

# *The Workers' Compensation Act, 2013*

*being*

Chapter W-17.11\* of the *Statutes of Saskatchewan, 2013* (effective January 1, 2014), as amended by the *Statutes of Saskatchewan, 2014, c.E-13.1; 2015, c.F-15.11; 2016, c.33; and 2019, c.Y-3 and c.28.*

**\*NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

## **NOTE:**

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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SCHEDULE

## CHAPTER W-17.11

### An Act respecting Compensation for Injured Workers and making consequential amendments to certain Acts

#### PART I Preliminary Matters

##### Short title

1 This Act may be cited as *The Workers' Compensation Act, 2013*.

##### Interpretation

2(1) In this Act:

- (a) **“average weekly earnings”** means the average weekly earnings as determined pursuant to section 70;
- (b) **“average weekly wage”** means the average weekly wage of the industrial composite for Saskatchewan as determined by the board for a year from information published by Statistics Canada;
- (c) **“board”** means the Workers' Compensation Board continued pursuant to section 9;
- (d) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (e) **“chief executive officer”** means the chief executive officer of the board appointed pursuant to subsection 16(1);
- (f) **“child”** includes any child to whom the worker stands in the place of a parent;
- (g) **“chiropractor”** means a chiropractor who is registered pursuant to *The Chiropractic Act, 1994*;
- (h) **“compensation”** means compensation payable pursuant to this Act with respect to an injury;
- (i) **“Consumer Price Index”** means the weighted average of the all-items Consumer Price Indices for Regina and Saskatoon, as released by Statistics Canada, where the weights to be used are those used by Statistics Canada in constructing the all Canada Consumer Price Index at the time of the release;

- (j) **“dependant”** means a member of the family of a worker who:
- (i) is wholly or partly dependent on the worker’s earnings at the time of the death or injury of the worker; or
  - (ii) but for the worker’s incapacity due to the injury, would have been dependent within the meaning of subclause (i);
- (k) **“earnings”** means, subject to subsection (3):
- (i) in the case of a worker who sustained an injury before September 1, 1985, the worker’s gross earnings from employment; or
  - (ii) in the case of a worker who sustained an injury on or after September 1, 1985, the worker’s gross earnings from employment less the probable deductions for:
    - (A) the probable income tax payable by the worker calculated by using only the worker’s earnings from employment as his or her income, and using only the worker’s basic personal exemption, exemption for dependants and employment-related tax credits, as at the date of the worker’s injury and each anniversary date, as the worker’s deductions;
    - (B) the probable *Canada Pension Plan* premiums payable by the worker; and
    - (C) the probable employment insurance premiums payable by the worker;
- (l) **“employer”** includes, subject to subsection (4), any person, association or body having in its service any worker engaged in any work in, about or in connection with an industry and includes:
- (i) a trustee, receiver, liquidator, executor or administrator of an employer or any person who is appointed by a court or a judge to carry on the employer’s business;
  - (ii) the Crown in right of Saskatchewan and in right of Canada insofar as the latter in its capacity as an employer submits to the operation of this Act;
  - (iii) any board or commission of the Crown in right of Saskatchewan;
  - (iv) a municipality;
  - (v) a school board and the conseil scolaire;
  - (vi) commissions and boards having the management of any work or service operated for a municipality; and
  - (vii) any person who authorizes or permits a learner to be in or about an industry;
- (m) **“employer association”** means an organization of employers, whether or not they are employers within the meaning of this Act, formed to address common concerns and achieve common goals of employers;

- (n) **“employment”** means employment in the service of an employer whether the worker’s duties are performed at, near or away from the employer’s place of business;
- (o) **“fund”** means the Injury Fund continued pursuant to section 114;
- (p) **“health care professional”** means a physician, dentist, chiropractor, optometrist, psychologist, occupational therapist, physical therapist, nurse or any other person who is registered or licensed pursuant to any Act to practise any of the healing arts;
- (q) **“industry”** means an industry to which this Act applies and includes an establishment, undertaking, trade and business;
- (r) **“injury”** means all or any of the following arising out of and in the course of employment:
- (i) the results of a wilful and intentional act, not being the act of the worker;
  - (ii) the results of a chance event occasioned by a physical or natural cause;
  - (iii) a disabling or potentially disabling condition caused by an occupational disease;
  - (iv) any disablement;
- (s) **“labour organization”** means a labour organization as defined in Part VI of *The Saskatchewan Employment Act*;
- (t) **“learner”** means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry similar to the hazards an employee in that industry faces for the purpose of undergoing training or probationary work as a preliminary to employment;
- (u) **“maximum wage rate”** means the maximum wage rate as set out in section 37;
- (v) **“medical aid”** means the provision of medical and surgical aid, of hospital and professional nursing services, of chiropractic and other treatment and of prosthetics or apparatus;
- (w) **“medical review panel”** means a medical review panel constituted pursuant to section 62;
- (x) **“member”** means a member of the board;
- (y) **“member of the family”** means, with respect to a person, the person’s spouse, father, mother, grandparent, step-parent, child, grandchild, stepchild, brother, sister, half-brother and half-sister;
- (z) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

- (aa) **“occupational disease”** means a disease or disorder that arises out of and in the course of employment and that results from causes or conditions that are:
- (i) peculiar to or characteristic of a particular trade, occupation or industry; or
  - (ii) peculiar to a particular employment;
- (bb) **“Occupational Health and Safety Division”** means:
- (i) the director of occupational health and safety appointed pursuant to section 3-3 of *The Saskatchewan Employment Act*; and
  - (ii) the employees of the ministry presided over by the member of the Executive Council responsible for the administration of *The Saskatchewan Employment Act* to whom the director mentioned in subclause (i) has delegated any powers or responsibilities;
- (cc) **“occupational health and safety program”** means an occupational health and safety program carried out pursuant to *The Saskatchewan Employment Act*;
- (dd) **“physician”** means a person registered pursuant to *The Medical Profession Act, 1981*, other than a person registered pursuant to section 42.1 of that Act, whose registration is not under suspension;
- (ee) **“policy directive”** means a policy directive established pursuant to section 18;
- (ff) **“post-secondary institution”** includes a regional college, institute, private vocational school, university and any other educational institution that is not administered pursuant to *The Education Act, 1995*;
- (ff.1) **“psychiatrist”** means a psychiatrist as defined in *The Mental Health Services Act*;
- (ff.2) **“psychologist”** means:
- (i) an individual who is a member of the Saskatchewan College of Psychologists and who holds a licence to practise issued pursuant to *The Psychologists Act, 1997*; or
  - (ii) an individual who is practising as a psychologist outside Saskatchewan and who is recognized as a psychologist by the licensing body of the jurisdiction in which the person practises;
- (gg) **“spouse”** means, with respect to a worker:
- (i) the legally married spouse of the worker; or
  - (ii) a person who is or was cohabiting with the worker as a spouse as at the date of the worker’s death or injury and:
    - (A) the person has or had cohabited with the worker as a spouse continuously for a period of at least one year; or
    - (B) the person and the worker are parents of a child;



- (hh) **“vocational rehabilitation”** means rehabilitation that is intended to return injured workers to suitable employment, and includes counselling, assessment, career planning, educational upgrading, education, training, on-the-job training, assistance with job searches and assistance with job placement;
- (ii) **“worker”** means, unless otherwise specified, 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 includes:
- (i) a learner;
  - (ii) a member of a municipal volunteer fire brigade;
  - (iii) an executive officer of an employer, if that executive officer is carried on the employer’s payroll; and
  - (iv) any other person who, pursuant to this Act or any direction or order of the board, is deemed to be a worker;
- (jj) **“workers’ advocate”** means a person appointed as a workers’ advocate pursuant to section 161.
- (2) The board shall cause the average weekly wage as determined by the board in accordance with clause (1)(b) to be made public in any manner that the board considers appropriate.
- (3) For the purposes of clause (1)(k), the board shall annually establish a schedule setting out a table of earnings and probable compensation from employment.
- (4) For the purposes of clause (1)(l), if the services of a worker are temporarily let or hired to another person by the employer of the worker, the latter employer continues to be the employer for the period that the worker is working for that other person.

2013, c.W-17.11, s.2; 2016, c33, s.3; 2019, c28,  
s.3.

## PART II Scope of Act

### Application of Act

- 3(1)** This Act applies to all employers and workers engaged in, about or in connection with any industry in Saskatchewan except:
- (a) the farming or ranching industry; and
  - (b) those industries, employers or workers excluded pursuant to subsection (2).
- (2) The Lieutenant Governor in Council may, by regulation, exclude any industry, employer or worker from all or any of the provisions of this Act.
- (3) An industry, employer or worker excluded from this Act may apply to the board to be brought within the scope of this Act.

(4) An industry or employer that applies pursuant to subsection (3) shall give notice of that application to its workers or the union representing its workers in any manner that the board directs.

(5) A worker who applies pursuant to subsection (3) shall give notice of the application to his or her employer in any manner that the board directs.

(6) On an application pursuant to subsection (3), the board may order that any industry, employer or worker mentioned in the application be brought within the scope of this Act on and from a date specified in the order.

(7) Nothing in this Act precludes a worker employed in an industry not covered by this Act or the worker's dependants from taking legal action to recover damages if the worker suffers injuries arising out of and in the course of employment.

(8) A worker mentioned in subsection (7) is not, by reason only of his or her continuing in the employment of the employer with knowledge of the defect or negligence that caused his or her injury, deemed to have voluntarily incurred the risk of injury.

(9) A worker mentioned in subsection (7) is deemed not to have undertaken the risks due to the negligence of his or her fellow workers, and contributory negligence on the part of a worker is not a bar to recovery by him or her, or by a person entitled to damages, in an action for the recovery of damages for an injury sustained by or causing the death of the worker while in the service of his or her employer for which the employer would otherwise have been liable.

2013, c.W-17.11, s.3.

#### **Rural municipality as employer**

4(1) The reeve, councillors and secretary treasurer of a rural municipality are deemed to be workers employed by the municipality.

(2) This Act applies to any other workers employed by a rural municipality that the board may, by order, designate.

(3) The annual earnings of any reeve or councillor are the amount prescribed in the regulations.

(4) A worker employed on a full-time basis by a rural municipality is deemed to be working in the course of his or her employment if the worker is acting as an election official at a municipal election.

2013, c.W-17.11, s.4.

#### **Other municipalities and non-profit organizations**

5(1) In this section, "**non-profit organization**" means a corporation, organization or association that is established for the benefit of the public and not for any private profit.

(2) The council of a municipality may apply to the board to have the mayor and other members of the council of the municipality brought within the scope of this Act.

(3) The governing body of a non-profit organization may apply to the board to have the members of the governing body of the non-profit organization brought within the scope of this Act.

(4) On an application pursuant to this section, the board may order that the persons mentioned in the application are within the scope of and bound by this Act.

(5) The persons mentioned in subsection (4) are deemed to be the workers of the applicant while those persons are engaged in the performance of their duties, and the applicant is deemed to be the employer of those persons.

2013, c.W-17.11, s.5.

**Annual earnings of certain municipal employees**

**6** The annual earnings of a person brought within the scope of this Act pursuant to subsection 5(4) are the amount prescribed in the regulations.

2013, c.W-17.11, s.6.

**Revocation of order made pursuant to section 5**

**7(1)** The board may, in writing, revoke an order made pursuant to subsection 5(4).

(2) If the board revokes an order pursuant to subsection (1), the persons with respect to whom the order was made cease to be bound by this Act:

- (a) at the date of the order of revocation; or
- (b) at any later date that the board may specify in the order of revocation.

(3) If the board revokes an order made pursuant to subsection 5(4), it shall send notice of the order of revocation to the applicant who obtained the order by registered mail or other means prescribed in the regulations.

2013, c.W-17.11, s.7.

**How Act applies to contractors**

**8(1)** In this section:

- (a) **“equipment”** includes trucks, bulldozers, draglines, power shovels and any other machine, implement or apparatus that the board may declare to be equipment;
- (b) **“principal”** means, if an owner of equipment enters into a contract providing for the use of any of the owner's equipment, the person who uses the equipment or on whose behalf the equipment is used.

(2) Subsection (3) applies if an owner:

- (a) enters into a contract mentioned in clause (1)(b);
- (b) operates the owner's equipment or hires another person to operate it;
- (c) receives payment with respect to the use of the equipment and the services of the person operating it; and
- (d) has not been assessed pursuant to this Act with respect to the work being performed.

- (3) In the circumstances mentioned in subsection (2):
- (a) the person operating the equipment is deemed to be a worker employed by the principal;
  - (b) the board may levy, on the principal, an assessment based on the earnings of that worker with respect to the worker's services as determined by the board; and
  - (c) the principal is liable for payment to the board of the amount levied pursuant to clause (b).
- (4) If a principal is liable for payment of an assessment pursuant to subsection (3), the principal is entitled:
- (a) to withhold out of any moneys payable by the principal to the owner an amount equal to the amount levied pursuant to subsection (3); or
  - (b) to recover from the owner an amount equal to the amount levied pursuant to subsection (3) in any manner allowed by law.

2013, c.W-17.11, s.8.

PART III  
**Workers' Compensation Board**

DIVISION 1  
**Board Continued**

**Board continued**

- 9(1) The Workers' Compensation Board is continued.
- (2) The board is a corporation.
- (3) The board is to consist of a maximum of five members appointed by the Lieutenant Governor in Council as follows:
- (a) a full-time chairperson; and
  - (b) an even number of full-time members, half of whom represent employers and half of whom represent workers.
- (4) The Lieutenant Governor in Council shall appoint:
- (a) each representative of employers from a list of names submitted by employer associations; and
  - (b) each representative of workers from a list of names submitted by labour organizations.

2013, c.W-17.11, s.9.

**Chairperson**

**10(1)** The Lieutenant Governor in Council shall appoint a person to be chairperson of the board.

(2) A person who is appointed or employed pursuant to section 16 is not eligible to be appointed as chairperson of the board.

(3) If the chairperson is absent from a meeting, a member designated by the chairperson shall act as chairperson of the board at that meeting.

(4) If a member appears to act as chairperson of the board, it is presumed that the member is acting pursuant to subsection 12(1).

2013, c.W-17.11, s.10.

**Term of office**

**11(1)** Subject to subsection (2), the members of the board appointed pursuant to clause 9(3)(b):

(a) hold office for a period not exceeding four years and until a successor is appointed; and

(b) may be reappointed after consultation with:

(i) the employer associations mentioned in subsection 9(4), in the case of members who represent employers; and

(ii) the labour organizations mentioned in subsection 9(4), in the case of members who represent workers.

(2) The chairperson of the board:

(a) holds office for a period not exceeding five years and until a successor is appointed; and

(b) may be reappointed after consultation with the employer associations and labour organizations mentioned in subsection 9(4).

2013, c.W-17.11, s.11.

**Vacancy**

**12(1)** In the case of the death or resignation of a member or the chairperson or the inability of a member or the chairperson to act as a member or as chairperson:

(a) the Lieutenant Governor in Council shall appoint a person to hold office for the remainder of the term of the member or chairperson, as the case may be, who died, resigned or was unable to act; and

(b) in the case of a member other than the chairperson, the appointment must maintain the balance of representation required by subsection 9(3) and must be made in the manner set out in subsection 9(4).

(2) A vacancy in the membership of the board does not, if at least a majority of the members remain, impair the power of the remaining members to Act.

2013, c.W-17.11, s.12.

**Remuneration and reimbursement for expenses**

**13** The Lieutenant Governor in Council shall fix the remuneration and rate of reimbursement for expenses of members.

2013, c.W-17.11, s.13.

**Quorum**

**14** A majority of the members constitutes a quorum of the board.

2013, c.W-17.11, s.14.

**Head office and sittings**

**15(1)** The head office of the board is to be situated in the City of Regina.

(2) The sittings of the board are to be held at its head office unless the board considers it expedient to hold sittings elsewhere in Saskatchewan.

(3) Subject to subsection 19(4), the board is to sit at any time and conduct its proceedings in any manner that it considers advisable for the conduct of its business and affairs.

2013, c.W-17.11, s.15.

**Chief executive officer and employees**

**16(1)** The board shall appoint and determine the salary of:

- (a) the chief executive officer; and
- (b) any other employees that it considers necessary to carry out the provisions of this Act.

(2) The chief executive officer is the chief administrative officer of the board.

(3) The board may employ any professional and technical personnel and other officers that may be required for the purposes of this Act and may determine their salaries and other remuneration.

2013, c.W-17.11, s.16.

**Pension plan**

**17(1)** The board may establish, operate, administer and manage any pension plan or benefits program for all or any class of employees of the board.

(2) For the purposes of establishing, operating, administering and managing a pension plan or benefits program mentioned in subsection (1) or managing, investing or disposing of all or any part of the assets of any pension plan or benefits program, the board may:

- (a) enter into any agreements with any person;
- (b) engage the services of or retain any technical, professional or other advisers, specialists or consultants that the board considers necessary; and
- (c) do any other thing that the board considers necessary, incidental or conducive to those purposes.

2013, c.W-17.11, s.17.

**Power of board to delegate and appeal of delegate's decisions**

18(1) In this section:

- (a) **“applicant”** means a person who applies pursuant to subsection (4);
  - (b) **“delegate”** means an employee of the board to whom the board has delegated any of its powers or functions pursuant to subsection (2).
- (2) The board may delegate any of its powers or functions to any of its employees.
- (3) The board may impose any terms and conditions on a delegation pursuant to subsection (2) that the board considers appropriate.
- (4) Any employer, worker or dependant of a deceased worker affected by any act or decision of a delegate in the exercise of any delegated power may apply to the board to have the act or decision of that delegate reviewed, set aside, amended, stayed or otherwise dealt with.
- (5) For the purposes of hearing and deciding applications pursuant to this section, the board shall establish policy directives respecting applications, including the manner of making applications and the hearing and determination of applications.
- (5.1) In addition to the policy directives mentioned in subsection (5), the board may establish policy directives respecting any matter or thing that is governed by this Act and that the board considers necessary and appropriate.
- (6) On an application pursuant to subsection (4), the board:
- (a) shall hear and determine the application in accordance with its policy directives; and
  - (b) for the purposes of clause (a), may exercise the powers and perform the functions of the board with respect to the delegated power in issue as if the delegate had not acted or made that decision.
- (7) As soon as possible after determining the application or reviewing the act or decision, the board shall provide a written notice to the applicant of its decision.

2013, c.W-17.11, s.18; 2019, c28, s.5.

DIVISION 2  
**Duties and Jurisdiction of Board**

**Duties of board**

19(1) The board shall:

- (a) treat workers and their dependants in a fair and reasonable manner;
- (b) arrange to provide any medical aid or treatment that may be required in the circumstances as a result of injuries to workers;
- (c) wherever appropriate, arrange to provide rehabilitation to workers or surviving dependent spouses;

- (d) consult and co-operate with workers and surviving dependent spouses in the development of rehabilitation plans intended to return workers or surviving dependent spouses to positions of independence in suitable productive employment;
  - (e) consult and co-operate with the Occupational Health and Safety Division on matters relating to the health and safety of workers and self-employed persons; and
  - (f) perform any other duties that the Lieutenant Governor in Council may assign.
- (2) The board shall make its policy directives available to the public and cause its policy directives to be made public in any manner that the board considers necessary to bring it to the attention of the public.
- (3) The board shall report annually to the minister in accordance with the regulations.
- (4) The board shall annually hold one or more meetings for the purpose of reporting to all persons interested, including workers, dependants of workers, employers, employer associations and labour organizations, on the administration of the Act and the policies of the board.
- (5) At meetings required by subsection (4), the board shall provide information with respect to its activities, policies and future plans in accordance with the regulations.

2013, c.W-17.11, s.19.

#### **Jurisdiction**

- 20(1)** The board has exclusive jurisdiction to examine, hear and determine:
- (a) all matters and questions arising pursuant to this Act; and
  - (b) any other matter with respect to which a power, authority or discretion is conferred on the board.
- (2) Without limiting the generality of subsection (1), the board has exclusive jurisdiction to determine:
- (a) whether any condition or death with respect to which compensation is claimed was caused by an injury;
  - (b) whether any injury has arisen out of or in the course of employment;
  - (c) the existence and degree of functional impairment to a worker resulting from an injury;
  - (d) the permanence of a functional impairment resulting from an injury;
  - (e) the degree of diminution of earning capacity resulting from an injury;
  - (f) the average earnings of a worker;
  - (g) the existence of the relationship of any member of the family of a worker and the degree of dependency;



- (h) whether any industry or employer is within the scope of this Act and the class to which the industry or employer is assigned; and
  - (i) whether any worker is within the scope of this Act.
- (3) The actions and proceedings of the board are final and conclusive.
- (4) The board's decisions and findings on all questions of fact and law are not open to question or review in any court, and any proceeding before the board must not be restrained by injunction, prohibition, mandamus, *quo warranto*, *certiorari* or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court on any grounds.
- (5) Notwithstanding subsections (3) and (4), the board may:
- (a) reconsider any matter that it has dealt with; and
  - (b) rescind, alter or amend any decision or order it has made.

2013, c.W-17.11, s.20.

#### **Evidence**

**21(1)** In this section, “**record**” includes any information that is recorded or stored in any medium or by means of any device, including a computer or other electronic media.

(2) The board has the same powers as are vested in the Court of Queen's Bench for the trial of civil actions:

- (a) to summon and enforce the attendance of witnesses;
- (b) to compel witnesses to give evidence; and
- (c) to compel witnesses to produce records or property.

2013, c.W-17.11, s.21.

#### **Depositions of witnesses**

**22** The board may cause depositions of witnesses residing inside or outside Saskatchewan to be taken before any person appointed by the board, in a manner similar to that prescribed in *The Queen's Bench Rules* for the taking of depositions.

2013, c.W-17.11, s.22.

#### **Decision on merits**

**23(1)** The board shall make its decisions on the real merits and justice of each case and it is not bound to follow any legal precedent.

(2) In making its decisions, the board may have regard to its policy directives.

(3) If, in the opinion of the board, the evidence in support of the opposite sides of an issue is approximately equal, the board shall resolve the issue in favour of the worker.

2013, c.W-17.11, s.23.

**Immunity**

**24(1)** The members have the same immunity and privileges as those conferred on judges of the Court of Queen's Bench for any act done or omitted in the execution of their duties.

(2) No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, the board or any of the employees of the board if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2013, c.W-17.11, s.24.

**Inquiry by board**

**25(1)** The board may act on the report of any of its employees.

(2) Any member or employee of the board or any other person that the board may appoint for the purpose may make any inquiry on behalf of the board that the board considers necessary.

(3) The board may act on a report that is produced as the result of an inquiry made pursuant to subsection (2).

(4) A person appointed pursuant to subsection (2) has, for the purposes of the inquiry, all the powers conferred on the board pursuant to section 21.

2013, c.W-17.11, s.25.

**PART IV**  
**Compensation**

**DIVISION 1**  
**Eligibility**

**Compensation for injury**

**26(1)** If a worker suffers an injury, the worker is entitled to compensation.

(2) Compensation is to be paid by the board out of the fund.

2013, c.W-17.11, s.26.

**Injury presumed out of and in course of employment**

**27(1)** Unless the contrary is proven, if an injury to a worker arises out of the worker's employment, it is presumed that it occurred in the course of his or her employment.

(2) Unless the contrary is proven, if an injury to a worker occurred in the course of his or her employment, it is presumed that it arose out of the worker's employment.

2013, c.W-17.11, s.27.

**Presumption of certain occupational diseases re firefighters**

**28(1)** In this section and in section 187:

(a) **“fire department”** means a fire department as defined in *The Fire Safety Act*;

(b) **“listed disease”** means:

- (i) a primary site brain cancer;
- (ii) a primary site bladder cancer;
- (iii) a primary site kidney cancer;
- (iv) a primary non-Hodgkins lymphoma;
- (v) a primary leukemia;
- (vi) a primary site ureter cancer;
- (vii) a primary site colorectal cancer;
- (viii) a primary site lung cancer;
- (ix) a primary site testicular cancer;
- (x) a primary site esophageal cancer;
- (x.1) a primary site prostate cancer;
- (x.2) a primary site skin cancer;
- (x.3) multiple myeloma;
- (x.4) a primary site breast cancer;
- (x.5) a primary site cervical cancer;
- (x.6) a primary site ovarian cancer; or;
- (xi) an injury to the heart that manifests within 24 hours after attendance at an emergency response.

(2) Subject to subsection (3) and unless the contrary is proven, if a worker who is or has been a firefighter suffers a listed disease, that disease is presumed to be an occupational disease, the dominant cause of which is the employment as a firefighter.

- (3) The presumption mentioned in subsection (2) applies:
- (a) only to a worker who:
    - (i) has been a volunteer or full-time member of a fire department for the minimum period of employment prescribed in the regulations; and
    - (ii) has been regularly exposed to the hazards of a fire scene, other than a forest fire scene, throughout the period mentioned in subclause (i); and
  - (b) in the case of primary site lung cancer, only to a worker who has been a non-smoker before the date of injury for the minimum period prescribed in the regulations.

2013, c.W-17.11, s.28; 2015, c.F-15.11, s.68;  
2019, c.28, s.6.

**Presumption of psychological injury**

**28.1(1)** In this section:

- (a) **“psychological injury”** means a psychological injury, including post-traumatic stress disorder, as described in the edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association that is prescribed in the regulations;
  - (b) **“worker”** means a person who works and:
    - (i) is exposed to a traumatic event; or
    - (ii) is in an occupation that is prescribed in the regulations.
- (2) Unless the contrary is proven, if a worker or former worker is diagnosed with a psychological injury by a psychiatrist or psychologist, that injury is presumed to be an injury that arose out of and in the course of the worker's employment.

2016, c33, s.4.

**Presumption where worker found dead**

**29** Unless the contrary is proven, if a worker is found dead at a place where the worker had a right to be in the course of his or her employment, it is presumed that the worker's death was the result of injury arising out of and in the course of his or her employment.

2013, c.W-17.11, s.29.

**Wilful misconduct of worker**

**30** If an injury is attributable solely to the serious and wilful misconduct of the worker, no compensation is payable unless that injury results in death or serious functional impairment.

2013, c.W-17.11, s.30.

**When compensation payable**

**31(1)** If a worker is not disabled beyond the day on which the worker is injured, no compensation, other than medical aid, is to be paid.

(2) If the worker is disabled for longer than the day on which the worker is injured, compensation must be paid on and from the day of the commencement of the worker's loss of earnings resulting from the injury, excluding the day on which the worker is injured.

2013, c.W-17.11, s.31.

**If employer is a worker**

**32(1)** An employer is deemed to be a worker if:

- (a) the employer carries himself or herself on his or her payroll;
- (b) the payroll statement mentioned in section 122 includes the employer as a worker and the amount of his or her wages; and
- (c) the wages of the employer are included in the estimate for the year prepared pursuant to clause 122(1)(b).

(2) Any compensation payable with respect to an employer who is a worker mentioned in subsection (1) must:

- (a) be calculated on the basis of his or her wages stated in the payroll statement mentioned in section 122; and
- (b) not exceed the maximum wage rate in effect at the date of the injury.

2013, c.W-17.11, s.32.

**Reciprocal agreement with other province or territory**

**33(1)** In this section, “**another compensation board**” means a body empowered by a statute of any province or territory of Canada to perform duties similar to the board and to exercise powers similar to the board.

(2) The board may enter into an agreement with another compensation board to provide that any compensation payable to any worker or the worker's dependants be paid in accordance with this Act or in accordance with the law of the other province or territory if work that is incidental to the worker's employment is performed partly in Saskatchewan and partly in that province or territory.

2013, c.W-17.11, s.33.

**Injury outside Saskatchewan**

**34** Subject to the provisions of an agreement pursuant to section 33, a worker or a worker's dependants must be paid compensation pursuant to this Act if:

- (a) the worker is a resident of Saskatchewan or the usual place of the worker's employment is in Saskatchewan and the employment requires the performance of work both inside and outside Saskatchewan; and

(b) the worker is injured while he or she is performing work outside of Saskatchewan.

2013, c.W-17.11, s.34.

**Election where compensation payable under another jurisdiction's law**

**35(1)** Subject to the provisions of an agreement pursuant to section 33, if a worker or a worker's dependant is entitled, by the law of the country or place in which an injury occurs, to compensation with respect to an injury, the worker or worker's dependant shall elect whether he or she will claim compensation pursuant to:

- (a) the law of that country or place; or
- (b) this Act.

(2) Notice of an election pursuant to subsection (1) must be given to the board within three months after:

- (a) the date of commencement of the worker's loss of earnings resulting from injury; or
- (b) if the result of an event arising out of and in the course of employment is death, the date of death.

(3) Notwithstanding subsection (2), the board may, either before or after the expiration of the time mentioned in subsection (2), extend the time for which a notice of election may be given.

(4) If a notice of election is not given pursuant to this section, the worker or worker's dependant is deemed to have elected not to claim compensation pursuant to this Act.

2013, c.W-17.11, s.35.

**Worker ceases to reside in Saskatchewan**

**36** If a worker who is entitled to compensation ceases to reside in Saskatchewan, the board may do all or any of the following:

- (a) direct the worker to attend periodically before the authority administering the payment of compensation in the jurisdiction in which the worker is residing or before some other authority or institution for an assessment of the worker's claim;
- (b) direct the worker to complete any documents that the board considers necessary;
- (c) suspend the payment of compensation to that worker until a direction mentioned in clause (a) or (b) is complied with.

2013, c.W-17.11, s.36.

**Maximum wage rate**

**37(1)** For the purpose of making a decision or determination with respect to a worker who sustains an injury before the coming into force of this Act, the maximum wage rate is \$55,000 per year as adjusted annually after the coming into force of this Act in accordance with section 182.

(2) Notwithstanding subsection (1), for the purpose of making a decision or determination with respect to a worker who sustains an injury on or after the coming into force of this Act, the maximum wage rate is:

(a) subject to clause (b), \$59,000 per year as adjusted annually in accordance with section 182; or

(b) if the board has adjusted the maximum wage rate for a year in accordance with subsection (3), the maximum wage rate as adjusted by the board.

(3) After the coming into force of this Act, the board shall annually adjust the maximum wage rate with respect to workers who sustain an injury on or after the coming into force of this Act in steps that the board considers appropriate so that the maximum wage rate per year for those workers is, in the fifth and subsequent years, equal to 165% of the product of the average weekly wage and 52.

2013, c.W-17.11, s.37.

**DIVISION 2****Right of Action respecting Injury****If worker entitled to action against person other than employer**

**38(1)** This section applies if a worker or a worker's dependant:

(a) has a right of action with respect to any injury arising out of and in the course of employment of the worker against a person other than an employer or a worker; and

(b) is entitled to compensation.

(2) In the circumstances mentioned in subsection (1), the worker or the worker's dependant:

(a) is entitled to compensation to be paid by the board out of the fund; and

(b) may bring the action.

2013, c.W-17.11, s.38.

**Subrogation**

**39** If a worker or a worker's dependant receives compensation, the board, on assuming liability for the payment of that compensation:

- (a) is deemed to be an assignee and is subrogated to all rights of recovery of the person to whom or with respect to whom or for whose benefit the payment of compensation is assumed to the extent of the compensation payable; and
- (b) notwithstanding *The Fatal Accidents Act*, may:
  - (i) bring an action in its own name to recover the amount of the compensation payable; or
  - (ii) join with the person to whom or with respect to whom or for whose benefit the compensation is payable to bring an action in the name of that person for recovery of the damages resulting from the injury or death.

2013, c.W-17.11, s.39.

**Fees**

**40(1)** In this section, "**costs of the action**" means any reasonable solicitor and client costs plus disbursements charged to a worker or worker's dependant that the board may require to be taxed and that would ordinarily be incurred in pursuing a legal action for personal injury or death, but does not include a fee charged on a contingency basis unless agreed to in writing by the board.

(2) Moneys recovered in an action or the settlement of an action pursuant to section 38 or 39 are to be applied in priority of payment as follows:

- (a) from the portion awarded under heads of damage with respect to which the board pays compensation to or for the benefit of the worker or any worker's dependant, the difference between:
  - (i) the costs of the board for payment of that compensation; and
  - (ii) the board's share of the costs of the action;
- (b) the remainder of the total award to the worker or the worker's dependants, as the case may be.

(3) For the purposes of subclause (2)(a)(ii), the board's share of the costs of the action is the difference between:

- (a) that amount that bears the same proportion to the costs of the action as the amount payable to the board out of the money recovered, before deduction of the board's share of the costs of the action, bears to the total amount recovered; and
- (b) a share of any taxable court costs recovered, determined in accordance with the proportion described in clause (a).

2013, c.W-17.11, s.40.



**Notice of intention to bring action**

- 41(1) If a worker or a worker's dependant intends to maintain an action, he or she shall give notice, in writing, to the board of his or her intention.
- (2) If the board intends to maintain an action, it shall give notice, in writing, to the worker or the worker's dependant, as the case requires.
- (3) Failure to give notice pursuant to this section does not affect the validity of the cause of action.

2013, c.W-17.11, s.41.

**Approval of board for settlement of action**

- 42 No settlement of any action mentioned in section 38 or 39 by a worker or a worker's dependants for an amount less than the amount of compensation provided for in this Act shall be made without the written approval of the board.

2013, c.W-17.11, s.42.

**Certain actions barred**

- 43 No employer and no worker or worker's dependant has a right of action against an employer or a worker with respect to an injury to a worker arising out of and in the course of the worker's employment.

2013, c.W-17.11, s.43.

### DIVISION 3 Claims for Compensation

**Notice of injury**

- 44(1) Subject to section 46, no compensation is payable to a worker or worker's dependant unless:
- (a) except in the case of the death of the worker, the worker gives notice of his or her injury to his or her employer and the board as soon as possible after sustaining that injury and before the worker has voluntarily left his or her employment; and
  - (b) the claim for compensation is made within six months after:
    - (i) the date the worker sustained the injury; or
    - (ii) in the case of death, the date of death.
- (2) A notice required pursuant to subsection (1) must:
- (a) state:
    - (i) the name and address of the worker;
    - (ii) the cause of the injury; and
    - (iii) the place where the injury happened; and
  - (b) include any proofs of the claim that the board may require.

2013, c.W-17.11, s.44.

**Service of notice**

**45** Service of a notice mentioned in section 44 may be effected by personal delivery or registered mail, or any other means prescribed in the regulations, addressed:

- (a) in the case of an employer, to the employer's place of business or residence or, if the employer is a body of persons, to any office of the employer; or
- (b) in the case of the board, to the head office of the board.

2013, c.W-17.11, s.45.

**Failure to give notice, etc., does not bar compensation**

**46** Failure to give the notice mentioned in section 44 or any defect or inaccuracy in that notice does not bar the worker from compensation if the board considers that the claim for compensation is just and should be allowed.

2013, c.W-17.11, s.46.

**Application for compensation**

**47(1)** If a worker or a worker's dependant is entitled to compensation, he or she shall file with the board an application for compensation together with any proof of the claim that the board may require.

(2) Notwithstanding subsection (1) or section 44, if a worker or a worker's dependant is entitled to compensation, the board may, if it is of the opinion that the circumstances so warrant, pay compensation without receipt of an application for compensation.

2013, c.W-17.11, s.47.

**Refusal of claim**

**48** If the board is unable to determine an issue in favour of the person claiming compensation, it shall provide that person with written reasons for its decision.

2013, c.W-17.11, s.48.

**Pre-existing conditions**

**49** The board shall not reject the claim of a worker or a worker's dependant for compensation or reduce the amount of compensation payable by reason of a pre-existing condition of the worker if the injury materially aggravates or accelerates the pre-existing condition to produce a loss of earnings or death.

2013, c.W-17.11, s.49.

**Worker in training**

**50** If a worker suffers an injury for which compensation is payable while undergoing training or instruction that the board is satisfied should be recognized for the purposes of this section, the board may:

- (a) review the amount of compensation payable to the worker; and
- (b) increase the compensation to an amount that fairly represents what the worker would have otherwise been entitled to pursuant to this Act had the worker completed that training or instruction.

2013, c.W-17.11, s.50.

**DIVISION 4  
Duties****Duties of worker**

**51** A worker shall:

- (a) take all reasonable action to mitigate the worker's loss of earnings resulting from an injury; and
- (b) if the circumstances require, co-operate with the board in the development of a rehabilitation plan that is intended to return the worker to a position of independence in suitable productive employment.

2013, c.W-17.11, s.51.

**Duty of employer to notify board of injury**

**52** Within five days after the date on which an employer becomes aware of an injury that prevents a worker from earning full wages or that necessitates medical aid, the employer shall notify the board in writing of:

- (a) the nature, cause and circumstances of the injury;
- (b) the time of the injury;
- (c) the name and address of the injured worker;
- (d) the place where the injury happened;
- (e) the name and address of any physician who attends the worker for his or her injury; and
- (f) any further particulars of the injury or claim for compensation that the board may require.

2013, c.W-17.11, s.52.

**Duty of employer to co-operate to achieve worker's return to employment**

**53** An employer shall co-operate with the board and the worker to achieve the early and safe return of an injured worker to his or her employment.

2013, c.W-17.11, s.53.

**Offence for failure to report injury**

**54** Unless excused by the board, an employer who contravenes section 52 or 53:

- (a) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000; and
- (b) if the board so orders, shall pay to the board any part of the amount of compensation and medical aid that the board awards for that injury, whether or not the employer has been convicted of an offence.

2013, c.W-17.11, s.54.

**Duties of attending health care professional**

**55** Any health care professional who attends to or is consulted with respect to an injury to a worker shall:

- (a) furnish the board with any reports with respect to the examination or treatment of the worker that are relevant to the injury for which compensation is claimed;
- (b) give all reasonable and necessary information, advice and assistance to the injured worker or the worker's dependants in making an application for compensation; and
- (c) furnish any certificates and proofs that the board may require.

2013, c.W-17.11, s.55.

**Reports by attending health care professional**

**56** Reports required pursuant to clause 55(a) must be furnished at the times and in the form that the board may require.

2013, c.W-17.11, s.56.

**Duties of health care professionals, hospital officials**

**57** Every health care professional or hospital official who attends to, is consulted with respect to or has care of an injured worker:

- (a) shall furnish the board with any reports that:
  - (i) deal with the examination or treatment of the worker that are relevant to the injury for which compensation is claimed; and
  - (ii) are required by the board; and
- (b) may charge a fee for a report furnished pursuant to clause (a) in an amount that the board may determine.

2013, c.W-17.11, s.57.

**DIVISION 5**  
**Medical Examination of Claimant**

**Worker to submit to examination**

**58(1)** If requested to do so by the board, a worker who claims compensation or to whom compensation is payable pursuant to this Act shall present himself or herself for examination by one or more health care professionals.

(2) Notwithstanding any other provision of this Act, the board may suspend a worker's right to compensation or any compensation the worker is receiving until the worker is examined pursuant to subsection (1) if the board is of the opinion that the worker has:

- (a) without good cause, refused or failed to submit to the examination; or
- (b) obstructed the examination.

2013, c.W-17.11, s.58.

**Request of worker for examination**

**59(1)** This section applies if:

- (a) a worker who claims compensation has:
  - (i) represented to the board that:
    - (A) the worker suffers a greater functional impairment than that decided by the board;
    - (B) the worker suffers a greater limitation in working capacity than that decided by the board;
    - (C) the worker should be granted compensation for a longer period than the period allowed by the board; or
    - (D) the decision of the board was based on a physician's report that was erroneous or incomplete; and
  - (ii) exhausted his or her rights to a reconsideration or review of a decision by the board; or
- (b) a deceased worker's dependant who claims compensation has:
  - (i) represented to the board that:
    - (A) the deceased worker suffered a greater functional impairment than that decided by the board;
    - (B) the deceased worker suffered a greater limitation in working capacity than that decided by the board;
    - (C) the deceased worker should have been granted compensation for a longer period than the period allowed by the board; or
    - (D) the decision of the board was based on a physician's report that was erroneous or incomplete; and
  - (ii) exhausted his or her rights to a reconsideration or review of a decision by the board.

- (2) In the circumstances mentioned in subsection (1), the worker or the deceased worker's dependant:
- (a) may in writing request the board to provide for a medical review panel:
    - (i) to examine the worker; or
    - (ii) in the case of a deceased worker, to examine the medical information relating to the deceased worker; and
  - (b) if a written request is made pursuant to clause (a), must specify whether the examination is to be in Regina or Saskatoon.
- (3) A written request pursuant to this section must be accompanied by a certificate of a physician or chiropractor that:
- (a) states that, in his or her opinion, there is a genuine medical question to be determined;
  - (b) sets out the aspects of the board's determination of the medical question that the physician or chiropractor disagrees with; and
  - (c) provides sufficient particulars of the question to define the matters at issue.

2013, c.W-17.11, s.59.

**Chairperson of medical review panel**

- 60(1)** In consultation with the Saskatchewan Medical Association, the board shall appoint:
- (a) a resident of Regina, who is a physician engaged in the general practice of medicine, to be the chairperson of the medical review panel when a medical review panel is established at Regina; and
  - (b) a resident of Saskatoon, who is a physician engaged in the general practice of medicine, to be the chairperson of the medical review panel when a medical review panel is established at Saskatoon.
- (2) Each of the persons appointed pursuant to subsection (1):
- (a) holds office for a term of three years and until a successor is appointed; and
  - (b) is eligible for reappointment.
- (3) If a chairperson of a medical review panel is unable or unwilling to act, the board shall, in consultation with the Saskatchewan Medical Association, appoint another person pursuant to subsection (1) to act for the period that the board specifies.

2013, c.W-17.11, s.60.

**Selection of specialists**

**61(1)** On receipt of a request pursuant to section 59, the board shall immediately mail or deliver to the worker or the deceased worker's dependant requesting the examination:

(a) one or two lists setting out the names of all physicians who practise in the city named in the request and who are specialists in the classes of injuries for which compensation has been claimed, excluding:

(i) the name of a physician who provided a certificate mentioned in subsection 59(3); and

(ii) the names of the physicians who have provided a recorded opinion adverse to the opinion stated in the certificate; or

(b) on the request of the worker or deceased worker's dependant requesting the examination:

(i) one list of specialists as described in clause (a); and

(ii) one list setting out the names of all chiropractors who practise in the city named in the request, excluding:

(A) the name of a chiropractor who provided a certificate mentioned in subsection 59(3); and

(B) the names of the chiropractors who have provided a recorded opinion adverse to the opinion stated in the certificate.

(2) The worker or the deceased worker's dependant requesting the examination shall:

(a) select:

(i) if one list is provided, two specialists from the list; or

(ii) if two lists are provided, one specialist or chiropractor from each list; and

(b) promptly notify the board in writing of his or her selection.

(3) On notification of the selected persons, the board shall immediately request those persons to sit on the medical review panel and notify the chairperson of the medical review panel of the persons who will sit on the panel.

(4) If a selected person refuses to sit on the medical review panel, the board shall instruct the worker or the deceased worker's dependant to select another person from the same list from which the person who refused was selected.

2013, c.W-17.11, s.61.

**Constitution of medical review panel**

**62(1)** The persons selected pursuant to subsection 61(2) or (4) and the chairperson appointed pursuant to clause 60(1)(a) or (b), as the case requires, constitute the medical review panel for the purpose of examining the worker or the medical information, as the case may be.

- (2) The chairperson shall, as soon as possible, make arrangements for that examination by the medical review panel.
- (3) The medical review panel may determine its own procedure.
- (4) The medical review panel may invite the physician or chiropractor who certified pursuant to subsection 59(3) that there was a genuine medical question to be determined to make any representations to the medical review panel that the physician or chiropractor considers advisable.

2013, c.W-17.11, s.62.

**Certificate re decision of panel**

**63**(1) As soon as possible after the examination of the worker or the examination of the medical information respecting a deceased worker, the chairperson of the medical review panel shall certify in writing the decision of the panel and send that certified decision to the board.

(2) In the case of the examination of a worker, the certificate mentioned in subsection (1) must state:

- (a) the condition of the worker;
- (b) the fitness of the worker for employment;
- (c) if the worker is found unfit to work, the cause of that inability to work;
- (d) the nature and degree of any limitation in the worker's capacity to work caused by the injury with respect to which the worker claims compensation;
- (e) the extent of any permanent functional impairment of the worker caused by the injury with respect to which the worker claims compensation; and
- (f) any further medical matters that any member of the medical review panel considers to be pertinent to the claim.

(3) In the case of the examination of medical information respecting a deceased worker, the certificate mentioned in subsection (1) must state:

- (a) the condition of the deceased worker before the injury; and
- (b) any further medical matters that any member of the medical review panel considers to be pertinent to the claim.

(4) The decision of the majority of the members of the medical review panel is the decision of the panel and is binding on:

- (a) the board; and
- (b) the worker or the deceased worker's dependant requesting the examination.

2013, c.W-17.11, s.63.



**Review of claim after examination**

**64** Within 10 days after the receipt of the certified decision mentioned in subsection 63(1), the board shall review the claim and give the worker or the worker's dependant who requested the review written notice of its decision with respect to the matters set out in the certificate.

2013, c.W-17.11, s.64.

**Cost of examination**

**65** The costs of an examination by a medical review panel pursuant to section 62 must be paid out of the fund.

2013, c.W-17.11, s.65.

## DIVISION 6 Compensation to Workers

**Schedule re permanent functional impairment**

**66(1)** Subject to subsections (2) to (4), the board shall establish a rating schedule that is to be applied in calculating the amount of an award for a permanent functional impairment provided for in that schedule arising out of an injury and shall cause that rating schedule to be made public in any manner that the board considers appropriate.

(2) The amount of an award for a permanent functional impairment must:

(a) in the case of decisions made before January 1, 2003, be at least \$1,100 and not more than \$22,600;

(b) in the case of decisions made on or after January 1, 2003, be at least \$2,200 and not more than \$45,200.

(3) In determining the amount of an award for permanent functional impairment payable to a worker, the minimum and maximum amounts in effect at the date of the determination of the award are to be used.

(4) Subsection (1) does not apply with respect to any worker who suffers a fatal injury.

2013, c.W-17.11, s.66.

**Independence allowance**

**67(1)** Subject to subsection (2), if a worker sustains a permanent functional impairment that, in the opinion of the board, is severe, the board may award to that worker an independence allowance in any annual amount that the board, in its discretion, determines annually.

(2) The annual amount of an independence allowance must not exceed:

(a) 10% of the maximum amount of an award established pursuant to section 66 in the case of a worker whose permanent functional impairment is first determined before January 1, 2003; or

(b) 5% of the maximum amount of an award established pursuant to section 66 in the case of a worker whose permanent functional impairment is first determined on or after January 1, 2003.

2013, c.W-17.11, s.67.

**Amount of compensation for loss of earnings**

**68(1)** If an injury to a worker results in a loss of earnings beyond the day of the injury, the board shall determine the loss of earnings resulting from the injury and shall ensure compensation to the worker:

(a) in the case of a worker who sustained an injury before September 1, 1985, in an amount equal to 75% of that loss of earnings; or

(b) in the case of a worker who sustained an injury on or after September 1, 1985, in an amount equal to 90% of that loss of earnings.

(2) Compensation pursuant to subsection (1) is payable for as long as the loss of earnings continues, but the compensation is no longer payable when the worker reaches the age of 65.

2013, c.W-17.11, s.68.

**Calculation of loss of earnings**

**69(1)** Calculation of the loss of earnings for the purposes of subsections 32(2) and 68(1) and sections 71 and 72 must be based on the difference between:

(a) the worker's average weekly earnings at the commencement of the worker's loss of earnings resulting from the injury, adjusted annually by the percentage increase in the Consumer Price Index; and

(b) the weekly earnings that the worker is receiving from employment.

(2) For the purposes of subsection (1), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to the average weekly earnings of the worker on the anniversary date of the commencement of the worker's loss of earnings resulting from the injury in the year following the year in which the calculation is made.

(3) Notwithstanding subsections (1) and (2), if the result of an adjustment pursuant to clause (1)(a) is to make the worker's average weekly earnings for a year greater than one fifty-second of the maximum wage rate for that year, the worker's average weekly earnings must be set at one fifty-second of the maximum wage rate.

2013, c.W-17.11, s.69.

**Determination of average weekly earnings**

**70(1)** For the purposes of this Act, a worker's average weekly earnings is the greater of:

(a) one fifty-second of the worker's earnings for the 12 months preceding the commencement of the worker's loss of earnings resulting from the injury; and

- (b) the rate of daily, weekly, monthly or other regular gross earnings that the worker was receiving at the commencement of the worker's loss of earnings resulting from the injury converted, in the case of a daily, monthly or other rate that is not a weekly rate, to a weekly amount.
- (2) For the purposes of this section, a worker's average weekly earnings is deemed not to exceed one fifty-second of the maximum wage rate in effect:
- (a) at the commencement of the worker's loss of earnings resulting from the injury; or
  - (b) at the commencement of the worker's recurrence of that injury within the meaning of section 72.
- (3) If the employer was accustomed to paying to the worker an amount of money to cover any special expenses imposed on the worker by the nature of the worker's employment, that amount must not be included as part of the worker's earnings.
- (4) In determining the average weekly earnings of a worker, the board shall take into consideration the average earnings, as determined by the board, that were earned by a person regularly employed in the same grade of employment if:
- (a) the worker was not available for employment for the full period of 12 months preceding the commencement of his or her loss of earnings resulting from the injury; or
  - (b) in the opinion of the board, it is inequitable, by the casual nature or the terms of the worker's employment, to compute the worker's average weekly earnings in accordance with subsection (1).
- (5) If a worker is injured on or after January 1, 1980 and is in receipt of compensation for a period of at least 24 consecutive months, the worker's average weekly earnings:
- (a) during the period commencing on January 1, 1980 and ending on December 31, 1982, are deemed to be not less than \$178.48 per week; and
  - (b) on and from January 1, 1983, are deemed to be not less than two-thirds of the average weekly wage as of June in the year preceding the year in which the review respecting his or her compensation occurs.

2013, c.W-17.11, s.70.

**Injured worker 63 years of age or more**

**71** Notwithstanding subsection 68(2), if a worker is 63 years of age or more at the commencement of the worker's loss of earnings resulting from the injury, the board may provide the compensation pursuant to subsection 68(1) for a period of not more than two years following the date of the commencement of the loss of earnings.

2013, c.W-17.11, s.71.

**Recurrence of injury**

**72** If an injured worker returns to full employment and afterwards suffers a recurrence of the injury, the compensation payable to the worker must be based on the positive difference, if any, between:

- (a) the amount that is the greater of:
  - (i) the worker's weekly earnings at the time of the commencement of the worker's loss of earnings resulting from the injury when the injury was initially sustained; and
  - (ii) the worker's weekly earnings at the time of the worker's loss of earnings resulting from the recurrence of the injury; and
- (b) any compensation the worker is already receiving with respect to that injury.

2013, c.W-17.11, s.72.

**Percentage of compensation set aside for annuity at age 65**

**73(1)** In this section, "**minimum annuity amount**" means \$25,000, adjusted annually by the percentage increase in the Consumer Price Index.

(2) For the purposes of subsection (1), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the minimum annuity amount for the year following the year in which the calculation is made.

(3) If compensation is paid to a worker for a period exceeding 24 consecutive months, the board shall set aside an amount equal to 10% of the compensation paid during the 24-month period and of the future compensation to be paid after the expiry of the 24-month period.

(4) The amount set aside pursuant to subsection (3), together with accrued interest, must be used to provide an annuity for the worker at age 65.

(5) The amount set aside pursuant to subsection (3) may be:

- (a) set aside in the reserves of the board; or
- (b) at the request of the worker, paid into an established superannuation plan.

(6) If the total of the accumulated capital set aside by the board pursuant to subsection (3) to provide an annuity for a worker and interest on that amount is less than the minimum annuity amount when the worker reaches the age of 65, the board may, in lieu of an annuity and at the request of the worker, pay to the worker the accumulated capital and interest.

2013, c.W-17.11, s.73.

**Board may supplement annuity**

**74** If the board determines that the impact of the injury on the retirement income of the worker is greater than is recognized by the payments pursuant to subsection 73(3) and that it causes an undue hardship to the worker, the board may supplement the income of that worker on and after the day on which the worker reaches the age of 65 to increase the amount of the worker's income to the minimum amount of compensation then payable.

2013, c.W-17.11, s.74.

**Minimum compensation payable to certain workers injured on or after January 1, 1980**

**75** The amount of compensation payable to a worker who is injured on or after January 1, 1980 and who is totally unable to work because of the injury must be:

- (a) during the period commencing on January 1, 1980, and ending on December 31, 1982, not less than \$580 per month or, if the worker's average earnings at the time of the injury are less than \$580 per month, the amount of those average earnings; and
- (b) on and after January 1, 1983, not less than one-half of the average weekly wage as of June in the year preceding the year in which the review occurs respecting the worker's compensation or, if the worker's average earnings at the time of the injury are less than that amount, the amount of those earnings.

2013, c.W-17.11, s.75.

**Matters respecting awards pursuant to former Acts**

**76(1)** A permanent award established pursuant to any former *Workers' Compensation Act* must not be reduced except pursuant to that Act and, notwithstanding the repeal of the former *Workers' Compensation Act*, the former Act remains in force for the purpose of determining any reduction.

(2) Any workers receiving compensation pursuant to any former *Workers' Compensation Act* are, on the coming into force of this Act, to receive all benefits pursuant to this Act other than those benefits pursuant to sections 66 and 73.

(3) This subsection and subsections (4) to (8) apply only to workers who:

- (a) are receiving or are entitled to receive an award pursuant to any *Workers' Compensation Act* in force before January 1, 1980; and
- (b) on January 1, 1983, were under the age of 65.

(4) The board shall:

- (a) review the compensation being paid to each worker mentioned in subsection (3) to determine the difference between the adjusted earnings at the time of injury and the amount that the board estimates that the worker is capable of earning in suitable employment; and

- (b) pay 75% of that difference determined pursuant to clause (a) to the worker until the earlier of:
  - (i) the date of the next review; and
  - (ii) the date that the worker reaches the age of 65.
- (5) For the purposes of the maximum wage rate to be applied with respect to a worker mentioned in subsection (3) at the date of injury, the board shall use the greater of:
  - (a) the maximum wage rate at the date of injury; and
  - (b) the product of:
    - (i) one and one-half times the average weekly wage in the year preceding the year in which the injury occurred; and
    - (ii) 52.
- (6) The earnings at the date of injury are to be increased by the percentage increase in the average weekly wage from the year of injury to the year 1979, and, after that year, are to be increased annually by the percentage increase of the Consumer Price Index in accordance with subsection 69(2).
- (7) In determining the amount of compensation payable to a worker mentioned in subsection (3), the board shall:
  - (a) deduct the amount of the permanent award for disability; and
  - (b) determine, in accordance with section 95, the reduction for any *Canada Pension Plan* benefits payable for the same injury.
- (8) The total weekly amount received by the worker mentioned in subsection (3) from earnings or estimated earnings and payments from the board must be not less than one-half of the average weekly wage as of June in the year preceding the year in which the review respecting the worker's compensation occurs.

2013, c.W-17.11, s.76.

**Minimum compensation re workers pursuant to former Act**

77(1) Notwithstanding any provision of any former *Workers' Compensation Act* or any other provision of this Act, an injured worker entitled to compensation for permanent disability pursuant to a former *Workers' Compensation Act* must receive a minimum monthly amount equal to the amount MMA calculated in accordance with the following formula:

$$\text{MMA} = \text{FI} \times \text{A}$$

where:

FI is the degree of the worker's functional impairment, expressed as a percentage as the board may from time to time determine; and

A is:

- (a) \$580 in the case of a worker under 65 years of age; or
  - (b) \$530 in the case of a worker 65 years of age or over.
- (2) Subsection (1) does not apply to the commuted portion of any award.

2013, c.W-17.11, s.77.

**Maximum compensation re workers pursuant to former Act**

**78** In no case are payments pursuant to subsections 76(1) and (2) to provide for an amount of compensation in excess of what the worker would receive pursuant to this Act if the worker were totally disabled.

2013, c.W-17.11, s.78.

**Allowance for clothing, etc.**

**79** The board may, in its discretion, pay to a worker an allowance in any amount that the board considers appropriate for any or all of the following purposes:

- (a) to pay for the replacement or repair of clothing worn or damaged by reason of the worker wearing an artificial limb or appliance supplied by the board with respect to the worker's injury;
- (b) to provide for personal care required as a result of his or her injury.

2013, c.W-17.11, s.79.

## DIVISION 7 Compensation to Dependants

**Compensation and expenses payable on death of worker**

**80(1)** Compensation is payable in accordance with sections 81 to 86 to the dependants of a worker who died or who dies after January 1, 1983 as a result of the worker's injury.

(2) In addition to any compensation payable pursuant to this Act to a worker's dependants, the board shall also pay:

- (a) a fixed amount determined in accordance with subsection (3) to assist with necessary expenses of the death of the worker, including burial; and
- (b) if the death of the worker occurred at a place other than the worker's usual place of residence and, in the opinion of the board, transportation of the body to the usual place of residence is desirable, the necessary expenses of that transportation within Canada.

(3) The amount of the fixed amount mentioned in clause (2)(a) is:

- (a) for the year 2003, \$10,000; and
- (b) for each year after 2003, the amount mentioned in clause (a) adjusted annually by the percentage increase in the Consumer Price Index.

(4) For the purposes of subsection (3), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the fixed amount for the year following the year in which the calculation is made.

2013, c.W-17.11, s.80.

**Surviving dependent spouse**

**81(1)** Subject to subsection (1.1), if the worker is survived by a dependent spouse, compensation in the form of a monthly allowance is payable to that spouse for a period of five years in an amount equal to the greater of:

- (a) in the case of a worker:
  - (i) who sustained an injury before September 1, 1985, 75% of the deceased worker's average weekly earnings multiplied by 4.33; or
  - (ii) who sustained an injury on or after September 1, 1985, 90% of the deceased worker's average weekly earnings multiplied by 4.33; and
- (b) 50% of the amount equal to the average weekly wage as of June in the preceding year multiplied by 4.33.

(1.1) For the purposes of the calculation being made pursuant to clause (1)(a):

- (a) the amount calculated pursuant to that clause must be adjusted annually by the average percentage increase in the Consumer Price Index; and
- (b) for the purposes of clause (a), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the monthly allowance for the year following the year in which the calculation is made.

(2) If a surviving dependent spouse has dependent children of the worker, the compensation payable pursuant to subsection (1) is to be extended until the youngest child:

- (a) reaches the age of 16 years; or
- (b) if any dependent child is in full-time attendance at a secondary or post-secondary institution, reaches the age of 18 years.

(3) If compensation is paid to a surviving dependent spouse pursuant to subsection (1) for a period exceeding 24 consecutive months:

- (a) the board shall set aside an amount equal to 10% of the compensation paid during the 24-month period and of the future compensation to be paid after the expiry of the 24-month period; and
- (b) the amount mentioned in clause (a), together with accrued interest, must be used to provide an annuity for the surviving dependent spouse at age 65.

(4) If compensation is paid to a surviving dependent spouse pursuant to subsection (2):

- (a) the board shall set aside an amount equal to 10% of the compensation paid; and
- (b) the amount mentioned in clause (a), together with accrued interest, must be used to provide an annuity for the surviving dependent spouse at age 65.



(5) In addition to any compensation payable pursuant to subsection (1), the board may provide to the surviving dependent spouse the same counselling and vocational assistance as would be provided to a worker in order to enable the dependent spouse to enter the labour force and become self-sufficient.

(6) On and from the expiration of entitlement to compensation pursuant to subsection (1) or (2) and subject to section 101, a surviving dependent spouse of a deceased worker is entitled to compensation, until the surviving dependent spouse reaches the age of 65 years, equal to the difference between:

(a) the amount of the monthly allowance that would be payable pursuant to subsection (1) if the surviving dependent spouse were entitled to that allowance; and

(b) the earnings that the surviving dependent spouse is earning from employment.

(7) For the purposes of subsection (6), the definition of "earnings" in clause 2(1)(k) applies, with any necessary modification.

2013, c.W-17.11, s.81; 2019, c28, s.7.

**If dependants do not live together**

**82** If the board determines that there is a dependent spouse and one or more additional dependants of the deceased worker and that they do not live together as a family unit, the board may, in its discretion, divide the payment mentioned in section 81 among those dependants in any manner that it considers just and equitable.

2013, c.W-17.11, s.82.

**Certain dependent children 18 to 25 years**

**83(1)** Subject to subsections (2) to (7), each dependent child of a deceased worker who is at least 18 years of age and in full-time attendance at a secondary or post-secondary institution is to be paid:

(a) a monthly allowance in an amount determined in accordance with subsections (4) and (5);

(b) in the case of attendance at a post-secondary institution, the cost of tuition and other required fees; and

(c) the cost of any required books.

(2) No amount is payable pursuant to subsection (1) after the later of:

(a) the day on which the dependent child reaches the age of 25 years; and

(b) the last month in the school term in which the dependent child reaches the age of 25 years.

(3) The amounts described in subsection (1) are payable for a maximum of three years.

(4) Subject to subsection (5), the amount of the monthly allowance mentioned in clause (1)(a) is \$376.61 in 2013 adjusted annually by the percentage increase in the Consumer Price Index.

(5) For the purposes of subsection (4), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the monthly allowance for the year following the year in which the calculation is made.

(6) If the board is paying an allowance pursuant to subsection (1), the board may increase the monthly allowance to an amount that it considers fair and just.

(7) Notwithstanding subsection (1), if the amount of compensation payable pursuant to section 85 with respect to any child to whom subsection (1) applies is greater than the amount payable pursuant to subsection (1), the board shall pay that greater amount.

2013, c.W-17.11, s.83.

**Adopting parent, etc., of dependent children**

**84(1)** This section applies if:

- (a) a deceased worker leaves no surviving spouse or the surviving spouse subsequently dies;
- (b) the deceased worker leaves one or more dependent children; and
- (c) an adopting parent or a person who the board is satisfied is suitable acts as foster parent in maintaining the household and taking care of the dependent children in a manner that the board considers satisfactory.

(2) In the circumstances mentioned in subsection (1), the person mentioned in clause (1)(c) while acting in the capacity mentioned in that clause is entitled to receive an allowance in the amounts set out in clauses 83(1)(a) to (c) for each dependent child until:

- (a) the dependent child reaches the age of 16 years; or
- (b) if the dependent child is in full-time attendance at a secondary or post-secondary institution, the dependent child reaches the age of 18 years.

(3) In addition to any compensation payable pursuant to subsection (2), the board may provide to that adopting parent or foster parent any amount that the board may determine.

2013, c.W-17.11, s.84.

**If there are only dependent children**

**85(1)** If the only dependants of a deceased worker are children, a monthly allowance for each child under the age of 18 years must be paid in an amount determined by the board in accordance with subsection (2).

(2) The amount of the monthly allowance mentioned in subsection (1) is \$399.58 in 2013 adjusted annually by the percentage increase in the Consumer Price Index.

(3) For the purposes of subsection (2), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the monthly allowance for the year following the year in which the calculation is made.

(4) If the dependants are children both of whose parents are deceased, the board in its discretion may pay to each child under the age of 18 years, in addition to any other amount payable to the child, any amount that the board may determine.

(5) A child with a disability who is physically or mentally restricted in his or her ability to earn a livelihood must continue to receive compensation mentioned in subsection (1) after he or she has reached the age of majority and for as long as he or she remains so restricted.

2013, c.W-17.11, s.85.

#### **Other dependants**

**86(1)** The board may recognize persons other than a spouse or children as dependants of a deceased worker and may award a payment in recognition of the pecuniary loss that the board may determine.

(2) A payment pursuant to subsection (1) is to continue only so long as, in the opinion of the board, it might reasonably have been expected that, had the worker lived, the worker would have continued to contribute to the support of the dependants.

(3) Compensation payable pursuant to subsection (1) may be made wholly or partly in a lump sum or in any other form that the board, in the circumstances, considers most suitable.

2013, c.W-17.11, s.86.

#### **Partial dependency**

**87** The board may recognize partial dependency and provide an amount that it considers reasonable and proportionate to the pecuniary loss or loss of valuable services suffered by the dependants who are recognized as partially dependent.

2013, c.W-17.11, s.87.

#### **Evidence of necessities, etc.**

**88(1)** The board may require any evidence of the necessities, condition and existence of any dependants in receipt of compensation that the board considers necessary.

(2) The board may withhold any compensation payments until it receives the evidence required pursuant to subsection (1).

2013, c.W-17.11, s.88.

#### **Amount payable to spouse and dependent children compensated under former Act**

**89(1)** In this section, "**former Act**" means *The Workers' Compensation Act* as that Act existed before the coming into force of *The Workers' Compensation Act, 1979*.

- (2) Subject to subsections (3) and (4), if a surviving dependent spouse is receiving compensation pursuant to the former Act, the board shall provide a supplement of \$356.19 per month in 2013 adjusted annually by the percentage increase in the Consumer Price Index until that surviving dependent spouse reaches the age of 65.
- (3) For the purposes of subsection (2), the percentage increase in the Consumer Price Index must be the percentage increase for the 12 months ending on November 30 in each year, and that percentage increase must be applied to determine the monthly allowance for the year following the year in which the calculation is made.
- (4) Subject to subsection (5), if a surviving dependent spouse mentioned in subsection (2) is receiving compensation with respect to any dependent child of the deceased worker, the board shall pay to the surviving dependent spouse an additional monthly allowance in the amount set out in clauses 83(1)(a) to (c) with respect to each dependent child until:
- (a) the dependent child reaches the age of 16 years; or
  - (b) if the dependent child is in full-time attendance at a secondary or post-secondary institution, the dependent child reaches the age of 18 years.
- (5) Respecting the compensation and supplements payable pursuant to subsections (2) and (3), the board shall pay to the surviving dependant spouse:
- (a) until the surviving dependent spouse reaches 65 years of age, a minimum monthly amount equal to 50% of the average weekly wage as of June in the immediately preceding year multiplied by 4.33; and
  - (b) on and after the surviving dependant spouse reaches 65 years of age, \$630 per month.
- (6) Notwithstanding any provision of the former Act and subject to subsection (6), compensation payable to a surviving dependent spouse pursuant to that Act or this section is payable regardless of whether that spouse remarries.
- (7) Subsection (6) applies only to surviving dependent spouses who remarry on or after June 19, 1985.
- (8) Subsection 83(1) and section 84 apply, with any necessary modification, with respect to a dependent child of a deceased worker who, on the day before June 19, 1985, was in receipt of compensation pursuant to the former Act.
- (9) Notwithstanding subsection 83(1), if the amount of compensation payable with respect to a child mentioned in subsection (7) is greater than the amount set out in subsection 83(1), the board shall pay that greater amount.

2013, c.W-17.11, s.89.

**If spouse neglects children**

**90(1)** This section applies if:

- (a) compensation has been awarded to a surviving dependent spouse for the spouse and the dependent children of the deceased worker; and
- (b) in the opinion of the board, the surviving dependent spouse is neglecting or has abandoned any of the dependent children.

(2) In the circumstances mentioned in subsection (1), the board may pay the compensation awarded for those dependent children to a person other than the surviving dependent spouse for the benefit of those children.

2013, c.W-17.11, s.90.

**If person entitled to compensation re death of two workers**

**91** If a person is being paid or is entitled to be paid compensation with respect to the death of a worker and subsequently becomes entitled to be paid compensation with respect to the death of another worker, that person shall be paid only the greater of the compensation payments that the person is entitled to be paid.

2013, c.W-17.11, s.91.

**Board directs to whom payment made**

**92** The board may direct the person to whom the compensation payments are to be made.

2013, c.W-17.11, s.92.

**Compensation if not otherwise entitled**

**93(1)** On the death of a worker who was or would have been entitled to compensation pursuant to this Act for a period of 24 consecutive months or less at the time of death and if no compensation is payable pursuant to sections 80 to 86, the board shall pay an amount of compensation equal to the compensation that the worker received or would have been entitled to receive, as the case may be, with respect to a period of three months:

- (a) to the worker's surviving dependent spouse; or
- (b) if the worker died leaving no dependent spouse, to the worker's dependent children or any other persons recognized by the board as being dependants.

(2) Compensation is to be paid to the persons mentioned in subsection (1) in any share that the board may determine.

(3) If a worker dies of a condition for which no benefits are payable pursuant to sections 80 to 86 and that worker received compensation for a period exceeding 24 consecutive months before the day of the worker's death, the board:

- (a) shall pay to the worker's surviving dependent spouse a monthly allowance, equal to the monthly amount of compensation that was being paid to the worker, for 12 months following the day of the death of the worker; and
- (b) may provide the surviving dependent spouse the same counselling and vocational assistance as would be provided to a worker in order to enable the dependent spouse to enter the labour force and become self-sufficient.

2013, c.W-17.11, s.93.

**Autopsy**

**94(1)** If the board considers that an autopsy is necessary to enable the board to determine the cause of death of a worker, the board may direct that the autopsy be made within a time to be fixed by the board.

(2) If the worker's dependant or dependants refuse to permit the autopsy directed pursuant to subsection (1), the board may reject any claim for compensation pursuant to this Act.

2013, c.W-17.11, s.94.

**DIVISION 8****General****Compensation reduced by certain benefits under *Canada Pension Plan***

**95(1)** In this section, "**periodic benefits**" means periodic benefits relative to the death or injury of a worker that the worker or the worker's surviving spouse is entitled to receive pursuant to the *Canada Pension Plan* or the *Québec Pension Plan*.

(2) On the expiration of 12 months from the date of commencement of the worker's loss of earnings resulting from the injury, one-half of the worker's or the worker's surviving spouse's periodic benefits are to be considered as wages that the worker is capable of earning for the purposes of:

- (a) calculating the compensation to be paid by the board for loss of earnings; or
- (b) determining the worker's surviving spouse's entitlement.

(3) Subsection (2) does not apply to benefits paid pursuant to subsection 70(5), sections 74 and 77, clause 81(1)(b) and sections 83, 84, 85 and 89.

2013, c.W-17.11, s.95.

**Other benefits to be taken into account**

**96(1)** In fixing the amount of compensation to be paid to a worker or the worker's dependants, the board may deduct any payment, allowance or benefit paid to the worker or worker's dependants by the worker's employer with respect to the injury, including any gratuity or other allowance provided wholly at the expense of the employer.

(2) If the compensation is payable out of the fund, any amount deducted from the compensation pursuant to subsection (1) may be paid to the employer out of the fund.

2013, c.W-17.11, s.96.

**If worker or dependant under legal disability**

**97** If a worker or a worker's dependant is under the age of 18 years or is under any other legal disability, the compensation to which he or she is entitled may be paid to any person or be applied in any manner that the board considers most appropriate for the worker's or dependant's advantage.

2013, c.W-17.11, s.97.

**Board may fix periods of payment**

**98** If the board considers it advisable to do so, the board may:

- (a) provide that compensation payments be made bi-weekly or monthly instead of weekly; or
- (b) fix any other periods of payment.

2013, c.W-17.11, s.98.

**Suspension of payment**

**99** If a right to compensation is suspended pursuant to this Act, no compensation is payable with respect to the period of suspension.

2013, c.W-17.11, s.99.

## DIVISION 9 Review of Compensation and Levies

**Review of compensation at request of worker, etc.**

**100(1)** Any weekly or other periodic payment to a worker or a worker's dependent spouse payable out of the fund may be reviewed:

- (a) on the motion of the board; or
- (b) at the request of the worker, the worker's dependent spouse or the worker's employer.

(2) On a review pursuant to subsection (1), the board may terminate or diminish the payment or may increase the payment to an amount that does not exceed the maximum compensation set out in this Act.

(3) After conducting any review that the board considers proper, the board may withhold or suspend the payment of compensation to a worker or other person receiving compensation for any period that the board considers advisable if the worker or other person is confined in:

- (a) a correctional facility within the meaning of *The Correctional Services Act, 2012*;
- (b) a penitentiary within the meaning of the *Corrections and Conditional Release Act* (Canada);
- (c) a prison or reformatory within the meaning of the *Prisons and Reformatories Act* (Canada); or
- (d) a place of open custody, a place of secure custody or a place of temporary detention as those terms are defined in *The Youth Justice Administration Act, 2019*.

(4) Notwithstanding section 99, if compensation to a worker or other person is withheld or suspended pursuant to subsection (3), the board may pay compensation to the worker's dependants or other person or to any other persons that the board considers advisable.

2013, c.W-17.11, s.100; 2019, cY-3, s.15-8.

**Termination or reduction of compensation by the board in certain circumstances**

**101(1)** The board may terminate or reduce payment to a worker of any compensation based on the worker's loss of earnings:

- (a) if the board determines after the review pursuant to section 100 that the worker's loss of earnings is not related to the effects of the injury; or
- (b) without limiting the generality of clause (a), if:
  - (i) without good reason, the worker is not available or declines to accept a genuine offer of employment in an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging;
  - (ii) without good reason, the worker fails to co-operate in, or is not available for, a medical or vocational rehabilitation program that has as its objective returning the worker to suitable productive employment;
  - (iii) in consultation with the worker, the board has designed and provided to the worker, at the expense of the board, a vocational rehabilitation program, and the worker has been allowed a reasonable time to obtain employment after completing the program;
  - (iv) the worker voluntarily:
    - (A) accepts employment in an occupation that has a lower rate of pay than an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging; or
    - (B) withdraws from the labour force for reasons other than the effects of the injury; or
  - (v) the worker fails to comply with section 51.

(2) Subsection (1) applies, with any necessary modification, to a worker's dependent spouse after the expiration of entitlement to compensation pursuant to subsection 81(1) or (2).

2013, c.W-17.11, s.101.

**Levy for increases in compensation**

**102(1)** The board may levy the additional moneys necessary to provide for increases of compensation provided for in this Act with respect to injuries that were incurred before the coming into force of this Act from employers in any manner and at any time that the board may consider most equitable and in accordance with this Act.

(2) A levy pursuant to this section may be by way of addition to the usual assessment or by levy of special additional assessments.

2013, c.W-17.11, s.102.



DIVISION 10  
**Medical Aid and Rehabilitation**

**Medical and surgical aid, etc.**

**103(1)** Every worker who is entitled to compensation or who is disabled only on the day of the injury is entitled without charge to:

- (a) any medical aid that may be necessary as a result of the injury;
- (b) any other treatment by a health care professional;
- (c) any prosthetics or apparatus that may be necessary as a result of the injury, and to have any prosthetic limbs and eyes and any surgical appliances such as belts, braces, supports and orthopaedic shoes repaired, maintained and renewed when necessary by reason of accident or ordinary wear and tear; and
- (d) any transportation or sustenance occasioned by the medical aid.

(2) The board shall furnish or arrange medical aid in any manner that it may approve.

2013, c.W-17.11, s.103.

**Fees for medical aid**

**104(1)** The fees for medical aid furnished by any health care professional are those that are determined by the board.

(2) No health care professional shall charge or be entitled to any fees for medical aid in any amount greater than that fixed by the board pursuant to subsection (1).

2013, c.W-17.11, s.104.

**Employer not to collect from worker**

**105(1)** No employer shall, directly or indirectly, collect, receive or retain from any worker any contribution towards the expense of medical aid.

(2) Any employer who contravenes subsection (1):

- (a) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000; and
- (b) if the board so orders, shall pay to the worker an amount equal to three times the amount collected, received or retained mentioned in subsection (1), whether or not the employer has been convicted of an offence.

2013, c.W-17.11, s.105.

**First-aid service**

**106** If the board considers it advisable, the board may:

- (a) require the employers in any class of industries to maintain any first-aid appliances and services that the board may direct; and
- (b) make any order with respect to the expense of first-aid appliances or services mentioned in clause (a) that it considers appropriate or necessary.

2013, c.W-17.11, s.106.

**Transportation for injured worker**

**107(1)** If necessary, an employer shall furnish to any worker sustaining an injury immediate transportation to a hospital, a physician or the worker's home.

(2) If the board so orders, an employer who fails to comply with subsection (1) is liable to pay for that transportation if it was:

- (a) procured by the worker or by anyone on behalf of the worker; or
- (b) provided by the board.

2013, c.W-17.11, s.107.

**Contribution for additional services**

**108** If, in conjunction with or apart from any medical aid, any other service or benefit is, or is proposed to be, given or arranged for an injured worker, the board shall determine any question arising with respect to whether or to what extent any contribution from a worker is one prohibited by this Act.

2013, c.W-17.11, s.108.

**Board may pay expense of special operations, etc.**

**109** In addition to any other compensation, the board may assume the expense of all or any of the following:

- (a) replacing or repairing any prosthetics or apparatus, including broken dentures, eye glasses, artificial eyes or prosthetic limbs when breakage is caused by an accident or injury in the course of the worker's employment;
- (b) if in the opinion of the board it is in the interest of the fund to do so, a special surgical operation or other special medical treatment for a worker;
- (c) the provision of treatment outside Saskatchewan with the written approval of the board, if, in the opinion of the board, the condition of an injured worker as a result of the worker's injury requires treatment that cannot be obtained in Saskatchewan.

2013, c.W-17.11, s.109.

**Regulations re payment of medical accounts**

**110** Subject to the approval of the Lieutenant Governor in Council, the board may make regulations governing the payment of medical accounts and the assessment of penalties for the late filing of those accounts.

2013, c.W-17.11, s.110.

**Other aid to injured workers, etc.**

**111** The board may take any measures that it considers necessary or expedient:

- (a) to assist an injured worker in returning to work;
- (b) to assist in lessening or removing any barriers resulting from the worker's injury; or
- (c) to encourage a dependent spouse of a deceased worker to become self-sufficient.

2013, c.W-17.11, s.111.

**DIVISION 11****Overpayments and Set-off****Overpayments**

**112(1)** Any compensation payments made by the board to a worker beyond the period of the worker's loss of earning capacity or to a worker or the worker's dependant in an amount in excess of that to which he or she is entitled are deemed to be an overpayment.

(2) The amount of any overpayment is deemed to be a debt due and owing to the board and may be recovered from the worker or worker's dependant in any manner authorized by law.

2013, c.W-17.11, s.112.

**Set-off**

**113** Without limiting the board's remedies for recovery, any money due the board pursuant to this Act, including any penalties imposed by the board pursuant to this Act, may be set off against any compensation that may be or that may become payable to the person indebted to the board.

2013, c.W-17.11, s.113.

PART V  
**Injury Fund**

DIVISION 1  
**Continuance of Fund**

**Fund**

**114(1)** The Injury Fund is continued.

(2) All moneys collected by the board from employers pursuant to this Act are to be credited to the fund.

2013, c.W-17.11, s.114.

**Payments from fund**

**115** The board may expend moneys from the fund for any expenses incurred in the administration of this Act and, without restricting the generality of the foregoing, the board may expend moneys for:

- (a) the payment of compensation to a worker or the worker's dependants;
- (b) administrative expenses of the board, including salaries and other remuneration;
- (c) any medical aid provided pursuant to this Act to injured workers and any specialized treatment or other medical aid that the board considers necessary and that is not provided for in this Act;
- (d) the cost of any autopsy that the board considers necessary;
- (e) any grant with respect to any costs of rehabilitation related to any injured worker re-entering the work force or to assist in lessening any hardship caused by the worker's injury;
- (f) any costs that the board considers necessary or expedient to assist dependent spouses of deceased workers to become self-sufficient;
- (g) the cost of administration of the occupational health and safety program;
- (h) the expenses, including salaries and remuneration, of workers' advocates;
- (i) the expenses of any committee of review established pursuant to this Act; and
- (j) any other purposes that the board considers necessary to carry out the intent of this Act.

2013, c.W-17.11, s.115; 2019, c28, s.8.

**Fund to be maintained to meet all payments**

**116(1)** The board shall at all times maintain the fund so that, with the reserves provided for in subsection 134(2) but exclusive of the special reserve fund mentioned in section 145:

- (a) the fund is sufficient to meet all the payments to be made out of the fund with respect to:
    - (i) the cost of the administration of the occupational health and safety program; and
    - (ii) compensation as it becomes payable; and
  - (b) the employers in any class are not unduly or unfairly burdened in future years with payments to be made in those years with respect to costs and injuries that have previously occurred.
- (2) Insofar as it is practical to do so, the total reserves of the classes of industries provided for by section 119 must be maintained at a level equal to the total expenditures of the board for the preceding calendar year.

2013, c.W-17.11, s.116.

**If insufficient moneys in fund**

**117(1)** Subject to subsection (2), the board may make the payments mentioned in clauses (a) and (b) from reserves if at any time there are insufficient moneys in the fund available for payment of:

- (a) the cost of the administration of the occupational health and safety program; and
  - (b) compensation that has become due.
- (2) Moneys paid out of the reserves pursuant to subsection (1) must be collected:
- (a) by making a special assessment on the employers liable to provide the costs or compensation; or
  - (b) by including the amount in a subsequent annual assessment.
- (3) If for any reason the board considers it inexpedient to withdraw the amounts required from the reserves pursuant to subsection (1), the Lieutenant Governor in Council may direct the amounts to be advanced out of the general revenue fund.
- (4) Amounts advanced pursuant to subsection (3) must be collected by a special assessment and, on collection, must be paid to the Minister of Finance.

2013, c.W-17.11, s.117.

**Power of board to borrow money**

**118(1)** Subject to the approval of Treasury Board and to subsection (2), the board may, on any security that the lender may require, borrow any sums of money that the board considers necessary for the purposes of this Act.

(2) The aggregate of the amounts borrowed by the board must not exceed \$25,000,000.

2013, c.W-17.11, s.118.

**Classes of industries**

**119(1)** The board may, by order:

(a) establish any classes of industries that it considers necessary for the purposes of this Act; and

(b) rearrange the classes of industries, including establishing new classes or deleting classes.

(2) The board may subdivide a class into subclasses if:

(a) in the opinion of the board, the hazard to workers in any of the industries included in a class is less than the hazard in any other class of those industries; or

(b) for any other reason the board considers it proper to do so.

(3) If the board subdivides a class into subclasses, it shall fix the percentages or proportions of the contributions payable by the employers in each subclass to the fund.

2013, c.W-17.11, s.119.

**Separate accounts for each class**

**120(1)** The board shall keep separate accounts of the amounts collected and expended with respect to every class and subclass of industries.

(2) The amounts mentioned in subsection (1) form part of the fund.

2013, c.W-17.11, s.120.

**Where cost to fund much greater re certain employer than average of class**

**121(1)** If the total cost to the fund of injuries to the workers of any employer in a class or subclass is consistently greater than the average cost to the fund of injuries to the workers of other employers in the same class or subclass, the board may levy, in addition to the amount of any contribution to the fund for which the employer is liable, any amount it considers just.

(2) With respect to any additional amount levied pursuant to subsection (1), the board shall, in its discretion:

(a) add those additional amounts to the fund; or

(b) apply those additional amounts to reduce the assessment on the other employers in the class or subclass to which the employer from whom it is collected belongs.

2013, c.W-17.11, s.121.

DIVISION 2  
**Statements by Employers and Municipal Officials**

**Payroll statements to be furnished by employers**

**122(1)** Every employer shall annually prepare and transmit to the board a payroll statement setting out:

- (a) the amount of the earnings of all workers in the employer's employ during the preceding year, or any part of the preceding year that the board may specify;
  - (b) an estimate of the amount the employer will expend for wages during the current year, or any part of the current year that the board may specify; and
  - (c) any additional information that the board may require.
- (2) Every payroll statement prepared pursuant to subsection (1) must:
- (a) be prepared in accordance with any requirements prescribed in the regulations;
  - (b) be submitted on or before a date set by the board and at any other time or times that the board may, by order, require; and
  - (c) be certified by the employer or the manager of the business, or, if the employer is a corporation, by an officer of the corporation having personal knowledge of the matters certified, to be true, correct and complete in every respect.
- (3) Every employer shall produce for examination, in any form and in any detail that the board may require, a careful and accurate account of all wages paid to the employer's workers.
- (4) If the business of the employer includes more than one class of industries, the board may require separate payroll statements to be made in accordance with subsection (1) with respect to each class.

2013, c.W-17.11, s.122.

**Offence for failure to make payroll statement, etc.**

**123(1)** No employer shall:

- (a) fail to comply with section 122;
- (b) make a false payroll statement pursuant to section 122 or a payroll statement that is not a true and accurate statement of any of the matters required to be stated; or
- (c) insufficiently estimate the expenditures for wages.

- (2) Every employer who contravenes subsection (1):
- (a) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000; and
  - (b) if the board so orders, shall pay to the board an additional percentage of the assessment made pursuant to section 124 as a penalty or interest on that assessment at a rate determined by the board, whether or not the employer has been convicted of an offence.

2013, c.W-17.11, s.123.

**Assessment by board if no statement provided**

**124(1)** If an employer does not comply with section 122 within the time required by that section:

- (a) the board may base any assessment or supplementary assessment to be made on the employer on any amount that it estimates to be a probable amount of the payroll of the employer; and
  - (b) the employer is bound by the assessment made pursuant to clause (a).
- (2) If the board determines, after an assessment is made pursuant to subsection (1), that the estimated amount is less than the actual amount of the employer's payroll, the employer is liable to pay to the board the difference between:
- (a) the amount for which the employer was assessed; and
  - (b) the amount for which the employer would have been assessed with respect to the actual amount of the employer's payroll.

2013, c.W-17.11, s.124.

**Assessors to provide returns**

**125** When required to do so by the board, an assessor of a municipality shall provide a return stating the names, addresses, nature of business and usual number of employees of each employer operating in the municipality, including farming, ranching or any other business or industry.

2013, c.W-17.11, s.125.

**Notice to board of building permits**

**126(1)** In this section, "**building permit**" means a permit or other approval authorizing:

- (a) the construction, improvement or alteration of any building or other structure;
- (b) the moving of any building or other structure from the land on which it is situated;
- (c) the destruction of any building or other structure;



- (d) the moving of power lines or telephone lines if the moving is directly or indirectly connected with clause (b) or (c); or
  - (e) the use of a highway or municipal road, street or lane in connection with the removal of any building or other structure.
- (2) Every person authorized pursuant to any Act or under any municipal bylaw, order or regulation pursuant to an Act to issue a building permit shall notify the board in writing of the name and address of the person to whom that building permit is issued.
- (3) The notice required pursuant to subsection (2) must be received within five business days after the day on which the building permit is issued.

2013, c.W-17.11, s.126.

### DIVISION 3 Inspections and Inquiries

#### Inspections

- 127(1)** In this Division, “**board**” includes a member or any other person authorized by the board for the purposes of this Division.
- (2) For the purposes of administering this Act, the board may, at any reasonable time without a warrant:
- (a) enter and inspect the establishment of any employer or other person who, in the opinion of the board, is or may be an employer and any premises connected with the establishment; and
  - (b) enter and inspect any premises containing any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act.
- (3) The board shall not enter a private dwelling without a warrant issued pursuant to subsection (4) unless the occupant of the dwelling consents to the entry.
- (4) If a justice or a provincial court judge is satisfied by information under oath that there are reasonable grounds to believe that entry to any premises pursuant to this section has been unlawfully refused and that any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act, are located on those premises, the justice or the provincial court judge may issue a warrant to do all or any of the following:
- (a) enter and search the premises named in the warrant;
  - (b) seize and remove from the premises any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act; and
  - (c) do any other thing mentioned in subsection (5).

- (5) With a warrant issued pursuant to subsection (4), the board may:
- (a) enter at any time and search the premises named in the warrant;
  - (b) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the board finds in the premises;
  - (c) require the production of and examine any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act;
  - (d) remove, for the purpose of making copies, any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act; and
  - (e) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act or the regulations made pursuant to this Act.
- (6) No person shall, without reasonable excuse, refuse to permit or obstruct or hinder an entry or inspection mentioned in this section.
- (7) Any person who contravenes subsection (6) is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

2013, c.W-17.11, s.127.

**Inspection of books and accounts**

**128(1)** The board may inspect the books and accounts of any employer and make any other inquiry that the board considers necessary for the purpose of ascertaining:

- (a) whether any payroll statement furnished to the board pursuant to section 122 is an accurate statement of the matters required to be stated;
  - (b) the amount of the payroll of any employer; or
  - (c) whether any employer or person is within or outside the scope of this Act.
- (2) Every person making an inspection and inquiry pursuant to this section has all the powers conferred on commissioners pursuant to *The Public Inquiries Act*.

2013, c.W-17.11, s.128.

**Prohibition on obstructing board**

**129** If the board is carrying out the board's duties pursuant to this Act, no person shall:

- (a) fail to comply with any reasonable request of the board;
- (b) knowingly make any false or misleading statements to the board; or
- (c) obstruct or interfere with the board.

2013, c.W-17.11, s.129.

**If payroll statement of employer is inaccurate**

**130(1)** If a payroll statement made pursuant to section 122 is found to be inaccurate, the assessment must be made on the accurate amount of the payroll as ascertained by an inspection or inquiry pursuant to section 128.

(2) If an assessment has been levied against the employer on the basis of the employer's payroll being as indicated in a payroll statement made pursuant to section 122, the employer shall pay to the board:

- (a) an amount equal to the difference between:
  - (i) the amount for which the employer was assessed; and
  - (ii) the amount for which the employer would have been assessed if the amount of the payroll had been accurately stated; and
- (b) an additional amount as a penalty equal to the amount mentioned in clause (a).

(3) If the board is satisfied that the inaccuracy of the payroll statement was not intentional and that the employer honestly desired to furnish an accurate statement, it may relieve the employer from payment of any part of the penalty provided in clause (2)(b).

2013, c.W-17.11, s.130.

#### DIVISION 4 Employers, Principals and Contractors

##### Workers of contractors

**131(1)** In this Division, "**principal**" means a person on whose behalf a contractor or subcontractor is doing any work.

(2) While engaged in work that the contractor or subcontractor has contracted with the principal, the worker of a contractor or subcontractor is deemed to be the worker of the principal unless the contractor or subcontractor is, with respect to that work, assessed, or added and assessed, as the case may be, as an employer.

(3) If a principal has made a payment with respect to an assessment or compensation or has furnished medical aid that, other than by reason of subsection (2), the principal would not have been liable to pay or furnish, the principal is entitled to reimbursement from the contractor or subcontractor to the extent to which the board finds that the contractor or subcontractor would have been liable.

2013, c.W-17.11, s.131.

##### Principal to ensure payment by contractor

**132(1)** Every principal shall ensure that any amount that the contractor or any subcontractor is liable to contribute to the fund pursuant to this Act with respect to the work mentioned in section 131 is paid.

(2) If a principal fails to comply with subsection (1) and the amount is not paid, the principal is liable to pay that amount to the board.

(3) The board has the same powers and is entitled to the same remedies for enforcing payment pursuant to this section that it possesses with respect to an assessment pursuant to this Act.

(4) If the principal is liable to make a payment to the board pursuant to this section, the principal is entitled to be indemnified by any person who should have made the payment and is entitled to withhold, out of any indebtedness due to that person, a sufficient amount with respect to that indemnity.

(5) All questions as to the right to and the amount of an indemnity pursuant to subsection (4) must be determined by the board.

2013, c.W-17.11, s.132.

**Claiming or collecting contributions from contractor**

**133** Nothing in section 131 or 132 prevents a worker from claiming compensation or the board from collecting contributions to the fund from the contractor or any subcontractor instead of the principal.

2013, c.W-17.11, s.133.

**PART VI  
Assessments**

**Levy of assessment**

**134(1)** Subject to subsection (4), in every year, the board shall levy an assessment on the employers in each class of industries an amount based on any percentage of the employers' payrolls or on any other rate, or an amount specified by the board, that, allowing for any surplus or deficit in the class, the board considers sufficient to pay:

- (a) the compensation with respect to injuries to workers in the businesses within the class;
  - (b) the expenses of the administration of this Act; and
  - (c) the cost of the administration of the occupational health and safety program for that year.
- (2) The board shall maintain a reserve fund of amounts that the board considers necessary:
- (a) to pay:
    - (i) the compensation payable in future years with respect to claims in that class of industries occurring in those years; and
    - (ii) the cost of the administration of the occupational health and safety program in future years; and
  - (b) to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years with respect to injuries that have previously occurred and with respect to the cost of the administration of the occupational health and safety program.
- (3) It is not necessary that the reserve fund mentioned in subsection (2) be uniform as to all classes of industries and, subject to sections 116 and 149, the board may provide for a larger reserve in one or more of the classes than is provided in other classes.

(4) If, in any year, the board proposes to levy an assessment on the employers in a class of industries that exceeds the assessment levied on those employers in the preceding year by more than 10.5%:

- (a) the board shall, before making the assessment:
  - (i) send a notice of the proposed assessment to the employers in the class; and
  - (ii) cause the notice to be published in *The Saskatchewan Gazette*; and
- (b) the employers in the class may, within 30 days after the date of publication of the notice in *The Saskatchewan Gazette*, make representations to the board with respect to the proposed assessment.

2013, c.W-17.11, s.134.

**Special assessment re fatal injuries**

**135** The board may make a special assessment on all employers whose workers have had fatal injuries for the purposes of apportioning the costs associated with fatal injuries equally among those employers.

2013, c.W-17.11, s.135.

**Provisional assessment of estimate of payroll**

**136(1)** If the board considers it advisable to do so, the board may levy an assessment provisionally on the estimate of the payroll given by the employer in a payroll statement pursuant to section 122 or on an estimate fixed by the board.

(2) After the employer's actual payroll has been ascertained, the board shall adjust the assessment to the correct amount.

(3) If the board considers it advisable to do so, the board may divide the payment of assessments into instalments.

2013, c.W-17.11, s.136.

**If wages or salary on payroll exceeds maximum assessable wage rate**

**137(1)** If the assessment is based on the payroll of the employer and the payroll includes the wages or salary of a worker who has been paid more than the maximum assessable wage rate:

- (a) the amount in excess of the maximum assessable wage rate must be deducted from the amount of the payroll; and
- (b) the employer's assessment must be based on that reduced amount.

(2) In every year, the board shall set a maximum assessable wage rate and cause that maximum assessable wage rate to be made public in any manner that the board considers appropriate.

2013, c.W-17.11, s.137.

**Assessment may vary with hazard**

**138(1)** It is not necessary that the assessment levied on the employers in a class or subclass of industries be uniform.

(2) The board may fix the assessment on an employer in relation to the hazard found in the type of work or in relation to the hazard in any of the businesses included in the class or subclass.

2013, c.W-17.11, s.138.

**Merit rating**

**139** If the board considers it appropriate to do so, the board may adopt a system of merit rating and cause that merit rating to be made public in any manner that the board considers appropriate.

2013, c.W-17.11, s.139.

**Forwarding information re injury records**

**140** The board may forward to the Occupational Health and Safety Division any information respecting the injury record of an employer or any class or subclass of industries that the board considers appropriate for the purpose of improving occupational health and safety.

2013, c.W-17.11, s.140.

**Notice of assessment to employer**

**141(1)** The board shall:

(a) determine and fix the percentage, rate or amount for which each employer is assessed pursuant to sections 134 to 139 or the provisional amount of the assessment; and

(b) after fixing the percentage, rate, amount or provisional amount pursuant to clause (a), notify the employer of that percentage, rate, amount or provisional amount.

(2) Each employer shall:

(a) pay the amount of the assessment to the board within one month, or within any other period that the board may set, after receipt of the notice of the assessment and amount; or

(b) if payment is to be made by instalments, pay the first instalment within the period mentioned in clause (a) and pay the remaining instalments at the times specified in the notice.

(3) The notice mentioned in subsection (1) may be sent by ordinary mail to the employer and is deemed to have been received by the employer on the fifth business day after the day on which the notice was mailed.

2013, c.W-17.11, s.141.

**If statement of estimate of payroll too low**

**142** If at any time it appears that a payroll statement or estimate of payroll on which an assessment or provisional amount of assessment is based is too low, the employer shall, on demand of the board, pay to the board any amount that the board may fix to bring the payment of assessment up to the proper amount.

2013, c.W-17.11, s.142.

**Supplementary assessment if insufficient assessment**

**143(1)** If the amount realized from an assessment is insufficient for the purpose for which it is made, the board may make supplementary assessments to make up the deficiency, and sections 141 and 142 apply, with any necessary modification, to those assessments.

(2) The board may defer assessing for a deficiency mentioned in subsection (1) until the next annual assessment is made and may include the amount necessary to make up the deficiency in that assessment.

2013, c.W-17.11, s.143.

**If deficiency caused by particular employers**

**144(1)** A deficiency or loss must be made up by supplementary assessments on the employers in all the classes of industries if the deficiency in the amount realized from an assessment in any class is caused by:

- (a) the failure of some of the employers in that class to pay their share of the assessment; or
- (b) any disaster or other circumstance that in the opinion of the board would unfairly burden the employers in that class.

(2) Sections 141 and 142 apply, with any necessary modification, to the supplementary assessments mentioned in subsection (1).

(3) The board may defer assessing for the deficiency or loss mentioned in subsection (1) until the next annual assessment is made and may include the amount necessary to make up the deficiency in that assessment.

2013, c.W-17.11, s.144.

**Special reserve fund**

**145** If the board considers it appropriate to do so, the board may add to the assessment for any class or for all classes of industries a percentage or amount for the purpose of raising a special reserve fund to be set aside to meet the loss arising from any disaster or other circumstance the liability for which would, in the opinion of the board, unfairly burden the employers in any class.

2013, c.W-17.11, s.145.

**Association re injury prevention and safety**

**146(1)** If the employers in any class established pursuant to this Act have formed themselves into an association for the purpose of injury prevention and safety, the board may make a grant towards the expenses of the association.

(2) Any money paid by the board pursuant to subsection (1) must be charged against the class represented by the association and levied as part of the assessment against that class.

2013, c.W-17.11, s.146.

**Application of amount paid by defaulting employer**

**147** If any deficiency mentioned in sections 143 or 144 is later made good in whole or in part by the defaulting employer, the amount of the deficiency that was made good:

- (a) must be apportioned among the other employers in the class, in the proportion in which each employer made payment with respect to the deficiency by supplementary assessment; and
- (b) must be credited to each of the other employers in making the next assessment.

2013, c.W-17.11, s.147.

**Employer not assessed is still liable for amount**

**148(1)** If for any reason an employer who should be assessed is not assessed in any year, the employer remains liable to pay to the board the amount for which the employer ought to have been assessed.

(2) The board shall take into account any amount collected from an employer pursuant to subsection (1) when making an assessment in a subsequent year on the employers in the class or subclass to which the employer belonged.

(3) Notwithstanding that a deficiency arising from a default in the payment of all or any part of an assessment has been made up by a special assessment, a defaulting employer continues to be liable to pay to the board the amount of every assessment made on the employer or the amount of it that remains unpaid.

2013, c.W-17.11, s.148.

**Supplementary assessment when fund insufficient**

**149(1)** The Lieutenant Governor in Council may direct the board to make a supplementary assessment of any amount that the Lieutenant Governor in Council considers necessary to be added to the fund if the Lieutenant Governor in Council is of the opinion that:

- (a) the state of the fund is such that the reserves, other than the special reserve fund mentioned in section 145, are insufficient to meet all payments of compensation as they become payable; and
- (b) it is necessary to do so in order not to unduly or unfairly burden the employers in any class in future years with payments that are to be made in those years with respect to injuries that have happened in previous years.



(2) If the board is directed to make a supplementary assessment pursuant to subsection (1), it shall immediately make that assessment, and the provisions of this Act with respect to special assessments apply, with any necessary modification, to the supplementary assessment.

2013, c.W-17.11, s.149.

#### **Formation of reserves**

**150(1)** In order to maintain the fund as required by section 116, the board may include in any amount to be assessed on the employers, and may collect from them, any amounts that the board considers necessary for that purpose.

(2) The amounts assessed and collected pursuant to subsection (1) are to form a reserve fund.

2013, c.W-17.11, s.150.

#### **Investments of reserve fund**

**151(1)** The board shall invest all or any part of the moneys standing to the credit of the reserve fund mentioned in subsection 150(2) in any securities authorized for investment of moneys pursuant to *The Pension Benefits Act, 1992*.

(2) The board may dispose of any securities in which any part of the reserve fund mentioned in subsection (1) has been invested pursuant to subsection (1) in any amount and on any terms that the board considers expedient.

(3) The board shall, in each year, include in the annual report made pursuant to section 178 a statement respecting the results of its investments in the previous year.

(4) For the purposes of managing, investing or disposing of all or any part of the assets of the reserve fund, the board may do all or any of the following:

- (a) enter into any agreement;
- (b) engage the services of or retain any technical, professional or other adviser, specialist or consultant;
- (c) do any other thing the board considers necessary and appropriate.

(5) The costs incurred pursuant to subsection (4) in, and other expenses related to, managing, investing or disposing of all or any part of the assets of the reserve fund are payable out of the reserve fund.

2013, c.W-17.11, s.151.

#### **Penalty for non-payment of assessment**

**152** If any assessment or special assessment pursuant to this Act is not paid at the time when it becomes payable, the defaulting employer is liable to pay, as penalty for the default, any percentage of the amount unpaid that may be prescribed in the regulations.

2013, c.W-17.11, s.152.

**Failure of employer to make return**

**153(1)** This section applies if an employer:

- (a) fails to make or transmit any payroll statement, return or other statement required to be furnished by the employer pursuant to section 122 or 158; or
  - (b) fails to pay all or any part of an assessment, special or supplementary assessment or the provisional amount of any assessment or any instalment.
- (2) In addition to any penalty or other liability to which an employer who fails to do any of the things mentioned in subsection (1) may be subject, the employer shall pay to the board:
- (a) the full amount or a capitalized value, as determined by the board, of the compensation payable with respect to any injury to a worker in the employer's employ that happens during the period of the default; and
  - (b) the full amount of medical aid payable with respect to any injury to a worker in the employer's employ that happens during the period of the default.
- (3) If the board is satisfied that failure to make or transmit any payroll statement, return or other statement was not intentional and that the employer honestly desired to furnish an accurate statement, it may relieve the employer in whole or in part from liability pursuant to this section.

2013, c.W-17.11, s.153.

**Default in paying assessment**

**154(1)** This section applies if:

- (a) an employer defaults in paying an assessment pursuant to this Act;
  - (b) a judgment is entered with respect to that assessment;
  - (c) a certificate from a sheriff or his or her deputy respecting the entering of the judgment is provided to the board; and
  - (d) the board files the certificate mentioned in clause (c) with the Court of Queen's Bench.
- (2) In the circumstances mentioned in subsection (1), a judge of the Court of Queen's Bench may, on an application made on behalf of the board, without the commencement of an action, restrain the judgment debtor from carrying on his or her business until the amounts due on assessments and the costs of the application are paid.

2013, c.W-17.11, s.154.

**Collection of unpaid assessments and other amounts**

**155(1)** In this section, "**required amount**" means all or any part of:

- (a) any assessment or special assessment pursuant to this Act; or
- (b) an amount required to be paid pursuant to section 142, subsection 148(1), 153(1) and (2) or 158(4) or section 159.

- (2) If a person fails to pay a required amount, the board may issue a certificate stating:
- (a) that the required amount is outstanding;
  - (b) the unpaid portion of the required amount; and
  - (c) the person by whom the required amount is payable.
- (3) The board may file a certificate issued pursuant to subsection (2) with a local registrar of the Court of Queen's Bench and, when filed, it has the same force and effect as if it were a judgment of that court for the recovery of a debt in the amount specified in the certificate, together with the costs of filing.

2013, c.W-17.11, s.155.

**Duty of purchaser of business, etc.**

- 156(1)** If any business to which this Act applies is sold or if the stock or equipment in bulk used in connection with that business is sold, the purchaser shall, before paying any part of the purchase price to the vendor or giving the vendor any security for the purchase price, obtain from the vendor a certificate issued by the board stating that it has no claim with respect to the business, stock or equipment in bulk.
- (2) If the vendor does not furnish a certificate mentioned in subsection (1), the purchaser is liable to the board for an amount equal to any moneys due to the board by the vendor.

2013, c.W-17.11, s.156.

**Collection of assessment through municipal tax collectors**

- 157(1)** If any part of an assessment or special assessment pursuant to this Act remains unpaid for 30 days after it becomes payable, the board may, instead of or in addition to proceeding pursuant to section 155, issue a certificate stating:
- (a) the name and residence of the defaulting employer;
  - (b) the amount remaining unpaid on the assessment; and
  - (c) the business with respect to which the amount is payable.
- (2) On delivery of the certificate issued pursuant to subsection (1) to the clerk of the municipality in which the business is situated:
- (a) the clerk shall cause that amount remaining unpaid to be entered on the municipal assessor's roll as if it were taxes due by the defaulting employer with respect to the business; and
  - (b) the amount remaining unpaid must be collected in the same manner as taxes are levied and collected and, when collected, must be paid to the board.
- (3) The municipal assessor mentioned in subsection (2) is entitled to add 5% of the amount to be collected to that amount and to retain that percentage for the municipal assessor's services.

2013, c.W-17.11, s.157.

**Commencing after assessment made and business carried on temporarily**

**158(1)** If a business within any of the classes of industries commences operation after an assessment for that year has been made, the employer shall:

- (a) immediately furnish to the board an estimate of the probable amount of the employer's payroll for the remainder of the year, certified by the manager of the business, or, if the business is a corporation, by an officer of the corporation having personal knowledge of the matters, to be accurate; and
- (b) pay to the board:
  - (i) an amount equal to the amount the employer would have been liable for if the business had commenced operations before the assessment was made; or
  - (ii) any other amount that the board may consider reasonable.

(2) Section 123 applies, with any necessary modification, to any employer who fails to comply with subsection (1).

(3) If an employer engages in an industry and has not been assessed with respect to that engagement and the board is of the opinion that the business is to be carried on temporarily, the board may order the employer to pay to the board, or give security to the board for payment of, an amount sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the immediately preceding assessment was made.

(4) An employer who fails to comply with an order made pursuant to subsection (3) is guilty of an offence and liable on summary conviction to:

- (a) a fine of not more than \$1,000; and
- (b) an additional fine of not more than \$50 for each day on which the default continues.

2013, c.W-17.11, s.158.

**Liability of owner pursuant to *The Builders' Lien Act***

**159(1)** In this section, "**owner**" means an owner as defined in *The Builders' Lien Act*.

(2) If work or a service is performed by an employer for which the employer is entitled to a lien pursuant to *The Builders' Lien Act*, the owner shall ensure that any amount that the employer is liable to contribute to the fund is paid.

(3) If the owner fails to comply with subsection (2), the owner is liable for payment of that amount to the board.

2013, c.W-17.11, s.159.

**Priority of assessments and compensation in distribution of assets**

**160(1)** In this section, "**amount of assessments**" means, subject to subsection (4), with respect to an employer, the amount of any assessment or compensation the liability for which accrued before the date of any assignment in bankruptcy, the date of death or the date of the commencement of any winding-up of the employer's business.

- (2) The amount of assessments must be included among the debts that are to be paid pursuant to the *Bankruptcy and Insolvency Act (Canada)*, *The Trustee Act, 2009* and *The Companies Winding Up Act* in the distribution of the property in the case of an assignment or receiving order or death or in the distribution of the assets of a company being wound up.
- (3) The amount of assessments is to be paid, and constitutes a lien, in priority to all other debts in accordance with the Acts mentioned in subsection (2).
- (4) If compensation mentioned in subsection (1) is paid as a periodic payment, the liability with respect to that compensation is the amount of the lump sum, to be determined by the board, for which the periodic payments may be commuted.
- (5) The priority with respect to any individual claim for compensation is not to exceed \$500.

2013, c.W-17.11, s.160.

## PART VII Other Matters

### DIVISION 1 Worker's Advocates

#### Appointment and duties

**161(1)** Persons to be known as workers' advocates may be appointed in accordance with *The Public Service Act, 1998*.

(2) A workers' advocate may assist any worker, or any worker's dependant, with respect to any claim being advanced by the worker or dependant for compensation.

(3) A workers' advocate shall consider claims that are brought before the workers' advocate but may decline to provide services with respect to any claim if the workers' advocate is of the opinion that:

- (a) the claimant is not eligible for compensation; or
- (b) the claimant has failed to pursue the claim for an undue length of time having regard to the circumstances of the case.

(4) A workers' advocate may examine all files, records and other material of the board that relate to the injury or death with respect to which the claim is made.

(5) The minister shall provide any technical, clerical and other assistance that a workers' advocate may require in carrying out the duties of the workers' advocate pursuant to this section.

2019, c28, s.9.

DIVISION 2  
**Committee of Review**

**Committee of review**

**162(1)** The Lieutenant Governor in Council shall appoint a committee of review consisting of at least five persons to review and report on all matters concerning this Act, the regulations and the administration of this Act and the regulations.

(1.1) For the purposes of subsection (1), a committee of review shall be appointed within five years of receipt of the previous committee of review's report by the minister.

(2) The Lieutenant Governor in Council shall:

(a) designate one of the members of the committee to be chairperson of the committee and another member to be acting chairperson; and

(b) specify the number of members that constitutes a quorum.

(3) The membership of the committee of review must include equal representation by employers and labour organizations.

(4) The members of the committee of review, other than those who are members of the public service, are to be paid any compensation for their services that the Lieutenant Governor in Council may determine.

(5) The members of the committee of review are entitled to be reimbursed for their expenses at rates payable to members of the public service of Saskatchewan.

(6) The minister shall provide any technical, clerical and other assistance that the committee of review may require.

(7) The chairperson of the committee of review, or in the chairperson's absence the acting chairperson, has the powers of a commissioner pursuant to *The Public Inquiries Act*.

(8) The committee of review is not bound by the rules of evidence and may receive and accept any evidence and information under oath or by affidavit or otherwise that it considers proper.

2013, c.W-17.11, s.162; 2019, c28, s.10.

DIVISION 3  
**Waiver and Alienation Prohibited**

**Waiver of Act prohibited**

**163(1)** Every agreement between a worker and his or her employer to waive or forego any of the compensation to which the worker or the worker's dependants are or may become entitled pursuant to this Act is void.

- (2) No employer or person acting on behalf of an employer shall compel, induce or attempt to compel or induce a worker by intimidation, coercion, promise, the imposition of a pecuniary or other penalty, threat, including a threat of dismissal, or any other means:
- (a) not to apply for or pursue an application that has been made for compensation; or
  - (b) not to receive compensation.
- (3) No employer or person acting on behalf of an employer shall take or threaten to take discriminatory action against a person for reporting or attempting to report an alleged contravention of this section to the board.
- (4) Every person who contravenes subsection (2) or (3):
- (a) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000; and
  - (b) if the board so orders, shall pay to the board the amount of any compensation that the worker is entitled to, whether or not the employer has been convicted of an offence.

2013, c.W-17.11, s.163.

**Deduction from wages for payments required by employers prohibited**

- 164(1)** Except as provided in this Act, no employer shall, either directly or indirectly:
- (a) deduct from the wages of any of the employer's workers any part of any amount that the employer is or may become liable to pay to the fund or otherwise pursuant to this Act; or
  - (b) require or permit any of the employer's workers to contribute in any manner towards indemnifying the employer against any liability that the employer incurs pursuant to this Act.
- (2) Every person who contravenes subsection (1):
- (a) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000; and
  - (b) if the board so orders, shall pay to the worker any amount that has been so deducted from the worker's wages or that the worker has been required or permitted to pay in contravention of subsection (1), whether or not the person has been convicted of an offence.

2013, c.W-17.11, s.164.

**Assignment of compensation prohibited**

- 165(1)** Subject to section 166, no amount payable as compensation shall:
- (a) be assigned, charged, seized or attached; or
  - (b) pass by operation of law except to a personal representative.
- (2) A claim must not be set off against any amount payable as compensation without the approval of the board.

2013, c.W-17.11, s.165.

**Enforcement of maintenance orders**

**166(1)** Section 165 does not apply to a maintenance order enforced by seizure pursuant to *The Enforcement of Maintenance Orders Act, 1997*.

(2) Notwithstanding any other provision of this Act or any other Act, for the purpose of enforcing a maintenance order as defined in *The Enforcement of Maintenance Orders Act, 1997*, an annuity created pursuant to section 73 that is payable to a worker at a future date is subject to attachment pursuant to that Act.

(3) If an amount has been attached pursuant to subsection (2), the board shall deduct from the amount standing to the credit of the worker:

(a) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment;

(b) the cost of complying with the attachment calculated in the manner prescribed in the regulations; and

(c) the lesser of:

(i) the amount attached; and

(ii) the amount standing to the credit of the worker.

(4) If an amount has been attached pursuant to subsection (2):

(a) the worker has no further claim or entitlement to any annuity respecting the amount attached;

(b) the amount standing to the credit of the worker is reduced by the amount deducted pursuant to subsection (3); and

(c) the board is not liable to any person by reason of having made payment pursuant to an attachment mentioned in subsection (2).

2013, c.W-17.11, s.166.

DIVISION 4  
**Abolition of Court Actions**

**No action for recovery of compensation**

**167(1)** No action or proceeding lies or shall be commenced for the recovery of compensation.

(2) All claims for compensation must be heard and determined by the board.

2013, c.W-17.11, s.167.



**Act to apply instead of other rights, etc., against employer**

**168** This Act and the regulations apply instead of all rights and causes of action, statutory or otherwise, to which a worker or the worker's dependants are or might become entitled against the employer of the worker by reason of any injury to the worker arising out of and in the course of employment of the employer.

2013, c.W-17.11, s.168.

**Determination of worker's right to bring action**

**169(1)** Any party to an action may apply to the board for adjudication and determination of the question of:

- (a) the plaintiff's right to compensation pursuant to this Act; or
  - (b) whether the action is barred by this Act.
- (2) The board's adjudication and determination pursuant to this section is final and conclusive.

2013, c.W-17.11, s.169.

**DIVISION 5**  
**Miscellaneous**

**Order of board may be filed in court**

**170** An order of the board for the payment of money pursuant this Act, or a copy of that order certified by the chief executive officer to be a true copy, may be filed with the local registrar of the Court of Queen's Bench and, when filed, may be enforced as a judgment of that court.

2013, c.W-17.11, s.170.

**Board not required to give oral hearing**

**171** Nothing in this Act is to be interpreted as requiring the board to give an oral hearing in any proceedings before it.

2013, c.W-17.11, s.171.

**Offence to divulge information obtained pursuant to Act**

**172** Subject to sections 173 and 174, no member and no person authorized to make an inspection or inquiry pursuant to this Act shall divulge or allow to be divulged any information obtained by him or her or that came to his or her knowledge in carrying out his or her duties or in exercising his or her powers pursuant to this Act unless:

- (a) required or permitted to do so pursuant to this Act;
- (b) authorized to do so by the board; or
- (c) ordered to do so by a court.

2013, c.W-17.11, s.172.

**Worker's access to information**

**173(1)** In this section and in section 174, "**worker's representative**" means a person whom a worker has authorized in writing to be his or her representative.

(2) Subject to subsection (4), the board shall allow access to information respecting a worker collected or otherwise gathered pursuant to this Act by the board if a written request for that information is made by:

- (a) the worker;
- (b) any worker's representative; or
- (c) in the case of a deceased worker, any of the worker's dependants.

(3) **Repealed.** 2019, c28, s.11.

(4) The board shall provide any medical report that the worker, worker's representative or worker's dependant has requested pursuant to subsection (2) to the worker's or worker's dependant's physician instead of providing it to the worker, worker's representative or worker's dependant if the board is of the opinion that the medical report:

- (a) contains information of a sensitive nature; and
- (b) if provided directly to the worker, worker's representative or worker's dependant, would cause harm to the worker or any other person.

(5) If a physician receives information pursuant to subsection (4), the physician shall explain to the worker, worker's representative or worker's dependant, as the case may be, the contents of the medical report to assist the worker, worker's representative or worker's dependant in the request for reconsideration of or application for a review of the decision of the board.

2013, c.W-17.11, s.173; 2019, c28, s.11.

**Employer's access to information**

**174(1)** In this section, "**employer's representative**" means a person authorized in writing by an employer to represent that employer.

(2) If an employer has requested a reconsideration of or applied for a review of a decision made pursuant to this Act with respect to a worker's claim for compensation, notwithstanding that the employer is not a party to the reconsideration or review, the board may on written request, in accordance with this section, grant the employer or the employer's representative access to the information that the board used to make its decision with respect to:

- (a) the facts of the situation in which the injury occurred; or
- (b) the percentage of the cost of compensation that has been assigned by the board to the injury cost record of that employer with respect to the injury of the worker arising out of and in the course of the worker's employment with the employer.

- (3) The person receiving the information pursuant to subsection (2) shall use that information only for the purposes of the reconsideration or review.
- (4) If a request is made pursuant to subsection (2), the board shall:
  - (a) notify the worker or the worker's representative of the request and of the information that it will grant access to; and
  - (b) inform the worker or the worker's representative that he or she may make an objection to the release of the information within the period specified in the notice.
- (5) On the expiration of the period mentioned in clause (4)(b), the board shall, after consideration of any objections:
  - (a) decide what information it will grant the employer or the employer's representative access to; and
  - (b) notify the worker or the worker's representative in writing of its decision.
- (6) The notice required pursuant to clause (5)(b) must be served by registered mail or any other means prescribed in the regulations, and, if mailed, the notice is deemed to have been received five business days after it is mailed.
- (7) Within 15 business days after the date on which the notice pursuant to subsection (6) is received, the worker may request the board to reconsider its decision made pursuant to subsection (5).
- (8) The board shall not grant the employer or the employer's representative access to any information until the expiration of the period allowed for a request pursuant to subsection (7) or the determination of the request, whichever is later.
- (9) The board shall inform the worker or the worker's representative of all information it has granted an employer or employer's representative access to pursuant to this section.
- (10) An employer may request the board to reconsider its decision with respect to the information the board has granted access to within 15 business days after the date of that decision.

2013, c.W-17.11, s.174.

**Powers on inspection or inquiry**

**175** Every member or other person authorized by the board to make an inspection or inquiry pursuant to this Act has the power:

- (a) to require and take affidavits, affirmations or declarations with respect to any matter of that inspection or inquiry;
- (b) to take statutory declarations required pursuant to this Act; and
- (c) to administer oaths, affirmations and declarations and certify them as having been made.

2013, c.W-17.11, s.175.

**Evidence of matters in board's books and records**

**176** Every copy of, or extract from, an entry in a book or record of the board and of any document filed with the board, certified by the chief executive officer of the board to be a true copy or extract, is admissible in evidence as proof, in the absence of evidence to the contrary, of the matter so certified without proof of the chief executive officer's appointment, authority or signature.

2013, c.W-17.11, s.176.

**Audit**

**177** The Provincial Auditor or any other auditor or firm of auditors that the Lieutenant Governor in Council may appoint shall audit the records, accounts and financial statements of the board:

- (a) annually; and
- (b) at any other times that the Lieutenant Governor in Council may require.

2013, c.W-17.11, s.177.

**Annual report**

**178(1)** The board shall, in accordance with section 13 of *The Executive Government Administration Act*, prepare and submit an annual report to the Lieutenant Governor in Council of its transactions during the preceding year, and that report shall contain any particulars that the Lieutenant Governor in Council may require.

(2) Every report mentioned in subsection (1) shall be laid before the Assembly in accordance with section 13 of *The Executive Government Administration Act*.

2013, c.W-17.11, s.178; 2014, c.E-13.1, s.62.

**Power of board re property**

**179** Subject to the approval of the Lieutenant Governor in Council, the board may:

- (a) lease or purchase real property and construct or alter buildings required for the purposes of the board; and
- (b) if the board finds it necessary to lease or purchase real property having more space than is necessary for its purposes, lease or purchase that property and sublet or otherwise dispose of the surplus space.

2013, c.W-17.11, s.179.

**Offences and penalties**

**180(1)** No person shall:

- (a) knowingly provide false or misleading information to the board;
- (b) fail to report to the board, without lawful excuse, the person's return to work;

- (c) fail to inform the board of a material change in the person's circumstances that may affect the person's entitlement to compensation or other benefits pursuant to this Act or the amount of that compensation or those benefits; or
  - (d) contravene any other provision of this Act or the regulations for which a penalty is not otherwise provided for in this Act.
- (2) Every person who contravenes a provision of this Act or the regulations for which no penalty is otherwise provided for in this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.
- (3) The fines and monetary penalties imposed pursuant to this Act, including any penalties imposed pursuant to section 183, are the property of the board and are to form part of the fund.

2013, c.W-17.11, s.180.

**Action against employer abolished**

**181** Except as otherwise provided in this Act, all rights of action against employers for injuries to workers, either at common law or pursuant to any former *Workers' Compensation Act*, are abolished.

2013, c.W-17.11, s.181.

**Calculation of adjusted amounts**

**182(1)** If an amount is required in this Act or the regulations to be adjusted in accordance with this section, the adjusted amount must be calculated in accordance with the following formula:

$$AM = A \times \frac{AWWY}{AWWPY}$$

where:

AM is the adjusted amount;

A is the amount to be adjusted;

AWWY is the average weekly wage for the year in which the adjustment is being made; and

AWWPY is the average weekly wage for the previous year.

- (2) If the ratio between the average weekly wage for the current year and the average weekly wage for the previous year includes more than three decimals, only the first three digits are to be retained, and the third digit is to be increased by one unit if the fourth digit is greater than four.
- (3) After adjusting pursuant to this section, the adjusted amount must be rounded to the nearest dollar.
- (4) The board shall publish all adjusted amounts in any manner that the board considers likely to bring the adjusted amounts to the attention of the public.

2013, c.W-17.11, s.182.

**Administrative penalties**

**183(1)** The board may make an order imposing a penalty in an amount not exceeding \$10,000 against an employer if the board is satisfied that the employer has contravened section 52, 105 or 122, subsection 158(1) or section 164.

- (2) Before imposing a penalty, the board shall provide notice to the employer:
  - (a) setting out the facts and circumstances that, in the board's opinion, render the employer liable to a penalty;
  - (b) specifying the amount of the penalty that the board considers appropriate in the circumstances; and
  - (c) informing the employer of the employer's right to make representations to the board.
- (3) No penalty is to be assessed by the board more than three years after the act or omission that renders the employer liable to a penalty first came to the knowledge of the board.
- (4) An employer to whom notice is provided pursuant to subsection (2) may make representations to the board respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the employer received the notice pursuant to subsection (2).
- (6) After considering any representations, the board may:
  - (a) make an order imposing a penalty and set a date by which the penalty is to be paid in full; or
  - (b) determine that no penalty should be assessed.
- (7) The board shall serve a copy of its decision pursuant to subsection (6) on the employer to whom the order is directed.
- (8) The board may file in the Court of Queen's Bench a certificate signed by the chief executive officer that sets out:
  - (a) the amount of the penalty imposed pursuant to subsection (6); and
  - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) The board may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.

**Appeal of administrative penalty**

**184(1)** Notwithstanding section 20, any person aggrieved by a decision of the board to impose a penalty pursuant to section 183 may appeal that decision on a question of law only to a judge of the Court of Queen's Bench within 30 days after the date of service of the board's decision.

- (2) The record of an appeal pursuant to subsection (1) consists of:
- (a) the board's decision;
  - (b) any written representations made to the board by the person named in the decision;
  - (c) the notice of appeal commencing the appeal;
  - (d) any other documents or material prescribed in the regulations; and
  - (e) any other material that the Court of Queen's Bench may require.
- (3) On hearing an appeal pursuant to this section, the judge of the Court of Queen's Bench may issue an order:
- (a) confirming the penalty;
  - (b) amending the amount of the penalty; or
  - (c) quashing the board's decision to assess a penalty.

2013, c.W-17.11, s.184.

**Board to provide notice before taking certain actions**

**185(1)** Before taking any action pursuant to clause 54(b), 105(2)(b), 123(2)(b), 163(4)(b) or 164(2)(b), the board shall:

- (a) provide the person who is the subject of the proposed action with written notice of the board's proposed action; and
  - (b) give the person an opportunity to make written representations within 30 days after the date on which the person received the written notice pursuant to clause (a).
- (2) After considering any representations, the board may decide:
- (a) to take the proposed action; or
  - (b) not to take the proposed action.
- (3) The board shall serve a copy of its decision pursuant to subsection (2) on the person who made the representations.

(4) Notwithstanding section 20, a person who is the subject of a decision of the board pursuant to subsection (2) may appeal that decision on a question of law only to a judge of the Court of Queen's Bench within 30 days after the date of service of the board's decision.

2013, c.W-17.11, s.185.

**Fair Practices Officer**

**186(1)** The board shall appoint a Fair Practices Officer and define his or her role and mandate.

(2) The Fair Practices Officer shall report to the board annually and at any other times that the board may direct.

(3) The Fair Practices Officer may, in accordance with the role and mandate established by the board, investigate and make recommendations relating to any matter pursuant to this Act, including claims or assessment matters, in which a worker, worker's dependant or employer is or may be aggrieved.

(4) The Fair Practices Officer shall maintain confidentiality with respect to all information and records in his or her possession or care and control.

2013, c.W-17.11, s.186.

**DIVISION 6  
Regulations**

**Regulations**

**187(1)** After consultation with the board, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of subsection 4(3), prescribing the amount of the annual earnings of a reeve or councillor;
- (c) for the purposes of subsection 7(3) and section 45, prescribing other means of serving or sending orders;
- (d) for the purposes of subsection 19(3), respecting reporting by the board to the minister;
- (e) for the purposes of section 28:
  - (i) prescribing periods of employment and, for that purpose, may prescribe different periods of employment for different listed diseases; and
  - (ii) prescribing a minimum period for a worker to have been a non-smoker;
- (e.1) for the purposes of section 28.1:
  - (i) prescribing occupations; and
  - (ii) prescribing an edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;



- (f) for the purposes of clause 122(2)(a), respecting payroll statements employers transmit to the board;
  - (g) for the purposes of section 152, prescribing a percentage of the unpaid amount mentioned in that section as a penalty;
  - (h) for the purposes of clause 166(3)(b), governing the manner of calculating the cost of complying with an attachment;
  - (i) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
  - (j) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) The Lieutenant Governor in Council may make regulations setting out guidelines for the making of decisions by the board, and a regulation made pursuant to this subsection supersedes any policy directive of the board that conflicts with it.

2013, c.W-17.11, s.187; 2016, c33, s.5.

## PART VIII

### Repeal, Consequential, Transitional and Coming into Force

#### S.S. 1979, c.W-17.1 repealed

**188** *The Workers' Compensation Act, 1979* is repealed.

2013, c.W-17.11, s.188.

**189 to 200** **Dispensed.** This/these section(s) makes consequential amendments to another/other Act(s). Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the amendments have been incorporated into the corresponding Act(s). Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

#### Coming into force

**201** This Act comes into force on proclamation.

2013, c.W-17.11, s.201.

