessments may be made in such manner and form and by such procedure as the Board may deem adequate and expedient and may be general as applicable to any class or subclass or special as applicable to any industry or part or department of an industry.

(4) The assessments may, if the Board sees fit, be levied provisionally upon the estimates given by the employer or one fixed by the Board.

(5) Where the assessment is based upon the pay-roll of the employer and the pay-roll shows in any one calendar year, earnings in respect to any workman in excess of two

thousand dollars for that year, every such excess shall be deducted from the amount of the pay-roll before it is used as a basis for assessment.

(6) It shall not be necessary that assessments upon employers in a class or subclass be uniform but they may be fixed, graded or varied in relation to the hazard or other circumstance of the operations of the employer as the Board may decide.

(7) A system of merit and demerit rating may, if deemed advisable or proper, be adopted.

(8) If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer shall be liable to pay and shall pay as a penalty for his default such percentage upon the amount unpaid as may be prescribed by the regulations or may be determined by the Board.

(9) Where in his statement to the Board of the amount or estimated amount he will expend for wages or the amount or estimated amount of his production for or during the then current year an employer understates or under estimates the same, he shall be liable to pay and shall pay, as a penalty for such underestimate, such percentage upon the amount thereof as the Board shall or may determine.

(10) Where in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazards of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the Accident Fund for which the employer is liable.

(11) If in any calendar year or other fiscal period, as determined by the Board, the amount chargeable to the account of any employer is in excess of a sum equal to the amount of the ordinary assessment against such employer for the same year increased by five per cent, the Board may assess and levy upon the employer for that year a super-assessment of such amount as the Board may deem proper, having regard to the amount of the excess and the extent of the amounts previously chargeable at any time against such employer's account:

Provided always that the amount of the super-assessment shall not exceed thirty-three and one-third per cent of the ordinary assessment.

(12) In cases where work is performed for an employer by and under one or more contracts and the principal and contractor so agree, the Board may, for the purposes of merit and demerit rating or super-assessment or otherwise consider and treat the whole of such work as one employment and assess such employer accordingly.

52.—(1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under the provisions of the next preceding section, or the provisional amount thereof, and the employer shall pay to the Board the amount or provisional amount of his assessment within fifteen days after notice of the assessment and of such amount as has been given to him, or where payment is to be made by instalments he shall pay the first instalment within such time and the remaining instalments at the time or times specified in the notice.

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted.

(3) Every employer shall pay into the Accident Fund such assessments as may be levied by the Board, and if any assessment or any part thereof is not fully paid in accordance with the terms of the levy, the Board shall have a right of action against the employer in respect of any amount unpaid together with the costs of the action.

53.—(1) No assessment less than fifty dollars shall be levied in respect of the employments mentioned in Classes 1 and 6 of Schedule 1 hereto, and in other cases, no assessment shall be less than five dollars. For the purposes of this section, in case of the employment of safety committees by labour unions for safety purposes in and about a coal-mine, the minimum assessment shall be five dollars.

(2) Where the workman or any group of workmen of any employer, employ a workman as a checkweigher, checker or otherwise howsoever, then the employer shall pay to the Board an amount sufficient to pay the assessment in respect of the workman so employed and may deduct such amount from the wages of the said workman or group of workmen.

54.—(1) Subject to the regulations of the Board, every employer shall, before the twentieth day of January in each year and at such other time or times as may be required by the Board, prepare and transmit to the Board, a statement of the total amount of all wages earned by all his workmen during the calendar year then last past or any part thereof specified by the Board and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Board and such additional or other information as the Board may require, all verified by the statutory declaration of the employer or the manager of the business, or where the employer is a corporation, by an officer of the corporation having a personal knowledge of the matter to which the declaration relates.

(2) Every person rendering service to a company, wheresoever and howsoever incorporated or constituted, under a contract of service written or oral, express or im-

plied, whether such person is or is not a member, officer or executive of the company, and whether or not the company is or is not under legal obligation to pay such person any wages, salary or other remuneration, shall be deemed to be and is hereby constituted a workman of the company and shall be included upon the pay-roll thereof, and in every such case where the person is not being paid any wages or salary, the Board shall, for the purposes of assessment, fix such sum as in its opinion shall represent a reasonable wage or salary for the service rendered by the person, having regard to the nature of the employment, but not in any case exceeding in any one year the aforesaid maximum sum of two thousand dollars and the Board shall for the purpose of its assessment add the sum so fixed by it to the amount of the pay-roll of the company.

(3) Within three days after the granting of any building permit involving an expenditure of over one hundred dollars in or by any city, town, village, municipal district or other municipal body, notice in writing thereof shall be given to the Board by the person whose duty it is to keep a record of such permits.

(4) Any such person shall be guilty of an offence and liable upon summary conviction to a fine of twenty dollars for each contravention of the provisions of the preceding subsection.

(5) Any work done or performed under such permit is hereby constituted an employment to which this Act applies, and the employment by the permit holder, of any workman therein or in connection therewith, shall constitute him an employer within the meaning of the Act and as such, subject to all the provisions thereof.

(6) Every municipal assessor of a city, town, village, municipal district and the Department of Municipal Affairs in the case of improvement districts, shall yearly, on or before the last day for completing his assessment roll, make a return to the Board upon forms provided by the Board for the purpose, showing the names, addresses, nature of business and usual number of employees, of all employers of labour, carrying on in the city, town, village, municipal district or improvement district as the case may be, any industry or business other than farming, together with such information as the Board may require.

55.—(1) Every employer shall keep within the Province in such form and with such detail as may be required for the purposes of this Act, a careful and accurate account of all wages and earnings of his employees and of such other features and particulars of his operations as the Board may require.

(2) Any person who, in the opinion of the Board, may be an employer under the provisions of the Act, shall on request of the Board at any time furnish and deliver to the Board a statement signed by him giving full particulars of

the nature of the different classes of work carried on and such particulars as may be required by the Board concerning his pay-roll or other feature or features of his business or industry as the Board may require.

(3) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified and transmitted as provided by section 54.

(4) The Board and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the Accident Fund under this Act, and the premises connected with it, and every part of them, for any purpose which the Board may deem necessary.

(5) The Board and any member of it and any officer of the Board or person authorized by it for that purpose, shall have the right to examine the books and accounts of every employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under any of the provisions of this Act, is an accurate statement of the matters which are required to be stated therein, or of ascertaining the amount of the pay-roll or of ascertaining whether any industry or person is within the scope of the Act.

(6) For the purpose of any examination or inquiry, the Board or person authorized to make the examination or inquiry, may give to the employer or his agent notice in writing requiring him to bring or produce before the Board or person, at a place and time to be mentioned in the notice, which time shall be at least ten days after the giving of the notice, all documents, writings, books, deeds and papers in the possession, custody or power of the employer touching or in any way relating to or concerning the subject matter of the examination or inquiry referred to in the notice, and every employer and every agent of the employer named in and served with any such notice shall produce at the time and place required all such documents, writings, books, deeds and papers according to the tenor of the notice and for the purpose of any such examination and inquiry the Board and any person so appointed shall have all the powers which may be conferred on a commissioner appointed under *The Public Inquiries Act*.

(7) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to require and to take affidavits, affirmations, or declarations as to any matter of such examination or inquiry, and to take statutory declarations required under subsection (1) of section 54, and in all such cases to administer oaths, affirmations, and declarations and certify to the same having been made.

(8) An employer and every other person who obstructs or hinders the making of any examination or inquiry mentioned in the preceding subsection, or who refuses to permit it to be made, or who neglects or refuses to produce such documents, writings, books, deeds and papers at the time and place stated in the notice mentioned in the said preceding subsection, shall be guilty of an offence under this Act.

(9) No member or officer of the Board and no person authorized to make an examination or inquiry under this Act shall divulge or allow to be divulged, except in the performance of his duties or under authority of the Board, any information obtained by him or which has come to his knowledge in making or in connection with an examination or inquiry under this Act.

(10) Every person who violates the provisions of the preceding subsection shall be guilty of an offence against this Act.

(11) If a statement is found to be incorrect, the assessment shall be made on the true amount of the pay-roll or other basis of assessment as the Board may require, as ascertained by the examination and inquiry, or if an assessment has been made against an employer on the basis of his pay-roll or other basis of assessment being as shown by the statement, the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he should have been assessed.

(12) No member or officer of the Board shall divulge information respecting the business of an employer or a workman obtained by him in his capacity as such member or officer except, under the authority of the Board, to the persons directly concerned.

56.—(1) If an employer does not make and transmit to the Board the prescribed statement within the prescribed time the Board may, in addition to any other remedy provided by this Act, base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the pay-roll or other basis of assessment of the employer, and the employer shall be bound thereby, but if it is afterwards ascertained that the amount is less than the actual amount of the pay-roll, or other basis of assessment, the employer shall be liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he should have been assessed on the basis of his pay-roll or other basis of assessment.

(2) Whenever an employer fails to furnish to the Board within the prescribed time a statement of wages or production whether estimated or actual as required by any provision of the Act or of any regulation thereunder, he shall be liable to pay and shall pay as a penalty for such default such percentage upon the amount of his assessment as the Board shall or may determine.

57. If for any reason an employer liable to assessment is not assessed, he shall nevertheless be liable to pay to the Board the amount for which he should have been assessed and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

58. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, the defaulting employer shall continue liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid.

59.—(1) When any industry coming under the provisions of this Act is established, commenced or recommenced, the employer shall within ten days notify the Board of the fact and furnish to the Board an estimate of the probable amount of his pay-roll for the remainder of the year or such other information as the Board may require, verified by a statutory declaration, and shall pay to the Board a sum equal to that for which he would have been liable if his industry had been established or commenced before the last assessment was made or so much thereof as the Board may deem reasonable.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of the sum payable by the employer under subsection (1) of this section as it possesses or is entitled to in respect of assessments.

60.—(1) The Board may at any time, require an employer to furnish to it, security in such amount as in the opinion of the Board shall be sufficient to provide for the assessments that are or may be levied against him by the Board for or in respect of the then current year.

(2) Within fifteen days after service upon him of notice of such requirement the employer shall lodge with the Board security in the amount and of the class or character stated in the notice for the payment of the assessments levied or to be levied against him by the Board for or during the then current year.

(3) In case it may appear to the Board at any time that the amount of the security furnished by an employer has become inadequate by reason of an increase of employment by the employer the Board may require the employer to lodge with it additional security and may prescribe the amount thereof and the employer within fifteen days after notice to him of such requirement shall lodge with the Board additional security in the amount and of the class or character stated in the notice.

(4) The security shall consist of cash or a guarantee bond of a bonding company authorized to carry on business in the Province or such marketable bonds or securities as may be acceptable to the Board.

(5) In case default is made in the payment of any assessment payable to the Board by such employer, levied in the period for which the security is given, the Board may proceed to realize upon any or all of the securities lodged with it under the provisions of this section and may take such proceedings and do all such acts and things as it may deem necessary having regard to the nature of the security to realize the same and the proceeds so realized shall be by the Board applied,—

- (a) in payment of the liability of the employer to the Board;
- (b) in the payment of the costs and expenses of the Board in realizing the securities; and
- (c) in payment of the balance, if any, to the persons legally entitled thereto.

(6) In case default is made by the employer in furnishing any security which he is required by any of the provisions of this section to furnish or in case default is made in the payment of any assessments due the Board by him then and in each such case the Board may order the employer to cease to employ workmen until such time as the Board may by subsequent order determine and notice of any such order shall be given to the employer.

(7) Every employer who being served with any such order continues to employ workmen in an industry to which the Act applies, shall be guilty of an offence and liable on summary conviction to a penalty of not less than five dollars a day for each day his failure or default continues, nor more in all than an amount equal to the debt of the employer to the Board, and in default of payment to imprisonment for a term of not more than three months.

(8) A notice or order issued by the Board under the provisions of this section may be served upon the person for whom it is intended by registered mail and if and when the post office receipt for the letter containing such document purporting to be signed by such person is received by the Board, such service shall be deemed to be good and sufficient service of such notice or order.

61.—(1) 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, or subcontractor, the principal shall be liable to pay to the Board any sum which the contractor or any subcontractor is or may become liable to pay to the Board in respect of the work so undertaken, 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.

(2) 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.

(3) 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 should 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.

(4) For the purposes of the administration of this Act and to the extent and in such cases as the Board may deem necessary or advisable contractors and subcontractors and their workmen shall be deemed to be workmen of the principal or prime contractor.

(5) 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.

(6) In the case of all contracts and subcontracts involving the employment of workmen, the parties thereto shall file or cause to be filed with the Board a copy of the contract or subcontracts within seven days of the making of same.

(7) Where any work within the scope of the Act is performed under contract for any municipal corporation, or for any board or commission having the management of any work or service operated for a municipal corporation, any assessment in respect of the work may be paid by the corporation, board, or commission, as the case may be, and the amount of the assessment may be deducted from any moneys due the contractor in respect of such work.

62. Assessments may, wherever it is deemed expedient, be collected in half-yearly, quarterly, or monthly instalments, or otherwise; and where it appears that the funds in any class are sufficient for the time being, any instalment may be abated or its collection deferred.

63. Employers to whom this Act applies shall be liable to contribute to the Accident Fund, as herein provided.

64.—(1) Any employer who refuses or neglects to make or transmit any pay-roll, return or other statement required to be furnished by him under any of the provisions of this Act or any regulation or order made thereunder or who refuses or neglects to pay any assessment, or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board a sum of money not exceeding one-half of the amount of the compensation payable and not exceeding in any case three hundred dollars in respect of any accident to a workman in his employ which happens during the period of the default, and the payment of the amount may be enforced in the same manner as the payment of an assessment may be enforced.

(2) The Board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under this section.

(3) Where any employer makes default in the payment of an assessment, and an execution issued upon a judgment

entered or certificate filed under section 65 with respect to the assessment is returned with a certificate from a sheriff or his deputy that he was unable to wholly satisfy the same, and where the judgment debtor continues to carry on an industry within the scope of this Act in which workmen are employed, any judge of the Supreme Court, upon an application made on behalf of the Board by motion in Chambers, without the issue of any writ or the commencement of any action, may restrain the judgment debtor from carrying on any industry within the scope of this Act until the amount due on the execution, and all assessments made by the Board, and the costs of the application are paid.

65.—(1) Where default is made in the payment of any assessment, or any special assessment or any part thereof, or any other moneys due the Board, 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 directing the payment of the amount by such person, and the 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 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 any 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.

(3) Notwithstanding anything contained in any other Act, the amount due to the Board by an employer upon any assessment made under this Act or in respect of any amount which the employer is required to pay to the Board under any of its provisions or upon any judgment therefor, shall be a charge upon the property of the employer within the Province and shall have priority over all debts, liens, charges, mortgages or other incumbrances whatsoever whenever created or to be created:

Provided that such priority shall not apply against wages due to employees by their employer or employers in cases where the exercise thereof would deprive the claimant therefor of such wages.

(4) In the event of the sale of any business or any industry to which this Act applies, or of the stock or equipment in bulk used in connection with any such business or industry it shall be the duty of the purchaser before paying any part of the purchase price or giving the vendor any security therefor, to demand and secure from the vendor, and it shall be the duty of the vendor to furnish to the purchaser, a certificate by the Board that it has no claim in respect of the business or industry or stock or equipment in bulk.

(5) In case the vendor has not furnished such certificate, the purchaser of the business or industry or stock or equipment shall be liable to the Board in and indebted to it for a sum equal to the moneys due it by the vendor.

(6) Any real estate of an employer, which is not otherwise bound by or subject to a lien created by this Act, shall be bound to the same extent as by a registered judgment or mortgage, by any assessment made under this Act against the employer, from the date of the lodging of a certified statement of the moneys due the Board for assessment or otherwise in the Land Titles Office for the district in which the real estate is situated and any judgment entered with respect to the statement shall bind the property from the date of the lodging of the statement so certified. The Registrar of such Land Titles Office shall record such statement.

66.—(1) Except in the matter of retail sales by regularly established retail dealers in the ordinary course of their business, it shall be the duty of each purchaser of lumber, before paying to the vendor the purchase price or any part thereof or giving him any security therefor, to demand and receive from the vendor, and it shall be the duty of the vendor to furnish to the purchaser, a certificate by the Board that it has no claim in respect of such lumber, for assessment or otherwise.

(2) In case the vendor has not furnished such certificate, the purchaser of such lumber shall be liable to the Board in and indebted to it for a sum equal to the moneys due by the producer or vendor of such lumber to the Board up to but not exceeding, except as hereinafter provided, the Board's assessment for the then current year in respect of the lumber so purchased:

Provided, however, that the purchaser shall be liable to the Board and indebted to it in such further amount per one thousand feet board measure of the lumber so purchased as the Board by written notice to the purchaser may stipulate and require.

(3) Persons engaging in any of the industries of lumbering, logging, saw-milling, the planing or processing of lumber, the manufacture of lumber or lumber products, including ties, shingles, laths and other products, shall advise the Board thereof within ten days after commencing to engage therein and at the same time and other times if and when required by the Board so to do, shall furnish the Board with such particulars of their operations in such industries or any of them as the Board or its officers or agents may require.

(4) If any such person should consider himself and his operations or proposed operations without the scope of the Act he shall nevertheless be deemed to be an employer to whom and to whose operations the Act applies unless within ten days after commencing to engage in such operations he applies to the Board for a declaration that his operations

are not within the scope of the Act and that he is exempt from assessment in respect thereof: Provided, however, that the Board may, where in its opinion the circumstances so warrant, extend the time for the making of such application.

67.—(1) In case any person fails to pay any assessment or part thereof which he is liable to pay within the time provided for such payment, the Secretary may by himself or his agent collect the same with costs by distress of the goods and chattels of the person against whom the assessment was made and the costs chargeable shall be the same as those allowed in the Schedules to *The Seizures Act*.

(2) In order to effect the seizure of any goods or chattels under the powers herein contained, the person duly authorized to effect the seizure shall serve upon the debtor and in case there is more than one debtor upon each of them or upon some adult member of his household or shall attach to the goods to be seized or some or all of them or shall put up in some conspicuous place on the premises upon which the goods or some part of them are at the time of seizure a notice of such seizure.

(3) For the purpose of effecting the seizure of any goods and chattels authorized by any distress warrant under the provisions of this section or obtaining the possession of any goods which have been previously seized, the Secretary or other person lawfully charged with the execution of such distress warrant,—

(a) shall have the right to go upon any lands or premises whereon are situate any goods and chattels subject to distress hereunder and seize, sell or remove the same as he or they may require, and,

(b) may in case it is not possible otherwise to effect the seizure or obtain possession of the goods previously seized as the case may be, either by himself or with the assistance of such persons as he may request, break open the door or doors of any building other than a private dwelling house in which any goods and chattels liable to seizure are contained and upon the order of a judge may similarly break open the door or doors of a private dwelling house.

(4) Any seizure made pursuant to the provisions of this section shall be deemed to be a continuing seizure until such time as the Secretary by notice in writing releases the seizure or until the goods or property under seizure have been sold.

(5) The Secretary or his agent shall by advertisement posted up in at least five public places in the district wherein seizure has been made, give at least ten days' public notice of the time and place of sale, the goods and chattels to be offered for sale, and the name of the debtor for payment of whose assessment the property is to be

sold; and at the time named in the notice the Secretary or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the moneys due with all lawful costs.

(6) In case any goods taken under any of the powers of this section contained have been offered for sale and remain unsold, the Secretary or his duly authorized agent may sell the same by private contract, either to the Board or any other person if the price offered for such property is in the opinion of the Secretary or agent a fair and reasonable price having regard to all the circumstances.

(7) If the property distrained has been sold for more than the amount of assessments due and costs, and if no claim to the surplus is made within six months from the date of the sale by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, it shall be paid to the person in whose possession the property was when the distress was made.

(8) If any claim to the surplus is contested, the surplus money shall be paid by the Secretary to the clerk or deputy clerk of the District Court of the Judicial District within which the goods and chattels distrained are situated, and he shall retain the same until the respective rights of the parties have been determined by action at law or otherwise.

(9) Except as herein stated, *The Seizures Act* shall not apply to any proceedings under this section.

68.—(1) If an assessment or a special assessment or any part of it remains unpaid for thirty days after it has become payable, the Board in lieu of or in addition to any and all other proceedings as herein provided may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment, and the establishment in respect of which it is payable, and, upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate, he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of the establishment, and it shall be collected in like manner as taxes are levied and collected and the amount when collected shall be paid over by the collector to the Board.

(2) The collector shall be entitled to add five per cent thereof to the amount to be collected and to retain such percentage for his service in making the collection.

69. Subject to any statute of the Dominion of Canada, there shall be included among the debts which, under *The Trustee Act*, *The Companies Act* or any other Act of the Province of Alberta, are, in the distribution of the property in the case of an assignment or death or of the assets of a company being wound up under the said Acts or any of

them or otherwise to be paid in priority to all other debts, the amount of any assessment or other debt due the Board, the liability for which accrued before the date of the assignment or death or the commencement of the winding up respectively.

70.—(1) Where an employer ceases to be an employer he shall within ten days notify the Board by registered mail of his ceasing to be an employer within the meaning of the Act, and shall at the same time transmit a statement of the total amount of wages earned by all his workmen for the portion of the then current year during which he has continued in business.

(2) Employers shall post and keep posted in a conspicuous place upon the premises where the work performed by their workmen is being carried on and where they may be readily seen by such workmen, such notices as the Board may from time to time require to be posted.

(3) Any workman may before entering into any employment to which this Act applies satisfy himself that his employer has paid his assessment and that the same is paid thereafter when due, so that he may receive compensation in case of injury.

(4) No employer shall keep or have in his employment any workmen unless the employer has complied with the provisions of this Act, and where an employer is in default of payment of any assessment or part thereof or any other moneys due by him to the Board and default has continued for one month the Board may notify the employer to discontinue and thereafter refrain from employing any workman or workmen, and the employer shall not thereafter employ any workman or workmen unless and until he pays to the Board all moneys due it by him.

(5) All books, returns, notices, reports, forms or other documents or papers, and copies thereof required to be kept, posted or forwarded in accordance with the provisions of this Act or regulations made thereunder, shall be in a form approved by the Board.

PENALTIES.

71.—(1) Any person who violates any of the provisions of this Act or any regulations or orders made hereunder for which no other penalty is provided shall be guilty of an offence and liable on summary conviction to a penalty of not less than five dollars and costs nor more than one hundred dollars and costs and in default of payment to imprisonment for a period not exceeding three months.

(2) Any person being convicted for violating any of the provisions of this Act or of any regulations made hereunder, and failing after the conviction to comply with the provisions of the Act or the regulations made hereunder for the breach of which he was convicted, shall be guilty

of an additional offence, and liable on summary conviction to a penalty of not less than five dollars nor more than one hundred dollars a day for each day his failure or default continues, and in default of payment, to imprisonment for a period not exceeding six months.

(3) All penalties imposed by this Act shall when collected be paid over to the Board and form part of the Accident Fund.

(4) No prosecution shall be instituted for a violation of any of the provisions of this Act, except by some person appointed by the Board.

(5) In any prosecution for a violation of any of the provisions of this Act or any regulations made hereunder, whereby any person is required to transmit to the Board any statement or report or to pay to the Board any assessment or other amount, a certificate under the hand of the Secretary and under the seal of the Board, certifying that the statement or report or payment has not been received by the Board, shall be *prima facie* evidence of the non-transmission of the statement or report or the non-payment of the assessment or other amount.

APPLICATION.

72.—(1) This Act shall apply to all classes of employment enumerated in Schedules 1 and 2.

(2) The Board shall have the power to define any of the industries contained in the said Schedules and to decide whether or not any establishment, trade or business is or is not an industry to which the Act applies.

73.—(1) Subject to the provisions of section 13, this Act shall not apply to,—

- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, saving and excepting those which may be brought within the scope of the Act by section 13;
- (b) outworkers;
- (c) persons employed in an industry of an itinerant nature, assessments with regard to which it is impracticable or difficult to collect;
- (d) persons employed in the industry of farming or ranching except by application under the provisions of section 13.

74. Except as herein otherwise specially provided the benefits provided by the provisions of this Act to workmen or their dependants shall apply only to accidents occurring on and subsequent to the date upon which the Act comes into force and claims in respect of accidents occurring prior to that date shall be administered under and in accordance with the law in effect at the time the accident occurred.

75. *The Workmen's Compensation Act*, being Chapter 284 of the Revised Statutes of Alberta, 1942, is hereby repealed save and except subsections (1) to (4) inclusive of section 44, which shall continue in full force and effect until but not after the thirty-first day of October, 1943, in the case of bush-work, lumber manufacturing and work incidental thereto, and until but not after the thirty-first day of December, 1943, in the case of all other industries to which the Act applies.

76. This Act shall come into force on the day upon which it is assented to.

SCHEDULE 1.

Coal-mining; operation of coke ovens; briquetting plants; mining other than coal-mining; any trade or business connected with the industries of lumbering, fishing, manufacturing, building, construction, engineering, transportation; operating of electric power lines and power plants; waterworks and other public utilities; operation of municipal police forces; municipal fire departments; navigation; operation of boats, ships, tugs, and dredges; operation of grain elevators; operation of warehouses; teaming, scavenging and street cleaning; painting, decorating and renovating; dyeing and cleaning; planing mills, flour milling, packing plants, printing, lithographing and engraving, telephone and telegraph systems; laundries run by mechanical power; excavation, well drilling, operation of gas and oil wells, operation and maintenance of freight and passenger elevators, including the work of janitors in buildings where such elevators are operated, quarrying, lumber yards, wood yards, ice, hotels, restaurants and retail stores, and commercial greenhouses, and any occupation incidental to or connected with the industries enumerated in this Schedule, also including moving pictures and theatres, and by way of specific enumeration, but not so as in any way to interfere with or affect the generality of the preceding words thereof, the following classes of industries:

CLASSIFICATIONS.

Class 1—Employment incidental to or connected with coal-mining, other than coal-mining by the removal of the overlying strata;

Class 2—Employment incidental to or connected with the operation of coke ovens;

Class 3—Employment incidental to or connected with the operation of briquetting plants;

Class 4—Employment incidental to or connected with mining other than coal-mining;

Class 5—Employment of employees of workmen in or about mines;

Class 6—Employment incidental to or connected with coal-mining by the removal of the overlying strata;

Class 13—Lumbering, logging, river driving, rafting, booming; saw-mills, shingle mills, lath and planing mills, sash and door factories, lumber yards (including delivery); manufacture of wooden boxes, furniture, fixtures, small boats, canoes, mattresses, bed springs, artificial limbs; upholstering and picture framing; carpenter, joiner or cabinet work in shop;

Class 15—Sand, shale, clay or gravel pits; manufacture of brick, tile, sewer pipe, glass products, porcelain, pottery, cement, concrete, plaster blocks, artificial stone; stone-cutting and dressing; quarrying, stone-crushing, lime kilns, marble works; manufacture, transmission, or distribution of natural or artificial gas or oil; manufacture of paint, chemicals, compounds, artificial ice; boring, drilling, sinking of artesian wells; preparation of metal or minerals; reduction of ores and smelting; oil refineries; creosoting of timbers; handling of natural ice;

Class 20—Garages, blacksmith shops, machine shops; tinsmithing, and sheet metal works; gas or electric welding; locksmiths, gunsmiths; ornamental iron works, foundries, rolling mills, fabrication of structural steel, iron or metal; manufacture of agricultural implements, vehicles, typewriters, cash registers, adding machines, rubber stamps, pads, stencils, gold or silver ware, jewellery;

Class 27—Grain elevators, flour milling; manufacturing of cereals, cattle foods, liquor, beverages, wine, vinegar, cider (including bottling); packing plants, abattoirs; manufacturing of meat products, soaps, toilet preparations, drugs, medicines;

Class 37—Warehousing, storage, teaming, cartage, wood and coal yard (including teaming); manufacture of wearing apparel; power laundries, dyeing, cleaning, bleaching; printing, lithographing, engraving; moving pictures and theatres; manufacture of leather goods, rubber goods, tobacco products, textiles, fabrics; scrap and junk dealers, liveries, stable, taxi, or motor; aeroplane transportation; aeroplane mechanics; janitors, mail contractors, food products, creameries and bakeries;

Class 39—Building construction, concrete or cement work, brick-laying, masonry, structural carpentry, lathing, plastering, floor-laying, painting, decorating, renovating, roofing; sheet metal work on buildings; electric wiring; installation of lighting fixtures; plumbing, heating, sanitary engineering, gas and steam fitting, sewer or water work construction; tunnelling, well-digging, trenching; excavation work for foundations; road-making, street-paving, culvert construction, house-wrecking, house-moving,

construction, installation or operation of electric light plants, power plants, telegraph lines, telephone lines; bridge construction; installation of elevators, fire escapes, engines, boilers, heavy machinery; erection of wind-mills; railway construction; irrigation operations, dredging, fishing; operation of boats; window-cleaning; exhibition associations;

Class 45—Operation of express companies, in connection with railways:

Class 89—Municipal corporations;

Class 91—Canadian Pacific Railway Co.;

Class 92—Grand Trunk Pacific Railway Co.;

Class 93—Canadian National Railways;

Class 94—Northern Alberta Railways Co.;

Class 97—School Boards; University of Alberta;

Class 98—The Workmen's Compensation Board.

SCHEDULE 2.

Class 95—Employment by Dominion Government;

Class 96—Employment by Provincial Government of Alberta; or by any permanent Board or Commission appointed thereunder, other than the Workmen's Compensation Board.

SCHEDULE 3.

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 carcases 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.

No. 7.

THIRD SESSION
NINTH LEGISLATURE

7 GEORGE VI

1943

BILL

An Act respecting Workmen's
Compensation.

Received and read the

First time

Second time.....

Third time.....

DR. ROBINSON.

EDMONTON:
A. Shnitka, King's Printer
1943