

The Workers' Compensation Act, 1979

Repealed

by Chapter W-17.11* of *The Statutes of Saskatchewan, 2013*
(effective January 1, 2014).

Formerly

Chapter W-17.1* of the *Statutes of Saskatchewan, 1979* (consult the Table of Saskatchewan Statutes for effective date) as amended by the *Statutes of Saskatchewan, 1979-80, c.47 and 92; 1980-81, c.98; 1982-83, c.47; 1983, c.28 and 29; 1983-84, c.16; 1984-85-86, c.77 and 89; 1988-89, c.20, 42, 44 and 63; 1989-90, c.54; 1990-91, c.C-8.1; 1992, c.P-6.001; 1993, c.O-1.1, 55, and 63; 1998, c.46; 1999, c.S-56.01; 2002, c.59; 2003, c.13; 2004, c.W-17.2, 10 and 65; 2005, c.M-36.1, 20 and 46; 2009, c.17 and c.T-23.01; 2010, c.E-9.22; 2011, c.22; 2012, c.C-39.2; and 2013, c.27*

***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. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER W-17.1

An Act to provide for Compensation to Workers for Injuries sustained in the Course of their Employment

SHORT TITLE

Short Title

- 1 This Act may be cited as *The Workers' Compensation Act, 1979*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) **“average weekly wage”** means the average weekly wage of the industrial composite as determined by the board from information published by Statistics Canada;
- (a.1) **“board”** means The Workers' Compensation Board continued pursuant to section 13;
- (a.2) **“chief executive officer”** means the chief executive officer of the board appointed pursuant to subsection 20(1);
- (b) **“child”** includes any child to whom the worker stands in *loco parentis*;
- (b.1) **“chiropractor”** means a chiropractor who is registered pursuant to *The Chiropractic Act, 1994*;
- (c) **“compensation”** means compensation payable under this Act with respect to an injury;
- (d) **“construction”** includes reconstruction, repair, alteration and demolition;
- (d.1) **“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 utilized by Statistics Canada in constructing the all Canada Consumer Price Index at the time of the release;
- (e) **“dependant”** means a member of the family of a worker who is wholly or partly dependent upon his earnings at the time of the death or injury of the worker or who, but for the incapacity due to the injury, would have been so dependent;

(f) **“employer”** includes any person, corporation, firm, 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, administrator and any person who is appointed by a court or a judge who has authority to carry on an industry;
- (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, any provincial permanent board or commission appointed in respect of any employment whatever and municipal corporations, school boards, and conseils scolaires, and commissions and boards having the management of any work or service operated for a municipal corporation;
- (iii) any person who authorizes or permits a learner to be in or about an industry; and
- (iv) where the services of a worker are temporarily let or hired to another person by the employer of the worker, the latter employer shall continue to be the employer for the period that the worker is working for that other person;

(f.1) **“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;

(g) **“employment”** includes employment in an industry or any part, branch or department of an industry, irrespective of whether the worker's duties are performed at, near or away from the employer's plant or business premises;

(g.1) **Repealed.** 2002, c.59, s.3.

(h) **“fund”** means the accident fund continued under section 116 as the Injury Fund;

(h.1) **“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;

(i) **“industrial safety program”** means the industrial safety program under *The Occupational Health and Safety Act, 1993*;

(j) **“industry”** means an industry to which this Act applies and includes establishment, undertaking, trade and business;

(k) **“injury”** means:

- (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;

(ii.1) a disabling or potentially disabling condition caused by an occupational disease; or

(iii) any disablement;

arising out of and in the course of employment;

(l) **“invalid”** means a person who is physically or mentally restricted in his ability to earn a livelihood;

(l.1) **“labour organization”** means a labour organization as defined in *The Trade Union Act*;

(m) **“learner”** means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry for the purpose of undergoing training or probationary work as a preliminary to employment;

(n) **“maximum wage rate”** means the amount ordered by the board pursuant to section 38 or the amount specified in section 38.1, as the case may be;

(o) **“medical aid”** means medical and surgical aid, hospital and skilled nursing services, chiropractic and other treatment and artificial members or apparatus;

(p) **“medical review panel”** means a medical review panel constituted under section 63;

(q) **“member”** means a member of the board;

(r) **“member of the family”** means wife, husband, father, mother, grandparent, step-parent, child, grandchild, stepchild, brother, sister, half-brother and half-sister;

(r.1) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(r.2) **“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;

(r.3) **“Occupational Health and Safety Division”** means the Occupational Health and Safety Division mentioned in section 68 of *The Occupational Health and Safety Act, 1993*;

(s) **“outworker”** means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(s.01) “**physician**” means a physician who is registered pursuant to *The Medical Profession Act, 1981*;

(s.02) “**policy directive**” means any policy statement, practice or procedure of the board that forms the basis of decisions made pursuant to this Act;

(s.1) “**post secondary institution**” includes a regional college, institute, private vocational school, university and any other educational institution that is not administered under *The Education Act, 1995*;

(s.2) “**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 search and assistance with job placement;

(t) “**worker**” means a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes:

(i) a learner;

(ii) a member of a municipal volunteer fire brigade;

(iii) an executive officer of an employer, where that executive officer is carried on the pay-roll; and

(iv) any other person not otherwise coming within this definition who, under this Act or under any direction or order of the board, is deemed to be a worker.

(u) “**worker’s advocate**” means a person employed as a Worker’s Advocate pursuant to section 161.

1979, c.W-17.1, s.2; 1979-80, c.47, s.3; 1980-81, c.98, s.3; 1984-85-86, c.89, s.3; 1988-89, c.20, s.8; 1990-91, c.C-8.1, s.83; 1993, c.55, s.195; 1993, c.63, s.3; 1993, c.O-1.1, s. 90; 1998, c.46, s.3; 2002, c.59, s.3; 2005, c.20, s.6.

PART I

Scope

APPLICATION 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 those industries excluded by a regulation of the Lieutenant Governor in Council or by section 10.

(2) The Lieutenant Governor in Council may, by regulation, exclude any industry, employer or worker from the provisions of this Act.

1979, c.W-17.1, s.3; 1989-90, c.54, s.6.

Certain trades, etc., deemed industries

4 The exercise of the powers and duties of:

- (a) a rural municipality;
- (b) a municipal corporation other than a rural municipality;
- (c) a public utilities commission or board;
- (d) any commission or board having the management and conduct of any work or service owned by or operated for a municipal corporation, or by or for the province;
- (e) The University of Saskatchewan;
- (f) The University of Regina;
- (f.1) the Saskatchewan Institute of Applied Science and Technology;
- (g) a board of education;
- (g.1) a conseil scolaire;
- (h) a regional college board;
- (i) the Wascana Centre Authority;
- (j) the Meewasin Valley Authority;

is deemed to be the trade or business of that corporation, commission, board, school board, conseil scolaire, university institute, regional college board or authority, as the case may be, and each of them is deemed to be an industry.

1979, c.W-17.1, s.4; 1988-89, c.20, s.8; 1993,
c.55, s.195.

Rural municipality as employer

5(1) The reeve, councillors and secretary treasurer of a rural municipality are deemed to be employees of the municipality and this Act applies to any other employees of all rural municipalities that the board may, by order, designate.

(2) The annual earnings of any reeve or councillor are deemed to be the amount that the Lieutenant Governor in Council may determine.

(3) A full-time employee of a rural municipality is deemed to be working in the course of his employment where he is acting as an election official at a municipal election.

1979, c.W-17.1, s.5.

Order bringing persons under Act

6(1) The council of a municipality other than a rural municipality, or the governing body of a corporation, organization or association, established for the benefit of the public and not for any private profit, may apply to the board to have the mayor and other members of the council of the municipality or the members of the governing body of the corporation, organization or association, as the case may be, brought within the scope of this Act.

c. W-17.1**WORKERS' COMPENSATION**

(2) The board may, upon consideration of an application under subsection (1), order that those persons mentioned in the application are bound by this Act and those persons are deemed to be the workers of the applicant while the members are engaged in the performance of their duties, and the applicant is deemed to be the employer of those persons.

1979, c.W-17.1, s.6; 2005, c.M-36.1, s.483.

Annual earnings of certain persons

7 The annual earnings of a person brought under this Act pursuant to subsection 6(2) are deemed to be any amount that the Lieutenant Governor in Council may determine.

1979, c.W-17.1, s.7.

Revocation of order

8(1) The board may, in writing, revoke an order made under subsection 6(2) and the persons in respect of whom the order was made cease to be bound by this Act at the date of the revocation or at any later date that the board may specify in the revocation.

(2) Where the board revokes an order made under subsection 6(2), it shall send notice of the revocation, by registered mail, to the applicant who obtained the order.

1979, c.W-17.1, s.8.

Certain contractors

9(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, where in an industry an owner of equipment enters into a contract providing for the use of any of his equipment, the person who uses the equipment or upon whose behalf the equipment is used.

(2) Where an owner enters into a contract under clause (1)(b) and:

(a) operates the equipment or hires another person to operate it;

(b) receives payment in respect of the use of the equipment and the services of the person operating it; and

(c) has not been assessed under this Act in respect of the work being performed;

the person operating the equipment is deemed to be a worker in the employ of the principal, and the board may levy, upon the principal, an assessment based on the earnings of that worker in respect of his services as determined by the board, and the principal is liable for payment to the board of the sum so levied.

(3) Where a principal is liable for payment under subsection (2), he is entitled to withhold, out of any moneys payable by him to the owner, or to recover from the owner in any manner allowed by law, a sum equivalent to the sum levied pursuant to subsection (2).

1979, c.W-17-1, s.9.

Non-application of Act

10 Subject to any order made under section 11 or 12, this Act does not apply to:

- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business;
- (b) outworkers;
- (c) household servants employed in a private home by a resident;
- (d) the industry of farming or ranching;
- (e) school teachers.

1979, c.W-17.1, s.10; 1980-81, c.98, s.4.

EXTENSION OF ACT**Declaration re industry**

11(1) Where the board is of the opinion that any industry excluded from this Act may properly be brought within the scope of this Act, the board may notify the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may, upon notification mentioned in subsection (1), by order, declare that industry to be an industry within the scope of this Act on and from the date of the order or any other date that may be specified in the order.

1979, c.W-17.1, s.11.

Application by employer, etc., to be brought under Act

12(1) An industry, employer or worker excluded from this Act may apply to the board to be brought within the scope of this Act.

(2) An industry or employer that makes an application under subsection (1) shall give notice of that application to its workers or their union in any manner that the board directs.

(2.1) A worker who makes an application pursuant to subsection (1) shall give notice of the application to his or her employer in any manner that the board directs.

(3) Upon consideration of an application under subsection (1), 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.

1979, c.W-17.1, s.12; 2002, c.59, s.4.

PART II
The Workers' Compensation Board
 CONSTITUTION

Board continued

13(1) The Workers' Compensation Board is continued as a body corporate consisting of a maximum of five members, including a full-time chairperson and an even number of full-time members, half of whom represent employers and half of whom represent workers, appointed by the Lieutenant Governor in Council.

(1.1) 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.

(2) The head office of the board shall be situated in the City of Regina.

(3) The sittings of the board shall be held at its head office unless it is expedient to hold sittings elsewhere in Saskatchewan.

1979, c.W-17.1, s.13; 1993, c.63, s.4.

Chairperson

14(1) The Lieutenant Governor in Council shall appoint one member to be chairperson of the board.

(1.1) A person who is appointed or employed pursuant to section 20 is not eligible to be appointed as chairperson of the board.

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

(3) **Repealed.** 1993, c.63, s5.

(4) Where a member appears to act as chairperson of the board, it is presumed that he acts pursuant to subsection 16(1).

1979, c.W-17.1, s.14; 1993, c.63, s.4.

Term of office

15(1) Subject to subsection (2), the members of the board:

- (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 13(1.1), in the case of members who represent employers; and
 - (ii) the labour organizations mentioned in subsection 13(1.1), in the case of members who represent workers.

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- (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 13(1.1).

1993, c.63, s.6; 1998, c.46, s.5.

Vacancy

16(1) In the case of the death, resignation or other inability to act as a member or as chairperson, the Lieutenant Governor in Council shall appoint a person to complete the unexpired term and, in the case of a member, the appointment must maintain the balance of representation required by subsection 13(1) and must be made in the manner set out in subsection 13(1.1).

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

1979, c.W-17.1, s.16; 1993, c.63, s.7.

Salaries

17 The salaries of the members shall be fixed by the Lieutenant Governor in Council.

1979, c.W-17.1, s.17.

Quorum

18 A majority of the members constitutes a quorum of the board.

1979, c.W-17.1, s.18.

Meetings

19 Subject to subsection 21.1(4), the board shall sit at any time and conduct its proceedings in any manner that it considers advisable for the conduct of its business and affairs.

1979, c.W-17.1, s.19; 1998, c.46, s.6.

Executive director and staff

20(1) The board shall appoint and determine the salary of:

- (a) a person to be chief executive officer who shall be the chief administrative officer of the board; and
 - (b) any other staff that it considers necessary to carry out the provisions of this Act.
- (2) 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.

1979, c.W-17.1, s.20; 2002, c.59, s.5.

c. W-17.1**WORKERS' COMPENSATION****Pension plans and benefits programs**

20.1(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.

2004, c.W-17.2, s.19.

Power of board to delegate

21(1) The board may delegate any of its powers or functions to any of its staff and any employer or worker affected by any act of a person in the exercise of any delegated power may apply to the board to review, set aside, amend, stay or otherwise deal with the act of that person.

(2) The board may, upon an application under subsection (1) or of its own motion, exercise its powers and perform its functions with respect to the delegated power in issue as if the person had not acted in that manner.

1979, c.W-17.1, s.21.

DUTIES OF THE BOARD**Duties of board**

21.1(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 dependent spouses to positions of independence in suitable productive employment; and
 - (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.
- (2) The board shall make its policy directives available to 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 must provide information with respect to its activities, policies and future plans in accordance with the regulations.

1993, c.63, s.8; 1998, c.46, s.7.

JURISDICTION

Jurisdiction

22(1) The board shall have exclusive jurisdiction to examine, hear and determine all matters and questions arising under this Act and any other matter in respect of which a power, authority or discretion is conferred upon the board and, without limiting the generality of the foregoing, the board shall have exclusive jurisdiction to determine:

- (a) whether any condition or death in respect of which compensation is claimed was caused by an injury;
- (b) whether any injury has arisen out of or in the course of an employment;
- (c) the existence and degree of functional impairment to a worker by reason of an injury;
- (d) the permanence of a functional impairment resulting from an injury;
- (e) the degree of diminution of earning capacity caused by an injury;
- (f) the average earnings;
- (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 any part, branch or department of any industry is within the scope of this Act and the class to which it is assigned;
- (i) whether any worker is within the scope of this Act.

(2) The decision and finding of the board under this Act upon all questions of fact and law are final and conclusive and no proceedings by or before the board shall be restrained by injunction, prohibition or other proceeding or removable by *certiorari* or otherwise in any court.

(3) Notwithstanding subsection (2), the board may reconsider any matter that it has dealt with or may rescind, alter or amend any decision or order it has made.

1979, c.W-17.1, s.22; 1980-81, c.98, s.5.

Evidence

23 The board shall have the same powers as the Court of Queen's Bench for compelling the attendance of witnesses and examining them under oath, and compelling the production of books, papers, documents and things.

1979, c.W-17.1, s.23.

c. W-17.1**WORKERS' COMPENSATION****Depositions of witnesses**

24 The board may cause depositions of witnesses residing within or outside the province 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 those depositions.

1979, c.W-17.1, s.24.

Decision on merits

25(1) A decision of the board shall be upon the real merits and justice of the case and it is not bound to follow any legal precedent.

(2) Where 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.

1979, c.W-17.1, s.25; 1998, c.46, s.8.

Immunity of members

26 The members shall enjoy the same immunity and privileges as those conferred upon judges of the Court of Queen's Bench for any act done or omitted in the execution of their duties.

1979, c.W-17.1, s.26.

Inquiry by board

27(1) The board may act upon the report of any of its officers and any inquiry that the board considers necessary may be made by any member or officer of the board or any other person that the board may appoint to make the inquiry on behalf of the board and the board may act upon his report as to the result of the inquiry.

(2) A person appointed pursuant to subsection (1) has, for the purposes of the inquiry, all the powers conferred upon the board under section 23.

1979, c.W-17.1, s.27.

PART III**Compensation****ELIGIBILITY FOR COMPENSATION****Compensation for injury**

28 Where, in an industry, a worker suffers an injury, he is entitled to compensation which shall be paid by the board out of the fund.

1979, c.W-17.1, s.28.

Presumed out of and in course of employment

29 Where an injury to a worker arises out of his employment, it is presumed that it occurred in the course of his employment and, where the injury occurred in the course of his employment, it is presumed that it arose out of his employment.

1979, c.W-17.1, s.29.

Presumption of certain occupational diseases re fire fighters

29.1(1) In this section and in section 181:

- (a) **“fire department”** means a fire department as defined in *The Fire Prevention Act, 1992*;
- (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;
 - (ix.1) a primary site esophageal cancer; or
 - (x) an injury to the heart that manifests within 24 hours after attendance at an emergency response.

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

(3) The presumption mentioned in subsection (2) applies:

- (a) only to a worker who:
 - (i) has been a 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.

2003, c.13, s.3; 2005, c.46, s.3; 2011, c.22, s.2.

Presumption where worker found dead

30 Where 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, unless the contrary is shown.

2002, c.59, s.6.

c. W-17.1**WORKERS' COMPENSATION****Wilful misconduct of worker**

31 Where 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.

1979, c.W-17.1, s.31; 1980-81, c.98, s.6.

When compensation payable

32(1) Where the worker is not disabled beyond the day on which he is injured, no compensation, other than medical aid, shall be paid.

(2) Where the worker is disabled longer than the day on which he is injured, compensation shall be paid on and from the day of the commencement of his loss of earnings excluding the day on which he is injured.

1979, c.W-17.1, s.32.

Employer as worker

33(1) Where:

- (a) an employer carries himself on his pay-roll;
- (b) the pay-roll statement mentioned in section 124 includes the employer as a worker and the amount of his wage; and
- (c) those wages are included in the estimate for the year;

the employer is deemed to be a worker.

(2) Any compensation payable in respect of a worker mentioned in subsection (1) shall be calculated on the basis of his wage, not exceeding the maximum wage rate then in effect, stated in the pay-roll statement mentioned in section 124.

1979, c.W-17.1, s.33.

Reciprocal agreement with other province or territory

34 The board may enter into an agreement with its equivalent body of any province or territory of Canada to provide that any compensation payable to any worker or his dependants, where work that is incidental to his employment is performed partly in Saskatchewan and partly in that province or territory, shall be paid either in accordance with this Act or in accordance with the law of that province or territory.

1979, c.W-17.1, s.34.

Injury outside Saskatchewan

35 Subject to the provisions of an agreement under section 34, where:

- (a) a worker is a resident of Saskatchewan or the usual place of his employment is in Saskatchewan and his employment requires the performance of work both within and outside Saskatchewan; and
- (b) the worker is injured while he is performing work outside of Saskatchewan;

the worker or his dependants shall be paid compensation under this Act.

1979, c.W-17.1, s.35.

Election where compensation payable under foreign law

36(1) Subject to the provisions of an agreement under section 34, where the worker or a dependant of the worker is entitled, by the law of the country or place in which the injury occurs, to compensation in respect of an injury, he shall elect whether he will claim compensation under the law of that country or place or under this Act.

(2) Notice of an election pursuant to subsection (1) shall be given to the board within three months from the date of commencement of loss of earnings due to injury or, where death results, within three months from 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) Where a notice of election is not given pursuant to this section, the worker or his dependant is deemed to have elected to claim compensation under this Act.

1979, c.W-17.1, s.36.

Worker ceases to reside in Saskatchewan

37 When a worker who is entitled to compensation ceases to reside in Saskatchewan, the board may:

- (a) direct the worker to periodically attend 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 his claim;
- (b) require the worker to complete any documents that the board considers necessary;
- (c) suspend the payment of compensation to that worker until clauses (a) and (b) are complied with.

1979, c.W-17.1, s.37.

Maximum wage rate

38 Commencing with the year 1975 and annually thereafter, the board shall, as soon as practical after September 30, review the wages and salaries earned by workers who suffered injury and to whom compensation was paid during the period of one year immediately preceding September 30 of the year of the review and, whenever that review reveals that ten per cent or more of those workers are earning in excess of the maximum wage rate at the time of the review, the board shall, by order, increase the maximum wage rate for injuries occurring on and after the first day of the succeeding year by the appropriate number of increments of \$1,000 as is necessary to reduce the number of workers whose salaries exceed the maximum wage rate to less than ten per cent of the workers who suffered injury and to whom compensation was paid during the period of review.

1979, c.W-17.1, s.38.

c. W-17.1**WORKERS' COMPENSATION****Maximum wage rate re certain workers**

38.1 Notwithstanding section 38, for the purpose of making a decision or determination with respect to a worker who sustains an injury on or after September 1, 1985:

- (a) the maximum wage rate applicable before January 1, 2003 is \$48,000 per year;
- (b) the maximum wage rate applicable on and after January 1, 2003 but before January 1, 2004 is \$51,900 per year;
- (c) the maximum wage rate applicable on and after January 1, 2004 but before January 1, 2005 is \$53,000 per year; and
- (d) the maximum wage rate applicable on and after January 1, 2005 is \$55,000 per year.

2002, c.59, s.7.

RIGHT OF ACTION IN RESPECT OF INJURY**Where worker entitled to action against person other than employer**

39 Where a worker or his dependants:

- (a) have a right of action with respect to an injury sustained in the course of employment of the worker against a person other than an employer; and
- (b) are entitled to compensation;

the worker or his dependants shall be paid compensation and may bring that action.

1979, c.W-17.1, s.39; 1984-85-86, c.89, s.5.

Subrogation

40 Where a worker or his dependants receive compensation, the board, upon assuming liability for the payment of that compensation, is deemed to be an assignee and is subrogated to all rights of recovery of the person to or in respect of whom or for whose benefit the payment of compensation is assumed to the extent of the compensation payable and, notwithstanding *The Fatal Accidents Act*, the board may:

- (a) bring an action in its own name to recover the amount of the compensation payable; or
- (b) join with the person to or in respect of 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.

1979, c.W-17.1, s.40; 1988-89, c.63, s.3.

Fees

41(1) In this section, “**costs of the action**” means any reasonable solicitor and client costs plus disbursements charged to a worker or his dependant, which the board may require to be taxed, 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) Money recovered in an action or the settlement of an action pursuant to section 39 or 40 is 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 dependant of the worker, 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 his 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 proportional relationship 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 proportional relationship described in clause (a).

1988-89, c.63, s.4.

Notice of intention to bring action

42 Where:

(a) a worker or his dependant intends to maintain an action, he shall give notice, in writing, to do so to the board;

(b) the board intends to maintain an action, it shall give notice, in writing, to the worker or his dependant, as the case requires;

but failure to give that notice does not affect that claim of action.

1979, c.W-17.1, s.42.

Approval of board for settlement of action

43 No settlement of any action mentioned in section 39 or 40 by the worker or his 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.

1979, c.W-17.1, s.43.

c. W-17.1**WORKERS' COMPENSATION****Certain actions barred**

44 No employer and no worker or any dependant of a worker has a right of action against an employer or a worker with respect to an injury sustained by a worker in the course of his employment.

1979, c.W-17.1, s.44.

CLAIMS FOR COMPENSATION**Notice of injury**

45(1) Subject to section 47, no compensation is payable to a worker unless:

(a) he gives notice of his injury to his employer and the board as soon as possible upon sustaining that injury and before he has voluntarily left his employment; and

(b) the claim for compensation is made within six months from the date he sustained the injury or, in the case of death, within six months from the date of death.

(2) A notice mentioned in subsection (1) shall state:

(a) the name and address of the worker;

(b) the cause of the injury; and

(c) the place where the injury happened;

and shall include any proofs of the claim that the board may require.

1979, c.W-17.1, s.45.

Service of notice

46 Service of a notice mentioned in section 45 may be effected by personal delivery or registered mail addressed:

(a) in the case of an employer, to his place of business or his residence or, where the employer is a body of persons, to any office of the employer;

(b) in the case of the board, to the head office of the board.

1979, c.W-17.1, s.46.

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

47 Failure to give the notice mentioned in section 45 or any defect or inaccuracy in that notice does not bar the worker from compensation where the board considers that the claim for compensation is just and should be allowed.

1979, c.W-17.1, s.47.

Application for compensation

48(1) Where a worker or his dependant is entitled to compensation, he 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 45, where a worker or his 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.

1979, c.W-17.1, s.48; 1984-85-86, c.89, s.7.

Refusal of claim

49 Where 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.

1979, c.W-17.1, s.49.

Pre-existing conditions

50 The board shall not reject the claim of a worker or a 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.

1993, c.63, s.9.

Worker in training

51 Where a worker suffers an injury for which compensation is payable while undergoing training or instruction of a kind satisfactory to the board, the board may review the amount of compensation payable to the worker and may increase the compensation to an amount that fairly represents what the worker would have otherwise been entitled to under this Act had he completed that training or instruction.

1979-80, c.47, s.4.

DUTIES OF WORKER**Duties of worker**

51.1 A worker shall:

- (a) take all reasonable action to mitigate the loss of earnings resulting from an injury; and
- (b) where 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.

1993, c.63, s.10.

DUTIES OF EMPLOYER

Employer to notify board of injury

52 Each employer shall, within five days from the date he becomes aware of an injury which prevents a worker from earning full wages or which necessitates medical aid, 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 injury;
- (f) any further particulars of the injury or claim for compensation that the board may require.

1979, c.W-17.1, s.52; 1988-89, c.63, s.5.

Offence for failure to report injury

53 Any employer who contravenes section 52, unless he is excused by the board, is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and shall, where the board orders, pay to the board any part of the amount of compensation and medical aid that the board awards for that injury.

1979, c.W-17.1, s.53; 1993, c.63, s.11.

DUTIES OF HEALTH CARE PROFESSIONALS, SURGEONS AND HOSPITALS

Duties of attending health care professional

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

- (a) furnish, from time to time and in any form that the board may require, 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 his dependants in making an application for compensation, and furnish any certificates and proofs that may be required.

1979, c.W-17.1, s.54; 1993, c.63, s.12.

Offence

55 Any health care professional who fails to make a report required by this Act, unless he is excused by the board, is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

1979, c.W-17.1, s.55; 1993, c.63, s.13.

Duties of health care professionals, hospital officials

56 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 respecting the examination or treatment of the worker that are relevant to the injury for which compensation is claimed that the board may require; and
- (b) may charge a fee for a report furnished pursuant to clause (a) in an amount that the board may determine.

1993, c.63, s.14.

MEDICAL EXAMINATION OF CLAIMANT

Worker to submit to examination

57 A worker who claims compensation or to whom compensation is payable under this Act shall, where requested by the board, present himself for examination by one or more health care professionals.

1979, c.W-17.1, s.57; 1993, c.63, s.15.

Failure to submit, etc., to examination

58 Where the board is of the opinion that a worker has:

- (a) without good cause, refused or failed to submit to an examination under section 57; or
- (b) in any way obstructed that examination;

the board may suspend his right to compensation or any compensation he is receiving until he is so examined.

1979, c.W-17.1, s.58.

59 Repealed. 1988-89, c.63, s.6.

Request of worker for examination

60(1) A worker who has claimed for compensation or, in the case of a deceased worker, the dependant who claims compensation who has:

- (a) represented to the board that:
 - (i) he suffers or, in the case of a deceased worker, he suffered a greater functional impairment than that decided by the board;
 - (ii) he suffers or, in the case of a deceased worker, he suffered a greater limitation in working capacity than that decided by the board;

c. W-17.1**WORKERS' COMPENSATION**

(iii) he should be or, in the case of a deceased worker, should have been granted compensation for a longer period than the period allowed by the board; or

(iv) the decision of the board was based on a physician's report that was erroneous or incomplete; and

(b) exhausted his rights to a reconsideration or review of a decision by the board;

may, in writing, request the board to provide for a medical review panel to examine him or, in the case of a deceased worker, examine the medical information relating to the deceased worker and specify whether the examination is to be in Regina or Saskatoon.

(2) A request under subsection (1) shall be accompanied by a certificate of a physician or chiropractor stating:

(a) that, in his opinion, there is a bona fide medical question to be determined; and

(b) sufficient particulars of the question to define the matter at issue.

1979, c.W-17.1, s.60; 1980-81, c.98, s.9; 1984-85-86, c.89, s.9; 1988-89, c.63, s.7; 1993, c.63, s.16.

Appointment of chairperson of medical review panel

61(1) The board shall, in consultation with the Saskatchewan Medical Association, appoint:

(a) a resident of Regina, who is a duly qualified medical practitioner engaged in the general practise 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 duly qualified medical practitioner engaged in the general practise of medicine, to be the chairperson of the medical review panel when a medical review panel is established at Saskatoon.

(2) The persons appointed under subsection (1) shall be appointed for a term of three years and are eligible for reappointment.

(3) Where 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.

1979, c.W-17.1, s.61; 1993, c.63, s.17.

Selection of specialists

62(1) On receipt of a request pursuant to section 60, the board shall immediately mail or deliver to the worker or person requesting the review:

- (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 60(2); 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:
 - (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 60(2); 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 person requesting the review shall select:
- (a) if one list is provided, two specialists from the list; or
 - (b) if two lists are provided, one specialist or chiropractor from each list;
- and promptly notify the board in writing of his 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 to select another person from the same list from which the person who refused was selected.

1984-85-86, c.89, s.10; 1993, c.63, s.18.

Constitution of medical review panel

63(1) The persons selected under subsection 62(2) and the chairperson appointed pursuant to clause 61(1)(a) or (b), as the case requires, shall constitute the medical review panel for the purpose of examining the worker or the medical information, as the case may be, and the chairperson shall, as soon as possible, make arrangements for that examination by the medical review panel.

- (2) The medical review panel may determine its own procedure.
- (3) The medical review panel may invite the physician or chiropractor, who certified pursuant to subsection 60(2) that there was a bona fide medical question to be determined, to make any representations to the medical review panel that the physician or chiropractor considers advisable.

1979, c.W-17.1, s.63; 1984-85-86, c.89, s.11;
1993, c.63, s.19.

c. W-17.1**WORKERS' COMPENSATION****Certificate re decision of panel**

64(1) The chairperson of the medical review panel shall, as soon as possible after the examination of the worker, certify, in writing to the board, the decision of the panel and that certificate shall state:

- (a) the condition of the worker;
- (b) the fitness of the worker for employment;
- (c) where the worker is found unfit to work, the cause of that inability to work;
- (c.1) the nature and degree of any limitation in the worker's capacity to work caused by the injury in respect of which he claims compensation;
- (d) the extent of any permanent functional impairment of the worker caused by the injury in respect of which he claims compensation; and
- (e) any further medical matters that any member of the medical review panel considers to be pertinent to the claim.

(1.1) Subsection (1) applies *mutatis mutandis* in the case where a medical review panel examines medical information relating to a deceased worker.

(2) The decision of the majority of the members of the medical review panel is the decision of the panel and is binding upon the board and the worker.

1979, c.W-17.1, s.64; 1980-81, c.98, s.10; 1984-85-86, c.89, s.12; 1993, c.63, s.20.

Review of claim after examination

65 Within ten days of the receipt of the certificate mentioned in subsection 64(1), the board shall review the claim and give the worker written notice of its decision with respect to the matters set out in the certificate.

1979, c.W-17.1, s.65.

Cost of examination

66 The costs of an examination by a medical review panel under section 63 shall be paid out of the fund.

1979, c.W-17.1, s.66.

COMPENSATION TO WORKERS**Schedule re permanent functional impairment**

67(1) Subject to subsection (1.1), the board shall establish a rating schedule which shall be applied in calculating the amount of an award for a permanent functional impairment provided for in that schedule arising out of an injury which is to be, at least \$1,100 and not more than \$22,600.

(1.1) For the purposes of establishing a rating schedule pursuant to subsection (1) for the purposes of decisions of the board made on or after the coming into force of this subsection, the amount of an award provided for in that schedule must be not less than \$2,200 and not more than \$45,200.

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- (2) **Repealed.** 1988-89, c.63, s.8.
- (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 his injury are to be used.
- (4) Subsection (1) does not apply in respect of any worker who suffers a fatal injury.

1979, c.W-17.1, s.67; 1980-81, c.98, s.11; 1984-85-86, c.89, s.13; 1988-89, c.63, s.8; 2002, c.59, s.8.

Independence allowance

67.1(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 67 in the case of a worker whose permanent functional impairment is first determined before the coming into force of this section; or
- (b) 5% of the maximum amount of an award established pursuant to section 67 in the case of a worker whose permanent functional impairment is first determined on or after the coming into force of this section.

2002, c.59, s.9.

Amount of compensation

68(1) Where 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 sustains an injury prior to September 1, 1985, in an amount equal to 75% of that loss;
- (b) in the case of a worker who sustains an injury on or after September 1, 1985, in an amount equal to 90% of that loss.
- (2) Compensation pursuant to subsection (1) is payable as long as the loss of earnings continues or until the worker attains the age of 65, whichever occurs first.
- (3) For the purposes of this Act, **“earnings”** means:
- (a) in the case of a worker who sustains an injury prior to September 1, 1985, his gross earnings from employment;

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(b) in the case of a worker who sustains an injury on or after September 1, 1985, his gross earnings from employment minus the probable deductions for:

- (i) 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;
- (ii) the probable *Canada Pension Plan* premiums payable by the worker; and
- (iii) the probable unemployment insurance premiums payable by the worker.

(4) The board shall annually establish a schedule setting out a table of earnings for the purposes of clause (3)(b).

1979, c.W-17.1, s.68; 1984-85-86, c.89, s.15;
1993, c.63, s.21.

Calculation of loss of earnings

69(1) Calculation of the loss of earnings for the purposes of subsection 68(1) and sections 71 and 72 shall be based on the difference between:

- (a) the worker's average weekly earnings at the commencement of his loss of earnings resulting from the injury, increased annually by the percentage increase in the Consumer Price Index; and
- (b) the earnings that the worker is receiving from employment.

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

1988-89, c.63, s.10; 1993, c.63, s.22.

69.1 Repealed. 2002, c.59, s.10.

Interpretation

70(1) Subject to subsections (3) to (5), "**average weekly earnings**" means the greater of:

- (a) one fifty-second of the worker's gross earnings for a period of 12 months immediately preceding the commencement of the loss of earnings as a result of 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 loss of earnings as a result of the injury.

- (2) For the purposes of this section, “**average weekly earnings**” shall be deemed not to exceed one fifty-second of the maximum wage rate in effect at the commencement of the loss of earnings resulting from the injury, or at the commencement of the recurrence of such loss for the purposes of section 72.
- (3) Where the employer was accustomed to paying to the worker a sum of money to cover any special expenses imposed on him by the nature of his employment, that sum shall not be included as part of his 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 immediately 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) Where 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, his 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;
 - (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 immediately preceding the year in which the review respecting his compensation occurs.

1979, c.W-17.1, s.70; 1980-81, c.98, s.12; 1982-83, c.47, s.4; 1984-85-86, c.89, s.18; 2002, c.59, s.11.

Injured worker sixty-three or more

71 Notwithstanding subsection 68(2), where a worker is sixty-three years of age or more at the commencement of his 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.

1979, c.W-17.1, s.71; 1993, c.63, s.23.

Recurrence of injury

72 Where an injured worker returns to full employment and thereafter suffers a recurrence of the injury, the compensation payable to him shall be based on the greater of:

- (a) his weekly earnings at the time of the commencement of his loss of earnings resulting from the injury when the injury was initially sustained; or
- (b) the average weekly earnings at the time of his loss of earnings resulting from the recurrence of the injury;

less any compensation he is already receiving in respect of that injury.

1979, c.W-17.1, s.72.

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73 Repealed. 1988-89, c.63, s.11.

Percentage of compensation set aside for annuity at age sixty-five

74(1) Where compensation is paid to a worker for a period exceeding twenty-four consecutive months, the board shall set aside an amount equal to ten per cent of the compensation paid and of the compensation as it is paid, and that amount, together with accrued interest, shall be used to provide an annuity for the worker at age sixty-five.

(2) The amount set aside pursuant to subsection (1) may be:

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

(3) Where the amount set aside by the board pursuant to subsection (1) to provide an annuity for a worker is less than \$20,000, the board may, in lieu of an annuity, pay to the worker the accumulated capital and interest.

1979, c.W-17.1, s.74; 1988-89, c.63, s.12; 1998, c.46, s.9; 2002, c.59, s.12.

Board may supplement annuity

75 Where the board determines that the impact of the injury on the pension of the worker is greater than is recognized by the payments under subsection 74(1) and that it causes an undue hardship to the worker, the board may supplement the income of that worker upon his attaining the age of sixty-five to increase the amount of his income to the minimum amount of compensation then payable.

1979, c.W-17.1, s.75.

Minimum compensation payable to certain workers injured on or after Jan. 1, 1980

76 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 shall be:

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

1982-83, c.47, s.5.

Permanent award under former Act not reduced by this Act

77(1) No permanent award established under any former *Workers' Compensation Act* shall be reduced except pursuant to that Act and any workers receiving compensation under a former Act shall, upon the coming into force of this Act, receive all benefits under this Act other than those benefits under sections 67 and 74.

(2) **Repealed.** 1982-83, c.47, s.6

(3) **Repealed.** 1982-83, c.47, s.6.

1979, c.W-17.1, s.77; 1982-83, c.47, s.6.

Review re workers under former Act who are under 65 at Jan. 1, 1983

77.01(1) This section applies only to workers who are receiving or entitled to receive an award under any *Workers' Compensation Act* in force prior to January 1, 1980, and who, on January 1, 1983, are under the age of 65.

(2) The board shall review the compensation being paid to each worker 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 the board shall pay 75% of that difference to the worker until the date of the next review or until the worker attains the age of 65, whichever occurs first.

(3) For purpose of the maximum wage rate to be applied in respect of a worker at the date of injury, the board shall use the greater of:

(a) the maximum wage rate at the date of injury; or

(b) one and one-half times the average weekly wage in the year immediately preceding the year in which the injury occurred times 52.

(4) 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 thereafter are to be increased annually by the percentage increase of the Consumer Price Index in accordance with subsection 69(2).

(5) In determining the amount of compensation payable to a worker, the board shall deduct the amount of the permanent award for disability and determine, in accordance with section 99, the reduction for any *Canada Pension Plan* benefits payable for the same injury.

(6) The total weekly amount received by the worker from earnings or estimated earnings and payments from the board shall be not less than one-half of the average weekly wage as of June in the year immediately preceding the year in which the review respecting his compensation occurs.

1982-83, c.47, s.7; 1983, c.28, s.3; 1988-89, c.63, s.13; 1993, c.63, s.24.

Minimum compensation re workers under former Act

77.1(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* shall receive a minimum monthly amount calculated by multiplying the degree of his functional impairment, expressed as a percentage as the board may from time to time determine, times \$580 in the case of a worker under 65 years of age or times \$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.

1980-81, c.98, s.14.

78 Repealed. 1982-83, c.47, s.8.

Maximum compensation re workers under former Act

79 In no case shall payments under section 77 provide for an amount of compensation in excess of what the worker would receive under this Act if he were totally disabled.

1979, c.W-17.1, s.79.

Allowance for clothing, etc.

80 The board may, in its discretion, pay to a worker an allowance in any amount that the board considers appropriate 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 in respect of his injury.

1979, c.W-17.1, s.80.

81 Repealed. 1984-85-86, c.77, s.16.

COMPENSATION TO DEPENDANTS

Compensation and expenses payable on death of worker

82(1) Where a worker dies after the coming into force of this section as a result of his injury incurred either before or after the coming into force of this section, compensation shall be payable to his dependants as set out in sections 83 to 89.

(2) In addition to any compensation payable under this Act to dependants, the board shall also pay:

(a) a fixed sum determined in accordance with subsection (3) to assist with necessary expenses of the death of the worker such as burial; and

(b) where the death of the worker occurred at a place other than his 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 sum mentioned in clause (2)(a) is \$10,000 in 2003 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index.

1979, c.W-17.1, s.82; 1984-85-86, c.89, s.20;
1988-89, c.63, s.14; 1993, c.63 s.25; 2002, c.59,
s.13.

Dependent spouse

83(1) Where the worker is survived by a dependent spouse, a monthly allowance equal to the greater of:

- (a) 4.33 times:
 - (i) 75% of the deceased worker's average weekly earnings; or
 - (ii) in the case of a worker who dies on or after the date this section comes into force, 90% of the deceased worker's average weekly earnings; or
- (b) one-half of the amount derived when the average weekly wage as of June in the immediately preceding year is multiplied by 4.33;

is payable to that spouse for a period of five years.

(2) If a dependent spouse has dependent children of the worker, the compensation payable pursuant to subsection (1) is to be extended until the youngest child attains the age of 16 years or, if any dependent child is in full-time attendance at a secondary or post secondary institution, until he attains the age of 18 years.

(2.1) Where a monthly allowance is paid to a dependent spouse pursuant to subsection (1) for a period exceeding 24 consecutive months, the board shall set aside an amount equal to 10% of the compensation paid and of the compensation as it is paid, and that amount, together with accrued interest, shall be used to provide an annuity for the dependent spouse at age 65.

(2.2) Where compensation is paid to a dependent spouse pursuant to subsection (2), the board shall set aside an amount equal to 10% of the compensation paid and of the compensation as it is paid, and that amount, together with accrued interest, shall be used to provide an annuity for the dependent spouse at age 65.

(3) In addition to any compensation payable pursuant to subsection (1), the board may provide to that 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.

(4) On and from the expiration of entitlement to compensation pursuant to subsection (1) or (2) and subject to section 104, a dependent spouse of a deceased worker is entitled to compensation equal to the difference between:

- (a) the amount of the monthly allowance that would be payable pursuant to subsection (1) if the dependent spouse were entitled to that allowance; and
- (b) the earnings that the dependent spouse is earning from employment;

until the dependent spouse attains the age of 65 years.

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(4.1) Within 90 days after the coming into force of this subsection, the board shall:

(a) with respect to a dependent spouse who, on the day on which this subsection comes into force, is receiving a monthly allowance pursuant to subsection (2), set aside an amount equal to 10% of the compensation paid to the spouse pursuant to subsection (1); and

(b) with respect to a dependent spouse who, on the day on which this subsection comes into force, is receiving a monthly allowance pursuant to subsection (4), set aside an amount equal to 10% of the compensation paid to the spouse pursuant to subsections (1) and (2).

(4.2) The amount set aside pursuant to subsection (4.1), together with accrued interest, shall be used to provide an annuity for the dependent spouse at age 65.

(5) Where compensation is paid to a dependent spouse pursuant to subsection (4), the board shall set aside an amount equal to 10% of the compensation paid on and from January 1, 1989, and of the compensation as it is paid, and that amount, together with accrued interest, shall be used to provide an annuity for the spouse at age 65.

(6) A dependent spouse who, on December 31, 1988 was receiving compensation pursuant to subsection (4) as it existed on that date:

(a) may apply to receive compensation in accordance with subsection (4) as it exists on and after January 1, 1989;

(b) in the absence of an application pursuant to clause (a), shall continue to receive compensation pursuant to subsection (4) as that subsection existed on December 31, 1988.

(7) A person who:

(a) became a dependent spouse by reason of the death of a worker on or after January 1, 1980; and

(b) on December 31, 1988 was not receiving compensation pursuant to subsection (4) as it existed on that date;

may apply to receive compensation in accordance with subsection (4) as it exists on and after January 1, 1989.

(8) Subsections 74(2) and (3) apply, with any necessary modification, to any amount set aside or any annuity provided pursuant to subsection (2.1), (2.2), (4.1) or (5).

1984-85, c.89, s.21; 1988-89, c.63, s.15; 1993,
c.63, s.26; 1998, c.46, s.10.

Where dependants do not live together

84 Where 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 83 among those dependants as it considers just and equitable.

1984-85-86, c.89, s.21.

Certain dependent children 18 to 25 years

85(1) Subject to subsections (1.1), (1.2) and (2), there is payable to 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:

- (a) a monthly allowance in an amount determined in accordance with subsections (1.3) and (1.4);
- (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.

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

- (a) the day on which the dependent child attains the age of 25 years; and
- (b) the last month in the school term in which the dependent child's twenty-fifth birthday occurs.

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

(1.3) Subject to subsection (1.4), the amount of the monthly allowance mentioned in clause (1)(a) is \$250 per month in 1993 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index.

(1.4) Where 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.

(2) Notwithstanding subsection (1), where the amount of compensation currently payable pursuant to section 87 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.

1984-85-86, c.89, s.21; 1993, c.63, s.27.

Adopting parent, etc., of dependent children

86(1) Where a deceased worker leaves no surviving spouse or the surviving spouse subsequently dies and there is one or more dependent children and an adopting parent or suitable person acts as foster parent in maintaining the household and taking care of the children in a manner that the board considers satisfactory, that person while acting in that capacity is entitled to receive an allowance in the amounts set out in clauses 85(1)(a) to (c) for each dependent child until the child attains the age of 16 years or, if the child is in full-time attendance at a secondary or post secondary institution, until he attains the age of 18 years.

(2) In addition to any compensation payable pursuant to subsection (1), the board may provide to that adopting parent or foster parent any sum that the board may determine.

1984-85-86, c.89, s.21; 1988-89, c.63, s.16; 1993, c.63, s.28.

86.1 Repealed. 1993, c.63, s.29.**Where dependent children only**

87(1) Where the only dependants of a worker are children, a monthly allowance for each child under the age of 18 years shall be paid in an amount determined by the board in accordance with subsection (1.1).

(1.1) The amount of the monthly allowance mentioned in subsection (1) is \$259.01 per month in 1992 and shall be adjusted annually in subsequent years by the average percentage change in the Consumer Price Index.

(2) Where 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 sum payable to the child, any sum that the board may determine.

(3) An invalid child shall continue to receive compensation mentioned in subsection (1) after he has reached the age of majority and as long as he remains an invalid.

(4) **Repealed.** 1993, c.63, s.30.

1979, c.W-17-1, s.87; 1980-81, c.98, s.18; 1993, c.63, s.30.

Common law spouse of worker

88(1) Where a worker dies leaving no dependent spouse, the compensation to which a dependent spouse would have been entitled pursuant to this Act shall be paid to a dependent common law spouse where:

(a) the worker maintained the common law spouse for one year or more before the worker's death; or

(b) the worker maintained the common law spouse for less than one year, but the worker and the common law spouse were the birth parents or adoptive parents of a child.

(2) Where a worker leaves a dependent common law spouse mentioned in subsection (1) and a spouse who is partially dependent, the board may provide compensation to both that common law spouse and that spouse as provided in section 90.

(3) In this section "**common law spouse**" means a person who, although not legally married to the worker, lived and cohabited with the worker as the spouse of the worker and was known as such in the community in which they lived.

1979, c.W-17.1, s.88; 1998, c.46, s.11; 2002, c.59, s.14.

Other dependants

89(1) The board may recognize persons other than a spouse or children as dependants and may award a payment in recognition of the pecuniary loss that the board may determine.

(2) A payment pursuant to subsection (1) shall continue only so long as, in the opinion of the board, it might reasonably have been expected that, had the worker lived, he 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.

1979, c.W-17.1, s.89.

Partial dependency

90 The board may recognize partial dependency and provide a sum which is reasonable and proportionate to the pecuniary loss or loss of valuable services suffered by the dependants.

1979, c.W-17.1, s.90.

Proof of necessities, etc.

91 The board may require any proof of the necessities, condition and existence of any dependants in receipt of compensation that the board considers necessary and, pending the receipt of that proof, the board may withhold further payments.

1979, c.W-17.1, s.91.

Annual increase

92 Payments made pursuant to clause 83(1)(a) and subsections 87(1) and 98.1(1) are to be increased annually by the average percentage increase in the Consumer Price Index in the manner provided for in subsection 69(2).

1984-85-86, c.89, s.22; 1988-89, c.63, s.17.

93 Repealed. 1988-89, c.63, s.18.

Where spouse neglects children

94(1) Where compensation has been awarded to a surviving spouse for the spouse and the dependent children of the deceased worker and, in the opinion of the board, the spouse is neglecting or has abandoned any of the dependent children, the board may pay the compensation awarded for those dependent children to a person other than the spouse for the benefit of those children.

(2) **Repealed.** 1984-85-86, c.89, s.23.

1979, c.W-17.1, s.94; 1984-85-86, c.89, s.23.

Where entitled re two workers

95 Where a person is being paid or is entitled to be paid compensation in respect of the death of a worker and subsequently becomes entitled to be paid compensation in respect of the death of another worker, that person shall be paid only the greater of the compensation payments that he is entitled to be paid.

1979, c.W-17.1, s.95.

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Board directs to whom payment made

96 The board may direct to whom the payments of compensation shall be made.

1979, c.W-17.1, s.96.

Compensation where not otherwise entitled

97(1) On the death of a worker who was or would have been entitled to compensation under this Act at the time of death, the board shall, where no compensation is payable under sections 82 to 89, pay to the dependent spouse or, where the worker died leaving no dependent spouse, to his dependent children or any other persons recognized by the board as being dependent, in any share that the board may determine, an amount equal to the compensation the worker received or would have been entitled to receive, as the case may be, in respect of a period of three months.

(2) Where a worker dies of a condition for which no benefits are payable pursuant to sections 82 to 89 and that worker received compensation for a prolonged period of time immediately prior to the day of his death, the board shall pay to his 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, in addition the board may provide retraining services to assist the dependent spouse to enter the labour force.

1979, c.W-17.1, s.97; 1979-80, c.47, s.7; 1984-85-86, c.89, s.24; 1993, c.63, s.31.

Autopsy

98 Where an autopsy is considered by the board to be necessary to enable it 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 and, where the dependant or dependants refuse to permit the autopsy, the board may reject any claim for compensation under this Act.

1979, c.W-17.1, s.98.

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Amount payable to spouse compensated under former Act

98.1(1) Where a surviving dependent spouse is in receipt of compensation under *The Workers' Compensation Act*, the board shall provide a supplement of \$175 per month for that spouse payable to age 65.

(2) Where a dependent spouse mentioned in subsection (1) is receiving compensation in respect of any dependent child of the deceased worker, there is payable to the spouse an additional monthly allowance in the amount set out in clauses 85(a) to (c) in respect of each dependent child until the child attains the age of 16 years or, if the child is in full-time attendance at a secondary or post secondary institution, until he attains the age of 18 years, instead of the amount provided for such child in *The Workers' Compensation Act*.

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(3) The minimum amount of the monthly total of the compensation and supplements payable pursuant to subsections (1) and (2) to a surviving dependent spouse is one half of the product of:

(a) 4.33; and

(b) the average weekly wage as of June in the immediately preceding year; to age 65, and thereafter the board shall pay to that spouse \$630 per month.

(4) Notwithstanding any provision of *The Workers' Compensation Act* and subject to subsection (5), compensation payable to a surviving dependent spouse pursuant to that Act or this section is payable regardless of whether that spouse remarries.

(5) Subsection (4) applies only to surviving dependent spouses who remarry on or after the date this section comes into force.

1984-85-86, c.89, s.25; 1993, c.63, s.32.

Amount payable to dependent child compensated under former Act

98.2(1) Subsection 85(1) and sections 86 and 86.1 apply *mutatis mutandis* with respect to a dependent child of a deceased worker who, on the day before the date this section comes into force, was in receipt of compensation under *The Workers' Compensation Act*.

(2) Notwithstanding subsection 85(1), where the amount of compensation currently payable with respect to a child mentioned in subsection (1) is greater than the amount set out in subsection 85(1), the board shall pay that greater amount.

1984-85-86, c.89, s.25.

GENERAL

Compensation reduced by certain benefits under *Canada Pension Plan*

99(1) On the expiration of 12 months from the date of commencement of the loss of earning capacity resulting from the injury, one half of any periodic benefits relative to the death or injury that a worker or dependant is then entitled to receive under the *Canada Pension Plan* or the *Quebec Pension Plan*, as amended from time to time, shall be considered as wages that the worker is capable of earning in calculating the compensation to be paid by the board for loss of earning capacity or in determining the surviving spouse's entitlement.

(2) Subsection (1) does not apply to subsection 70(5), sections 75 and 77.1, clause 83(1)(b) and sections 85, 86, 87, 98.1 and 98.2.

1983-84, c.16, s.25; 1984-85-86, c.89, s.26; 1988-89, c.63, s.19.

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Other benefits to dependants taken into account

100(1) In fixing the amount of compensation to be paid to a worker or his dependants, regard shall be had to any payment, allowance or benefit paid to them by the worker's employer in respect of the injury, including any gratuity or other allowance provided wholly at the expense of the employer.

(2) Where the compensation is payable out of the fund, any sum deducted from the compensation under subsection (1) may be paid to the employer out of the fund.

1979, c.W-17.1, s.100.

Where dependant under legal disability

101 Where a worker or a dependant is under the age of eighteen years or under any other legal disability, the compensation to which he is entitled may be paid to any person or be applied in any manner that the board considers most for his advantage.

1979, c.W-17.1, s.101.

Board may fix periods of payment

102 The board may, where it considers it advisable, provide that payments of compensation may be made bi-weekly or monthly instead of weekly, or may fix any other periods of payment.

1979, c.W-17.1, s.102.

Suspension of payment

103 Where a right to compensation is suspended under the provisions of this Act, no compensation shall be payable in respect of the period of suspension.

1979, c.W-17.1, s.103.

REVIEW OF COMPENSATION

Review of compensation at request of worker, etc.

104(1) Any weekly or other periodical payment to a worker or a dependent spouse of a worker payable out of the fund may be reviewed on the motion of the board or at the request of the worker, dependent spouse or employer and, on that review, the board may terminate or diminish the payment or may increase the payment to a sum not beyond the maximum compensation prescribed in this Act.

(2) The board may, after due investigation, withhold or suspend the payment of compensation to a worker or other person receiving compensation for any period that the board considers advisable where 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 defined in *The Youth Justice Administration Act*.

(3) Where compensation to a worker or other person is withheld or suspended pursuant to subsection (2), the board may pay compensation to dependants of the worker or other person or to any other persons that the board considers advisable.

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

(a) where 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 bona fide 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 51.1.

(5) Subsection (4) applies, with any necessary modification, to a dependent spouse after the expiration of entitlement to compensation pursuant to subsection 83(1) or (2).

1979, c.W-17.1, s.104; 1988-89, c.63, s.20; 1993, c.63, s.33; 2004, c.65, s.37; 2005, c.20, s.6; 2012, c.C-39.2, s.120.

Levy for increases in compensation

105 The additional moneys necessary to provide for increases of compensation provided in this Act in respect of injuries which happened previously may be levied and collected by the board from the employers carrying on industries in any manner and at any time that the board may consider most equitable and in accordance with the provisions of this Act and such levy and collection may be by way of addition to the usual assessment or by levy of special additional assessments.

1979, c.W-17.1, s.105.

MEDICAL AID AND REHABILITATION

Medical and surgical aid, etc.

106(1) Every worker who is entitled to compensation or who is disabled only on the day of the accident shall be 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 artificial member or apparatus that may be necessary as a result of the injury, and to have any artificial limbs and eyes and any surgical appliances such as belts, braces, supports and orthopaedic shoes, whether provided before or after this section comes into force, repaired, maintained and renewed when necessary by reason of accident or ordinary wear and tear;
 - (d) any transportation or sustenance occasioned by the medical aid.
- (2) Medical aid shall be furnished or arranged for by the board as it may approve.

1979, c.W-17.1, s.106; 1993, c.63, s.34.

107 Repealed. 1993, c.63, s.35.

Fees for medical aid

108(1) The fees for medical aid furnished by any health care professional shall be determined by the board.

(2) No action for any amount greater than that fixed by the board pursuant to subsection (1) shall lie in respect of any medical aid.

1979, c.W-17.1, s.108; 1993, c.63, s. 36.

Employer not to collect from worker

109(1) No employer shall, directly or indirectly, collect, receive or retain from any worker any contribution toward the expense of medical aid.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1000 and is also liable, where the board orders, to reimburse the worker in an amount triple any sum so collected, received or retained.

1979, c.W-17.1, s.109; 1993, c.63, s.37.

First aid service

110 Where the board considers it advisable, it may require the employers in any industry to maintain any first aid appliances and services that the board may direct, and the board may make any order with respect to the expense of those appliances or services that it considers just.

1979, c.W-17.1, s.110.

Transportation for injured worker

111(1) Every employer shall furnish to any worker sustaining an injury, where necessary, immediate transportation to a hospital, physician or the worker's home.

(2) An employer who fails to comply with subsection (1) shall, if the board so orders, be liable to pay for that transportation where it was procured by the worker or by anyone on behalf of the worker, or was provided by the board.

1979, c.W-17.1, s.111.

Contribution for additional services

112 Where, 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.

1979, c.W-17.1, s.112.

Board may pay expense of special operations, etc.

113 The board may, in addition to any other compensation, assume the expense of:

- (a) the replacement or repair of any artificial member or apparatus, including broken dentures, eye glasses, artificial eyes or artificial limbs when breakage is caused by an accident in the course of the worker's employment;
- (b) where in the opinion of the board it will be 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 the province, with the written approval of the board, where, in the opinion of the board, the condition of an injured worker as a result of his injury requires treatment which cannot be obtained in the province.

1979, c.W-17.1, s.113; 2002, c.59, s.15.

Regulations re payment of medical accounts

114 The board may, with the approval of the Lieutenant Governor in Council, make regulations governing the payment of medical accounts and the assessment of penalties for the late filing of those accounts.

1979, c.W-17.1, s.114.

Other aid to injured workers, etc.

115 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 handicap resulting from his injury;
or
- (c) to encourage a dependent spouse of a deceased worker to become self-sufficient.

1979, c.W-17.1, s.115.

c. W-17.1**WORKERS' COMPENSATION****Overpayments**

115.1 Where compensation payments have been made by the board to a worker beyond the period of his loss of earning capacity or to a worker or dependant in an amount in excess of that to which he is entitled, the amount of the overpayment may be recovered by the board as a debt due the board.

1988-89, c.63, s.21.

Set off

115.2 Without limiting the board's remedies for recovery, any money due 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.

1988-89, c.63, s.21.

PART IV
Injury Fund
FUND

Fund

116(1) The accident fund is hereby continued under the name of the Injury Fund.

(2) There shall be credited to the fund all moneys collected from employers under this Act.

1979, c.W-17.1, s.116.

Payments from fund

117 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 money for:

- (a) the payment of compensation to a worker or his dependants;
- (b) administrative expenses including salaries and other remuneration;
- (c) any medical aid provided by this Act to injured workers and any specialized treatment or other medical aid which the board may consider necessary and which is not provided for in this Act;
- (d) the cost of any autopsy that the board any consider 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 handicap caused by his injury;
- (f) any costs that the board may consider necessary or expedient to assist dependent spouses of deceased workers to become self-sufficient;
- (g) the cost of administration of the industrial safety program;
- (h) the expenses, including salaries and remuneration, of the office of the Worker's Advocate;

WORKERS' COMPENSATION

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- (i) the expenses of any committee of review established under this Act;
- (j) any other purposes that the board considers necessary to carry out the intent of this Act.

1979, c.W-17.1, s.117; 1984-85-86, c.77, s.16.

Fund to be maintained to meet all payments

118(1) The board shall at all times maintain the fund so that, with the reserves provided for in subsection 135(2) but exclusive of the special reserve mentioned in section 144, it shall be sufficient to meet all the payments to be made out of the fund with respect to:

- (a) the cost of the administration of the industrial safety program; and
- (b) compensation as it becomes payable;

and so that the employers in any class are not unduly or unfairly burdened in future years with payments to be made in those years in respect of costs and injuries that have previously occurred.

(2) Insofar as it is practical, the total reserves of the classes of industries provided for by section 121 shall be maintained at a level equal to the total expenditures of the board for the immediately preceding calendar year.

1979, c.W-17.1, s.118.

Where insufficient moneys

119(1) Where at any time there are insufficient moneys available for payment of:

- (a) the cost of the administration of the industrial safety program; and
- (b) compensation that has become due;

the board may, subject to subsection (3), make those payments out of reserves.

(2) Moneys paid out of the reserves pursuant to subsection (1) shall be collected:

- (a) by making a special assessment upon the employers liable to provide the costs or compensation; or
- (b) by including the amount in a subsequent annual assessment.

(3) Where 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) shall be collected by a special assessment and upon collection shall be paid to the Minister of Finance.

1979, c.W-17.1, s.119; 2004, c.10, s.17.

c. W-17.1**WORKERS' COMPENSATION****Power of board to borrow money**

120 Subject to the approval of the Treasury Board, the board may, upon any security that the lender may require, borrow any sums of money that the board considers necessary for the purposes of this Act, provided that the aggregate of the sums borrowed does not at any time exceed \$1,500,000.

1979, c.W-17.1, s.120; 1998, c.46, s.12.

Classes of industries

121(1) The board may, by order, establish any classes or grouping of industries as it considers necessary for the purposes of this Act and may, from time to time, rearrange those classes or groups including the establishment of new classes or the deletion of classes.

(2) Where, 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 where the board for any other reason considers it proper, the board may subdivide the class into subclasses and shall fix the percentages or proportions of the contributions payable by the employers in each subclass to the fund.

1979, c.W-17.1, s.121.

Separate accounts for each class

122 Separate accounts shall be kept of the amounts collected and expended in respect of every class and subclass of industries, but for the purpose of paying compensation those amounts form part of the fund.

1979, c.W-17.1, s.122.

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

123(1) Where the total cost to the fund of injuries to the workers of any employer in an industry is consistently greater than the average cost to the fund of injuries to the workers of employers engaged in the same or similar industries, the board may levy and assess, in addition to the amount of any contribution to the fund for which the employer is liable, any amount that it considers just.

(2) Any additional amount levied and collected pursuant to subsection (1) shall be:

(a) added to the fund; or

(b) applied to reduce the assessment upon the other employers in the class or subclass to which the employer from whom it is collected belongs;

as the board considers advisable.

1979, c.W-17.1, s.123.

STATEMENTS BY EMPLOYERS AND MUNICIPAL OFFICIALS

Statements to be furnished by employers

124(1) Every employer shall, annually, in accordance with the regulations, on or before a date prescribed by the board and at any other time or times that the board may by order require, prepare and transmit to the board a statement setting out:

- (a) the amount of the earnings of all workers in his employ during the immediately preceding year, or any part thereof that the board may specify;
- (b) an estimate of the amount he will expend for wages during the current year, or any part thereof that the board may specify; and
- (c) any additional information that the board may require;

and certified by the employer or the manager of the business, or, where 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.

(2) Every employer shall be required to 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 his workers.

(3) Where the business of the employer includes more than one branch of business or class of industry, the board may require separate statements to be made in accordance with subsection (1) with respect to each branch or class of industry.

1979, c.W-17.1, s.124.

Offence for failure to make statement, etc.

125 Where an employer fails to comply with section 124 or:

- (a) makes a statement pursuant to that section and the statement is not a true and accurate statement of any of the matters required to be stated;
- (b) defaults or delays in furnishing that statement; or
- (c) insufficiently estimates the expenditures for wages;

the employer, for each such non-compliance and for each such statement, is guilty of an offence and liable on summary conviction to a fine of not more than \$1000 and is also liable to pay an additional percentage of the assessment as a penalty or interest on the amount of the assessment as fixed by the board.

1979, c.W-17.1, s.125; 1993, c.63, s.38.

Assessment by board where no statement furnished

126(1) Where an employer does not comply with section 124 within the prescribed time, the board may base any assessment or supplementary assessment to be made upon him on any sum that it estimates to be a probable amount of the pay-roll of the employer, and the employer shall be bound by that assessment.

(2) Where it is ascertained, after an assessment is made pursuant to subsection (1), that the estimated amount is less than the actual amount of the pay-roll, the employer is liable to pay, to the board, the difference between the amount for which he was assessed and the amount for which he would have been assessed in respect of his pay-roll.

1979, c.W-17.1, s.126.

c. W-17.1**WORKERS' COMPENSATION****Assessors to provide returns**

127 Every assessor of a municipality shall, when required by the board, provide a return stating the names, addresses, nature of business and usual number of employees of all employers of labour operating in the municipality including farming, ranching or any other business or industry.

1979, c.W-17.1, s.127; 2005, c.M-36.1, s.483.

Notice to board of building permits

128 Every person authorized under any Act or under any bylaw, order or regulation pursuant to an Act to issue 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 where 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;

shall, within three days after the day the permit or other approval is issued, notify the board in writing of the name and address of the person to whom that permit or other approval is issued.

1979, c.W-17.1, s.128.

INSPECTIONS AND INQUIRIES**Right of entry and inspection**

129(1) Any member, or other person authorized by the board, shall, for any purpose that the board considers necessary for the administration of this Act, have the right at all reasonable hours to enter into and inspect the establishment and the premises connected with the establishment of any employer or other person who, in the opinion of the board, is or may be an employer.

(2) Any person who refuses to permit or obstructs or hinders an entry or inspection mentioned in subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

1979, c.W-17.1, s.129.

Inspection of books and accounts

130(1) Any member, or other person authorized by the board, shall have the right to inspect the books and accounts of any employer and to make any other inquiry that the board considers necessary for the purpose of ascertaining:

- (a) whether any statement furnished to the board under section 124 is an accurate statement of the matters required to be stated;
- (b) the amount of the pay-roll of any employers; or
- (c) whether any industry or person is within or outside the scope of this Act;

and the person making the inspection and inquiry has all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

(2) Every person who refuses to permit or obstructs or hinders the making of an inspection or inquiry mentioned in subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1000.

1979, c.W-17.1, s.130; 1993, c.63, s.39; 2013, c.27, s.45.

Where statement of employer is inaccurate

131(1) Where a statement made pursuant to section 124 is found to be inaccurate, the assessment shall be made on the true amount of the pay-roll as ascertained by an inspection or inquiry pursuant to section 130 or, where an assessment has been made against the employer on the basis of his pay-roll being as indicated in the statement, the employer shall pay to the board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the pay-roll had been truly stated, and a penalty in an amount equal to that difference.

(2) Where the board is satisfied that the inaccuracy of the 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 subsection (1).

1979, c.W-17.1, s.131.

EMPLOYERS, PRINCIPALS AND CONTRACTORS**Workers of contractors**

132(1) The worker of a contractor or subcontractor executing any work for the purposes of an industry carried on by another person, in this section referred to as the principal, is deemed to be the worker of the principal unless the contractor or subcontractor is, in respect of that work:

- (a) assessed, or added and assessed, as the case may be, as an employer; or
- (b) individually liable for payment of compensation;

or unless the board finds and declares that the responsibility of the contractor or subcontractor is sufficient protection to his workers for the benefits provided for by this Act.

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(2) Where a principal has made payment with respect to an assessment or compensation or has furnished medical aid that, other than by reason of subsection (1), he would not have been liable to pay or furnish, he shall be entitled to reimbursement from the contractor or subcontractor to the extent that the board finds that contractor or subcontractor would have been liable.

1979, c.W-17.1, s.132.

Principal to ensure payment by contractor

133(1) Where a person, whether carrying on an industry included under this Act or not, in this section referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it is the duty of the principal to ensure that any sum that the contractor or any subcontractor is liable to contribute to the fund pursuant to this Act with respect to that work is paid and, where the principal fails to do so and the sum is not paid, he is personally liable to pay that sum to the board.

(2) The board shall have the same powers and be entitled to the same remedies for enforcing payment under subsection (1) that it possesses in respect of an assessment under this Act.

(3) Where the principal is liable to make payment to the board under subsection (1), he 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 in respect of that indemnity.

(4) All questions as to the right to and the amount of such indemnity shall be determined by the board.

1979, c.W-17.1, s.133; 1993, c.63, s.40.

May collect from contractor

134 Nothing in section 132 or 133 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.

1979, c.W-17.1, s.134.

PART V
Assessments
LEVY AND COLLECTION

Levy

135(1) Subject to subsection (4), the board shall, in every year, assess and levy upon the employers in each class of industry any percentage of the employers' payroll or other rate or any specific sum that, allowing for any surplus or deficit in the class, it considers sufficient to pay:

- (a) the compensation in respect of injuries to workers in the industries within the class;

- (b) the expenses of the administration of this Act; and
 - (c) the cost of the administration of the industrial safety program for that year.
- (2) The board shall maintain a reserve fund of amounts that the board considers necessary to pay:
- (a) the compensation payable in future years in respect of claims in that class of injuries occurring in that year; and
 - (b) the cost of the administration of the industrial safety program in future years;

in order to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years in respect of injuries that have previously occurred and in respect of that cost.

(3) It is not necessary that the reserve fund mentioned in subsection (2) be uniform as to all classes and, subject to sections 118 and 149, the board may provide for a larger reserve in one or more of the classes than is provided in other classes.

(4) Where, in any year, the board proposes to assess and levy on the employers in a class of industry an assessment 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.

1979, c.W-17.1, s.135; 1993, c.63, s.41.

Special assessment re fatal accidents

135.1 The board may make a special assessment on all employers who have fatal accidents for the purposes of apportioning the cost of fatal accidents equally among those employers.

1980-81, c.98, s.21.

Provisional assessment of estimate of pay-roll

136(1) Assessments may, where the board considers advisable, be levied provisionally upon the estimate of the pay-roll given by the employer in a statement pursuant to section 124 or on an estimate fixed by the board and, after the actual pay-roll has been ascertained, may be adjusted to the correct amount.

(2) The payment of assessments may, if the board considers advisable, be divided into instalments.

1979, c.W-17.1, s.136.

c. W-17.1**WORKERS' COMPENSATION****Where salary on pay-roll exceeds maximum wage rate**

137(1) Where the assessment is based on the pay-roll of the employer and the pay-roll includes the wages or salary of a worker who has been paid more than the maximum assessable wage rate, the amount in excess of the maximum assessable wage rate shall be deducted from the amount of the pay-roll and the assessment shall be based on that reduced amount.

(2) The board shall in every year set a maximum assessable wage rate.

1979, c.W-17.1, s.137; 1984-85-86, c.89, s.27.

Assessment may vary with hazard

138 It is not necessary that the assessment upon the employers in a class or subclass of an industry be uniform and the employers may be fixed or graded in relation to the hazard related to each or in relation to the hazard in any of the industries included in the class or subclass.

1979, c.W-17.1, s.138.

Merit rating

139 A system of merit rating may, if considered proper, be adopted.

1979, c.W-17.1, s.139.

Forwarding information re accident records

139.1 The board may forward to the Occupational Health and Safety Division of the Department of Labour any information respecting the accident record of an employer or any class of employers that the board considers appropriate for the purpose of improving occupational health and safety.

1993, c.63, s.42.

Notice of assessment to employer

140(1) The board shall determine and fix and notify the employer of the percentage, rate or sum for which each employer is assessed under sections 135 to 139, or the provisional amount thereof, and each employer shall pay the amount of the assessment to the board within one month, or at any other time that the board may fix, after receipt of the notice of the assessment and amount, or, where payment is to be made by instalments, he shall pay the first instalment within that time and the remaining instalments shall be paid at the times specified in the notice.

(2) The notice mentioned in subsection (1) may be sent by mail to the employer and is deemed to have been given to the employer on the day on which the notice was mailed.

1979, c.W-17.1, s.140.

Where statement of estimate of pay-roll too low

141 Where at any time it appears that a statement or estimate of pay-roll upon which an assessment or provisional amount of assessment is based is too low, the employer shall, upon demand, pay to the board any sum that the board may fix to be sufficient to bring the payment of assessment up to the proper amount.

1979, c.W-17.1, s.141.

Supplementary assessment where insufficient assessment

142(1) Where 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 140 and 141 apply 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.

1979, c.W-17.1, s.142.

Where deficiency caused by certain employer

143(1) Where any 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;

the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes of industries and sections 140 and 141 apply to those assessments.

(2) 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 that deficiency in that assessment.

1979, c.W-17.1, s.143.

Special fund

144 The board may, where it considers it proper, add to the assessment for any class or for all classes a percentage or sum for the purpose of raising a special 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.

1979, c.W-17.1, s.144.

Association re injury prevention and safety

145(1) Where the employers in any of the classes established under this Act have formed themselves into an association for the purpose of injury prevention and safety, the board may make a grant toward the expenses of the association.

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

1979, c.W-17.1, s.145.

Application of amount paid by defaulting employer

146 If and to any extent that any deficiency mentioned in sections 142 and 143 is later made good by the defaulting employer, that amount shall 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 that amount shall be credited to each employer in making the next assessment.

1979, c.W-17.1, s.146.

Employer not assessed is still liable for amount

147(1) Where for any reason an employer who should be assessed is not assessed in any year, he shall nevertheless be liable to pay to the board the amount for which he ought to have been assessed.

(2) Any sum collected from an employer under subsection (1) shall be taken into account by the board when making an assessment in a subsequent year on the employers in the class or subclass to which the employer belonged.

1979, c.W-17.1, s.147.

Employer liable for unpaid amounts

148 Notwithstanding that a deficiency arising from a default in the payment of the whole or 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 upon him or the amount of it that remains unpaid.

1979, c.W-17.1, s.148.

Supplementary assessment when fund insufficient

149(1) Where the Lieutenant Governor in Council is of the opinion that the state of the fund is such that with the reserves, but exclusive of the special reserve mentioned in section 144, there are insufficient moneys in the fund to meet all the payments to be made in respect of compensation as they become payable, and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened in previous years, he may require the board to make a supplementary assessment of any sum that he considers necessary to be added to the fund.

(2) Where the board is required 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 to the supplementary assessment.

1979, c.W-17.1, s.149.

Formation of reserves

150 In order to maintain the fund as required by section 118, the board may include in any sum to be assessed upon the employers, and may collect from them, any sums that the board considers necessary for that purpose and those sums shall form a reserve fund.

1979, c.W-17.1, s.150.

Investments

151(1) The board shall invest all or any part of the moneys standing to the credit of the reserve fund 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 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 with the report made pursuant to section 175:

(a) a statement of all securities in which moneys of the reserve fund have been invested;

(b) a statement of any securities that have been acquired during the immediately preceding year; and

(c) a statement of all dispositions of any securities during the immediately preceding year.

(4) The board may:

(a) enter into any agreement;

(b) engage the services of or retain any technical, professional or other adviser, specialist or consultant; or

(c) do any other things;

that are necessary for the purposes of managing, investing or disposing of all or any part of the assets of the reserve fund.

(5) The:

(a) costs incurred pursuant to subsection (4) in; and

(b) 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.

1979, c.W-17.1, s.151; 1983, c.29, s.58; 1988-89, c.42, s.113; 1988-89, c.44, s.15; 1992, c.P-6.001, s.75.

Penalty for non-payment of assessment

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

1979, c.W-17.1, s.152.

c. W-17.1

WORKERS' COMPENSATION

Failure of employer to make return, etc.

153(1) An employer who:

- (a) fails to make or transmit any pay-roll, return or other statement required to be furnished by him under section 124 or 157; or
- (b) fails to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof;

shall, in addition to any penalty or other liability to which he may be subject, pay to the board the full amount or a capitalized value, as determined by the board, of the compensation and the full amount of medical aid payable in respect of any injury to a worker in his employ that happens during the period of the default.

(2) Where the board is satisfied that a non-compliance with subsection (1) is excusable, it may relieve the employer in whole or in part from liability under this section.

(3) Where an employer defaults in making payment of an assessment under this Act, and:

- (a) a judgment is entered with respect to that assessment and a certificate from a sheriff or his or her deputy is provided stating that the employer was unable to satisfy the judgment in whole; and
- (b) the judgment debtor continues to carry on an industry;

a judge of the Court of Queen's Bench may, upon an application made on behalf of the board by motion in chambers, without the commencement of an action, restrain the judgment debtor from carrying on that industry until the amount due on the execution and all assessments and the costs of the application are paid.

1979, c.W-17.1, s.153; 2010, c.E-9.22, s.247.

Collection of unpaid assessments, etc.

154(1) Where default of payment is made in any part of any assessment or special assessment under this Act, the board may issue a certificate stating:

- (a) that the assessment was made;
- (b) the amount remaining unpaid on account of it; and
- (c) the person by whom it is payable;

and that certificate, or a copy of it certified by the board to be a true copy, may be filed with the local registrar of the Court of Queen's Bench and, when so filed, is enforceable as a judgment of the court against that person for the amount mentioned in the certificate.

(2) Payments of any amounts pursuant to section 141, subsection 147(1), 153(1), 157(1) or 158(2) or section 159 are enforceable in the manner set out in subsection (1).

1979, c.W-17.1, s.154; 1979-80, c.92, s.112;
2002, c.39, s.16.

Duty of purchaser of business, etc.

155(1) In the event of the sale of any industry or business to which this Act applies or of the stock or equipment in bulk used in connection with that industry or business, the purchaser shall, before paying any part of the purchase price to or giving the vendor any security for the purchase price, demand and secure from the vendor a certificate by the board stating that it has no claim in respect of the industry, business, stock or equipment in bulk.

(2) Where the vendor does not furnish a certificate mentioned in subsection (1), the purchaser is liable to the board for a sum equal to any moneys due the board by the vendor.

1979, c.W-17.1, s.155.

Collection of assessment through municipal tax collectors

156(1) Where any part of an assessment or special assessment under this Act remains unpaid for thirty days after it becomes payable, the board may, in lieu of or in addition to the proceedings mentioned in section 154, issue a certificate stating:

- (a) the name and residence of the defaulting employer;
- (b) the amount remaining unpaid on the assessment; and
- (c) the establishment in respect of which the amount is payable;

and, upon delivery of the certificate to the clerk of the municipality in which the establishment is situated, the clerk shall cause that amount remaining unpaid to be entered on the collector's roll as if it were taxes due by the defaulting employer in respect of the establishment, and the amount shall be collected in the same manner as taxes are levied and collected and, when collected, shall be paid to the board.

(2) The collector mentioned in subsection (1) is entitled to add five per cent of the amount to be collected to the amount and to retain that percentage for his services.

1979, c.W-17.1, s.156.

Industry established after assessment made

157(1) Where an industry coming within any of the classes of industries is established after an assessment for that year has been made, the employer shall:

- (a) immediately notify and furnish to the board an estimate of the probable amount of his pay-roll for the remainder of the year, certified to be true, correct and complete in every respect; and
- (b) pay to the board a sum equal to the amount he would have been liable for if his industry had been established before the assessment was made or any other amount that the board may consider reasonable.

(2) Section 125 applies *mutatis mutandis* to any employer who fails to comply with subsection (1).

1979, c.W-17.1, s.157.

Industry carried on temporarily

158(1) Where an employer engages in an industry and has not been assessed in respect of it, the board may, where it is of the opinion that the industry is to be carried on temporarily, order the employer to pay, or give security for payment, to the board a sum 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.

(2) An employer who fails to comply with an order made under subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and an additional fine of not more than \$50 for each day on which the default continues.

1979, c.W-17.1, s.158; 1993, c.63, s.43.

Liability of owner under *The Builders' Lien Act*

159 In the case of a work or service performed by an employer in an industry for which he is entitled to a lien under *The Builders' Lien Act*, the owner, as defined in that Act, shall ensure that any sum that the employer is liable to contribute to the fund is paid, and, where the owner fails to do so, he is personally liable for payment of that sum to the board.

1979, c.W-17.1, s.159; 1998, c.46, s.13.

Priority of assessments and compensation in distribution of assets

160(1) There shall be included among the debts that are, 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, to be paid under the *Bankruptcy and Insolvency Act (Canada)*, *The Trustee Act, 2009* and *The Companies Winding Up Act* respectively, in priority to all other debts, the amount of any assessment or compensation the liability for which accrued before the date of the assignment or death or before the date of the commencement of the winding up, and those Acts shall have effect accordingly.

(2) Where the compensation is a periodical payment, the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be detained by the board, for which the periodical payments may be commuted.

(3) Priority in respect of any individual claim for compensation shall not exceed \$500.

1979, c.W-17.1, s.160; 2005, c.20, s.6; 2009, c.T-23.01, s.64.

PART VI
General
 WORKER'S ADVOCATES

Appointment and duties

161(1) The minister responsible for the administration of this Act may employ persons to be known as Worker's Advocates.

(2) **Repealed.** 1984-85-86, c.89, s.28.

(3) A Worker's Advocate may assist any worker, or any dependant of a worker, in respect of any claim being advanced by him for compensation.

(4) A Worker's Advocate shall consider claims that are brought before him but may decline to provide his services in respect of any claim where he is of the opinion that the claimant is not eligible for compensation or has failed to pursue his claim for an undue length of time having regard to the circumstances of the case.

(5) A Worker's Advocate may examine all files, records and other material of the board that relate to the injury or death in respect of which the claim is made.

(6) The minister responsible for the administration of this Act shall provide any technical, clerical and other assistance that a Worker's Advocate may require in carrying out his duties under this section.

1979, c.W-17.1, s.161; 1984-85-86, c.89, s.28;
 1988-89, c.42, s.113.

COMMITTEE OF REVIEW

Committee of review

162(1) The Lieutenant Governor in Council shall, at least once every four years, appoint a committee of review, consisting of five or more members as the Lieutenant Governor in Council may determine, to review and report on all matters concerning this Act, the regulations and the administration of this Act and the regulations.

(2) The Lieutenant Governor in Council shall:

(a) appoint the members of the committee mentioned in subsection (1) and shall designate one of those members to be chairperson of the committee and another member to be acting chairperson; and

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

(3) The membership of the committee shall include equal representation by employers and organized employees.

(4) The members of the committee, other than those who are employed full time by the Government, shall be paid any compensation for their services and expenses that the Lieutenant Governor in Council may determine, and the minister responsible for the administration of this Act shall provide any technical, clerical and other assistance that the committee may require.

(5) The chairperson of the committee, or in his absence the acting chairperson, has the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013* and the committee may receive and accept any evidence and information under oath or by affidavit or otherwise that it may consider proper.

1979, c.W-17.1, s.162; 1988-89, c.42, s.113;
1993, c.63, s.44; 2013, c.27, s.45.

WAIVER AND ALIENATION PROHIBITED

Waiver of Act prohibited

163 No worker shall agree with his employer to waive or forego any of the benefits to which he or his dependants are or may become entitled under this Act, and every agreement to that effect is void.

1979, c.W-17.1, 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, deduct from the wages of any of his workers any part of any sum that the employer is or may become liable to pay to the fund or otherwise under this Act, or require or permit any of his workers to contribute in any manner towards indemnifying the employer against any liability that he incurs under this Act.

(2) Every person who contravenes any of the provisions of subsection (1) is, for every such contravention, guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and is also liable to repay to the worker any sum that has been so deducted from his wages or that he has been required or permitted to pay in contravention of subsection (1).

1979, c.W-17.1, s.164; 1993, c.63, s.45.

Assignment prohibited

165 Subject to section 165.1, no sum payable as compensation shall be capable of being assigned, charged, seized or attached, nor shall it pass by operation of law except to a personal representative nor shall any claim be set off against it without the approval of the board.

2009, c.17, s.50; 2010, c.E-9.22, s.248.

Enforcement of maintenance orders

165.1(1) Section 165 does not apply to a maintenance order enforced by garnishment pursuant to *The Enforcement of Maintenance Orders Act, 1997*.

WORKERS' COMPENSATION

c. W-17.1

(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 74 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).

2009, c.17, s.50.

ABOLITION OF COURT ACTIONS

No action

166 No action lies for the recovery of compensation and all claims for compensation shall be heard and determined by the board.

1979, c.W-17.1, s.166.

Act in lieu of rights, etc., against employer

167 The right to compensation provided by this Act is in lieu of all rights of action, statutory or otherwise, to which a worker or his dependants are or may be entitled against the employer of the worker for or by reason of any injury sustained by him while in the employment of the employer.

1979, c.W-17.1, s.167.

Determination of worker's right to bring action

168 Any party to an action may apply to the board for adjudication and determination of the question of the plaintiff's right to compensation under this Act or as to whether the action is one barred by this Act, and that adjudication and determination is final and conclusive.

1979, c.W-17.1, s.168.

MISCELLANEOUS

Order of board may be filed in court

169 Any order of the board for the payment of money under 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 the court.

1979, c.W-17.1, s.169; 1979-80, c.92, s.112;
2002, c.59, s.17.

Fee for filing order

170 The local registrar mentioned in section 169 is entitled to a fee of \$1 for the performance of his duties in connection with the filing of an order or certificate pursuant to this Act, and, notwithstanding any other provision or rule, any proceeding provided for by this Act may be carried on by the board by mail without personal attendance at any office.

1979, c.W-17.1, s.170; 1979-80, c.92, s.112.

Offence to divulge information obtained under Act

171(1) Subject to sections 171.1 and 171.2, no officer of the board and no person authorized to make an inspection or inquiry under this Act shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the board, any information obtained by him or that has come to his knowledge in connection with that inspection or inquiry.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

1979, c.W-17.1, s.171; 1984-85-86, c.89, s.29;
1993, c.63, s.46.

Worker's access to information

171.1(1) Where:

- (a) a worker or any person whom he has authorized in writing to be his representative; or
- (b) in the case of a deceased worker, any of his dependants;

has requested reconsideration of or applied for a review of a decision made pursuant to this Act, the board shall, at the written request of the worker, his representative or his dependant, as the case may be, allow the worker, his representative or his dependant, as the case may be, access to information respecting that worker for the purposes of this Act, but the person receiving the information shall use that information only for the purposes of that reconsideration or review.

(2) Where the board is of the opinion that any medical report which the worker or his representative has requested contains information of a sensitive nature which, if provided directly to the worker or his representative, would cause injury to the worker or any other person, the board shall provide the information to the worker's treating physician instead of providing it to the worker or his representative.

(3) Where a physician receives information pursuant to subsection (2), he shall explain to the worker or his representative, as the case may be, the contents of the medical report to assist the worker or his representative in his request for reconsideration of or application for a review of the decision of the board.

1984-85-86, c.89, s.30; 1993, c.63, s.47.

Employer's access to information

171.2(1) Where an employer has requested 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 a representative of the employer on presentation of the employer's written authorization, 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 which has been assigned by the board to the injury cost record of that employer with respect to the injury the worker suffered out of and in the course of his employment with that employer;

that is obtained on or after the date this section comes into force for the purposes of this Act, but the person receiving the information shall use that information only for the purposes of that reconsideration or review.

(2) Where a request is made pursuant to subsection (1), the board shall notify the worker or any person whom he has authorized in writing to be his representative of the request and the information that it will grant access to and inform the worker or his representative that he may make any objection to the release of the information within the time specified in the notice.

(3) On the expiration of the time mentioned in subsection (2), the board shall, after consideration of any objections, determine what information it will grant the employer or his representative access to and so notify the worker or his representative in writing sent by registered mail.

(4) The worker may, within 21 days of the date that the notice pursuant to subsection (3) is mailed, request the board to reconsider its decision made pursuant to subsection (3).

(5) The board shall not grant the employer or his representative access to any information until the expiration of the time allowed for a request pursuant to subsection (4) or the determination of the request, whichever is later.

(6) The board shall inform the worker or his representative of all information it has granted an employer or his representative access to pursuant to this section.

c. W-17.1

WORKERS' COMPENSATION

(7) An employer may request the board to reconsider its decision with respect to the information the board has granted access to within 21 days of the date of that decision.

1984-85-86, c.89, s.30.

Powers on inquiry

172 Every member or other person authorized by the board to make an inspection or inquiry under this Act has the power and authority to require and take affidavits, affirmations or declarations with respect to any matter of that inspection or inquiry and to take statutory declarations required under this Act and in those cases to administer oaths, affirmations and declarations and certify them as having been made.

1979, c.W-17.1, s.172.

Evidence

173 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, shall be received in any court as prima facie proof of the matter so certified without proof of the chief executive officer's appointment, authority or signature.

1979, c.W-17.1, s.173; 2002, c.59, s.18.

Audit

174 The accounts of the board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant Governor in Council for that purpose, and the salary or remuneration of the auditor shall be paid by the board.

1979, c.W-17.1, s.174.

Annual report

175(1) The board shall, in accordance with *The Tabling of Documents Act, 1991*, prepare and submit an annual report to the Lieutenant Governor in Council of its transactions during the immediately preceding year, and that report shall contain any particulars that the Lieutenant Governor in Council may prescribe.

(2) Every report mentioned in subsection (1) shall be laid before the Assembly in accordance with *The Tabling of Documents Act, 1991*.

1979, c.W-17.1, s.175; 2005, c.20, s.6.

Power of board re property

176 Subject to the approval of the Lieutenant Governor in Council, the board may lease or purchase real property and construct or alter buildings required for the purposes of the board and, where the board finds it necessary to lease or purchase real property having more space than is necessary for its purposes, the board may, subject to such approval, lease or purchase that property and lease or otherwise dispose of the surplus space.

1979, c.W-17.1, s.176.

Offence re contravention of regulation

177 Every person who contravenes any regulation is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and no prosecution for that contravention shall be taken without leave of the board.

1979, c.W-17.1, s.177; 1993, c.63, s.48.

Recovery of penalties

178 The penalties imposed under the authority of this Act are recoverable upon summary conviction, and when collected shall be paid over to the board and shall form part of the fund.

1979, c.W-17.1, s.178.

Additional duties

179 The board shall, in addition to administering this Act, perform any other duties that may be assigned to it by the Lieutenant Governor in Council.

1979, c.W-17.1, s.179.

Action against employer barred

180 Except as otherwise provided in this Act, all rights of action against employers for injuries to workers, either at common law or under *The Workmen's Compensation Act*, are abolished.

1979, c.W-17.1, s.180.

REGULATIONS

Power of board to make Regulations

181(1) The Lieutenant Governor in Council, after consultation with the board, may make any regulations that it considers necessary to carry out the purposes of this Act and to meet cases not provided for by this Act.

(1.1) A regulation may be made pursuant to subsection (1) notwithstanding subsection 98.1(5).

(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.

(3) For the purposes of section 29.1, the Lieutenant Governor in Council, after consulting with the board, may make regulations:

- (a) prescribing periods of employment and, for that purpose, may prescribe different periods of employment for different listed diseases; and
- (b) prescribing a minimum period for a worker to have been a non-smoker.

c. W-17.1

WORKERS' COMPENSATION

(4) For the purposes of clause 165.1(3)(b), the Lieutenant Governor in Council, after consulting with the board, may make regulations governing the manner of calculating the cost of complying with an attachment.

1979, c.W-17.1, s.181; 1988-89, c.63, s.22; 1993, c.63, s.49; 1999, c.S-56.01, s.8; 2003, c.13, s.4; 2005, c.46, s.4; 2009, c.17, s.50.

182 Repealed. 1989-90, c.54, s.5.

REPEAL AND TRANSITIONAL

Transitional

183 Except as otherwise provided in this Act, the provisions of *The Workers' Compensation Act* are deemed to be in full force and effect insofar as they relate to injuries occurring prior to the coming into force of this Act.

1979-80, c.47, s.9.

Transitional

183.1(1) In this section:

- (a) “**amendment date**” means the day on which a section of *The Workers' Compensation Amendment Act, 1993* comes into force;
 - (b) “**relevant amending section**” means, with respect to a section of this Act, the section of *The Workers' Compensation Amendment Act, 1993* that amends the section of this Act.
- (2) Notwithstanding *The Workers' Compensation Amendment Act, 1993*:
- (a) sections 68, 69 and 104 as they existed immediately before the amendment date of the relevant amending sections apply with respect to injuries that occurred before the amendment date of the relevant amending sections; and
 - (b) sections 82 and 83 as they existed immediately before the amendment date of the relevant amending sections apply with respect to deaths that occurred before the amendment date of the relevant amending sections.
- (3) Where a dependent child is receiving benefits pursuant to section 85 or 87 as those sections existed prior to the amendment dates of the relevant amending sections, the child is entitled to receive benefits calculated in accordance with those sections as amended by the relevant amending sections, but only with respect to the period commencing on the amendment date.

1993, c.63, s.50.

184 Dispensed. This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

Risks of employment

185(1) Nothing in this Act precludes a worker, or a dependant of a worker, employed in an industry not covered by this Act from taking legal action to recover damages where the worker suffers injuries arising out of and in the course of employment.

(2) A worker is not, by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury, deemed to have voluntarily incurred the risk of injury.

(3) A worker is deemed not to have undertaken the risks due to the negligence of his fellow workers, and contributory negligence on the part of a worker is not a bar to recovery by him, 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 employer for which the employer would otherwise have been liable.

