

# *The Workmen's Compensation Act*

being

Chapter 302 of *The Revised Statutes of Saskatchewan, 1940*  
(effective February 1, 1941).

FOR HISTORICAL REFERENCE ONLY

## **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 302

### An Act respecting Compensation to Workmen for Injuries suffered in the Course of their Employment

#### Short title

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

R.S.S. 1930, c.252, s.1; R.S.S. 1940, c.302, s.1.

#### Application

2 This Act shall apply only to employment by the principal on or in or about a railway, factory, mine, quarry or engineering work; or in or about any building which is either being constructed or repaired or being demolished.

R.S.S. 1930, c.252, s.2; R.S.S. 1940, c.302, s.2.

#### Interpretation

3 In this Act, unless the context otherwise requires, the expression:

#### “Court” or “district court”

1. “**Court**” or “**district court**” means the district court of the judicial district in which the defendant resides or in which the accident out of which the matter arose occurred, or a judge of such district court;

#### “Dependants”

2. “**Dependants**” means such of the members of the workman’s family as were wholly or in part dependent upon the earnings of the workman at the time of his death or would but for the incapacity due to the accident have been so dependent; and where the workman being the parent or grandparent of an illegitimate child leaves such a child so dependent upon his earnings or being an illegitimate child leaves a parent or grandparent so dependent upon his earnings includes such an illegitimate child and parent or grandparent respectively;

#### “Employer”

3. “**Employer**” includes the Crown in the right of Saskatchewan, any body of persons corporate or unincorporate, any municipality and the legal personal representative of a deceased employer; and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall for the purposes of this Act be deemed to be the employer of the workman while he is working for that other person;

#### “Engineering work”

4. “**Engineering work**” means any work of construction or alteration or repair of a railway, harbour, dock, canal, sewer or system of waterworks; and outside electrical construction of all kinds, including the alteration and repair of outside wires, cables, apparatus and appliances; and includes any other work for the construction, alteration or repair of which machinery driven by steam, water or other mechanical power is used;

**“Factory”**

5. **“Factory”** means a building, workshop or place where machinery driven by steam, water or other mechanical power is used, and includes mills where manufacturers of wood, flour, meal, pulp or other substances are being carried on; smelters where metals are sorted, extracted or operated on; laundries worked by steam, water or other mechanical power and docks, wharves, quays, warehouses and shipbuilding yards where goods or materials are stored, handled, transported or manufactured;

**“Member of a family”**

6. **“Member of a family”** means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half brother, half sister, adopted child, foster parent;

**“Mine”**

7. **“Mine”** means any kind of mine and includes every shaft in the course of being sunk and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings, both below ground and above ground, in and adjacent to a mine and any such shaft, level and inclined plane of and belonging to the mine;

**“Principal”**

8. **“Principal”** in the case of a railway means the person or company owning or operating the railway; in the case of a factory, mine or quarry, means the owner, occupier or operator thereof; in the case of an engineering work or other work specified in this Act, means the person undertaking the construction, alteration, repair or demolition;

**“Quarry”**

9. **“Quarry”** means an open pit from which rock is cut or taken;

**“Railway”**

10. **“Railway”** means a road, whether owned or operated by a private person, public company or municipal corporation, on which carriages run over metal rails and includes railways or tramways worked by the force and power of steam, electricity or of the atmosphere or by mechanical power or any combination of them;

**“Workman”**

11. **“Workman”** means:

(a) every person who is engaged in any employment to which this Act applies whether by way of manual labour or otherwise, and whether his agreement is one of service or apprenticeship or otherwise and is expressed or implied, is oral or in writing;

(b) every person who is excluded from the provisions of Part I of *The Workmen's Compensation (Accident Fund) Act*, under subsections (1), (2) and (3) of section 3 of that Act;

but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds \$3,000 a year.

**Liability of employers**

4(1) If in any employment to which this Act applies, personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall be liable to pay compensation in accordance with the provisions of this Act:

Provided that the employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning wages at the work at which he was employed.

(2) Any contract whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall, for the purposes of this Act, be void and of no effect.

R.S.S. 1930, c.252, s.4; R.S.S. 1940, c.302, s.4.

**Compensation recoverable**

5 Such compensation may be recovered by action in the district court.

R.S.S. 1930, c.252, s.5; R.S.S. 1940, c.302, s.5.

**Grounds for compensation**

6 Such employer shall be liable to pay such compensation whether or not:

- (a) the injury or death resulted from the negligence of any person engaged in a common employment with the injured employee; or
- (b) the injury or death was caused by the negligence of the employer or of any person in his service, or by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, building or premises connected with, intended for or used in the business of the employer; or
- (c) the workman contributed to or was the sole cause of the injury or death by reason of his own negligence or misconduct; or
- (d) the injury or death resulted from a risk arising out of or incidental to the nature of the employment and which the workman expressly or impliedly assumed.

R.S.S. 1930, c.252, s.6; R.S.S. 1940, c.302, s.6.

**In case of death, executor's or administrator's right of action**

7 If the injury results in death the action shall be brought by and in the name of the executor or administrator of the deceased workman and shall be for the benefit of the dependants of the deceased.

R.S.S. 1930, c.252, s.7; R.S.S. 1940, c.302, s.7.

**Independent action**

8 If within the time limited for bringing an action under this Act an action is brought to recover damages independently of this Act for injury caused by an accident, and it is determined in such action that the injury is one for which the employer is not liable in such action but that he would have been liable to pay compensation under this Act the action shall be dismissed; but the judge before whom the action is tried shall, if the plaintiff so chooses, either immediately or, in case of an unsuccessful appeal to the Court of Appeal or to the Supreme Court of Canada or to His Majesty in Council, upon notice to the opposite party within thirty days after the final disposition of such appeal, proceed to assess such compensation and to adjudge the same to the plaintiff, and he shall be at liberty to deduct from such compensation all or part of the costs which in his judgment have been caused by the plaintiff bringing his action independently of this Act instead of proceeding under the same, and also, in cases where there has been an appeal or appeals the costs of the appeal or appeals.

R.S.S. 1930, c.252, s.8; 1934-35, c.77, s.1; R.S.S. 1940, c.302, s.8.

**Subcontracting**

9(1) Where in any employment to which this Act applies the principal contracts with any person, in this section called "**the contractor**", for the execution by or under such contractor of any work in the way of the principal's trade or business, the principal shall be liable to pay any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him:

Provided that the principal shall be entitled to be indemnified by any other person who would have been liable independently of this section.

(2) This section shall not apply to a contract with any person for the execution by or under such person of any work which is merely ancillary or incidental to, and is no part of or process in, the trade or business carried on by such principal.

(3) Nothing in this Act shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

R.S.S. 1930, c.252, s.9; R.S.S. 1940, c.302, s.9.

**Insolvency of employer**

10(1) Where an employer has entered into a contract with insurers in respect of liability under this Act to a workman, then in the event of the employer making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman, and upon such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, provided that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employers to the workman, the workman may prove for the balance in the liquidation proceedings.

(3) There shall be included among the debts which, under *The Companies Winding Up Act*, are in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount not exceeding in any individual case five hundred dollars due in respect of any compensation the liability wherefor accrued before the date of the commencement of the winding up, and the said Act shall have effect accordingly.

(4) The provisions of this section with respect to preferences and priorities shall not apply where the company being wound up has not entered into a contract with insurers as aforesaid.

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

R.S.S. 1930, c.252, s.10; R.S.S. 1940, c.302, s.10.

#### Limitation of right of action

**11** An action under this Act shall not be maintainable unless it is commenced within six months from the occurrence of the accident causing the injury, or in case of death within six months from the time of death.

R.S.S. 1930, c.252, s.11; R.S.S. 1940, c.302, s.11.

#### Alternative remedies

**12** In the case of any injury for which compensation is payable under this Act the plaintiff may at his option proceed either under this Act against the employer or independently of this Act against the employer or any other person from whom he is entitled at law to recover damages; but the plaintiff shall not be at liberty to proceed both under and independently of this Act.

R.S.S. 1930, c.252, s.12; R.S.S. 1940, c.302, s.12.

#### Remedies of employer

**13** Where compensation is paid under this Act by an employer for an injury caused under circumstances creating a legal liability in some person other than the employer, the employer shall be entitled to be indemnified by that other person.

R.S.S. 1930, c.252, s.13; R.S.S. 1940, c.302, s.13.

#### Application of Act restricted

**14(1)** Notwithstanding anything hereinbefore contained this Act shall not apply to the employment of agriculture nor to any work performed or machinery used on or about a farm or homestead for farm purposes or for the purpose of improving such farm or homestead, and, for greater certainty but so as not to restrict in any degree the generality of the foregoing words of this section, this Act shall not apply to any of the following employments on a farm:

- (a) threshing, cleaning, crushing, grinding or otherwise treating grain, sawing wood, posts, lumber or other wooden material or otherwise treating the same, pressing hay by any kind of machinery or motive power whether the machinery or motive power is portable or stationary and whether the same is owned and operated by the farmer or farmers for whose purpose the same is being or by any other farmer or other person for gain, profit or reward;
- (b) the construction, repair or demolition of any farm building, windmill, derrick or other structure.

(2) The word “**factory**” as defined in this Act shall not include any building, workshop, place or mill on a farm used for the purposes of such farm.

(3) The words “**mine**” or “**quarry**” as defined in this Act shall not include a mine or quarry on a farm used for the purposes only of such farm.

(4) The words “**engineering work**” as defined in this Act shall not include any ditch, drain, well or other excavation on a farm being constructed or repaired for the purposes of such farm or any adjoining farm or farms.

(5) Notwithstanding anything contained in this section, any person undertaking the construction, repair or demolition of any building upon a farm under contract with the owner or occupant of such farm shall be liable to the workmen employed by him for the compensation or injuries provided by this Act.

R.S.S. 1930, c.252, s.14; R.S.S. 1940, c.302, s.14.

**Amount of compensation**

**15** The amount of compensation recoverable under this Act shall not exceed either such sum as is found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those three years in a like employment or the sum of \$2,000 whichever is larger, but shall not exceed in any case the sum of \$2,500.

R.S.S. 1930, c.252, s.15; R.S.S. 1940, c.302, s.15.

**Compensation not subject to deduction**

**16** The amount of compensation recoverable under this Act shall not be subject to any deduction or abatement by reason or on account or in respect of any matter or thing whatsoever save in respect of any sums of money which have been paid by the employer to the workman on account of the injury received by the workman, which sum or sums shall be deducted from the amount of the said compensation.

R.S.S. 1930, c.252, s.16; R.S.S. 1940, c.302, s.16.

**Compensation not to be charged**

**17** Save in respect of indebtedness incurred for care and treatment in a hospital which receives aid from the consolidated fund, the amount of compensation recoverable under this Act shall not be capable of being assigned, charged or attached and shall not pass to any other person by operation of law nor shall any claim be set off against the same.

R.S.S. 1930, c.252, s.17; R.S.S. 1940, c.302, s.17.

**Distribution of compensation**

**18** Where the action is brought on behalf of the dependants of a workman for an injury resulting in death, the amount of the compensation awarded after deducting costs shall be divided among the dependants in such shares as the court determines.

R.S.S. 1930, c.252, s.18; R.S.S. 1940, c.302, s.18.

**Trial**

**19** Every action for recovery of compensation under this Act shall be tried by a judge sitting without a jury, and an appeal may be taken from the decision of such judge to the Court of Appeal upon any question of law or mixed question of law and fact.

R.S.S. 1930, c.252, s.19; R.S.S. 1940, c.302, s.19.

**Reports of accidents**

**20(1)** It shall be the duty of every employer forthwith after the happening of an accident whereby any workman in his employ has become wholly or partially incapacitated from work, to make a report (form A) of such accident to the Commissioner of Labour and Public Welfare at Regina, together with all the details of the injury caused thereby as the same are set out in form A and unless the employer has complied with the requirements of this section within ten days after the happening of the accident he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$300 and to a further fine not exceeding \$10 for each day subsequent to the expiration of the said interval during which he fails to make such report, and in default of payment to imprisonment for a term not exceeding three months.

(2) No report required by this section to be made nor any part thereof shall be admitted in evidence or referred to at the trial of an action or in any judicial proceeding whatever except a prosecution for a violation of this Act.

R.S.S. 1930, c.252, s.20; R.S.S. 1940, c.302, s.20.

**Application respecting settlement**

**21(1)** Where an action is maintainable under this Act, in respect of an accident from which death has resulted, and the executor or administrator of the person deceased, acting on behalf of the dependants of the deceased, has agreed either before or after the commencement of an action a settlement of the claim or action, either the executor or administrator or the other person against whom such claim or action is made or brought may, on ten days' notice to the opposite party and, in case any of the dependants are minors, to the Official Guardian, apply to a judge in chambers of the district court of the judicial district in which the defendant resides or in which the accident out of which the matter arose occurred, for an order confirming the settlement.

(2) The judge may on such application confirm or disallow the said settlement, but if the settlement is confirmed by him, the party against whom the claim is made or action brought shall be discharged from all further claims thereunder.

(3) The judge may also on such application order the money or a portion thereof to be paid into court or otherwise apportioned and distributed as he deems best in the interests of those entitled thereto.

R.S.S. 1930, c.252, s.21; R.S.S. 1940, c.302, s.21.

## SCHEDULE

## FORM A

*(Section 20)*

## PART I

1. Employer, place and time:
  - (a) Employer's name \_\_\_\_\_
  - (b) Office address; street and No. \_\_\_\_\_  
city or village \_\_\_\_\_
  - (c) Nature of business \_\_\_\_\_
  - (d) Location of plant or place of work where accident occurred, if not at office  
address \_\_\_\_\_
  - (e) Date on which accident occurred \_\_\_\_\_
  - (f) Day of week \_\_\_\_\_
  - (g) Hour of the day \_\_\_\_\_
2. Injured person:
  - (a) Name \_\_\_\_\_  
address \_\_\_\_\_
  - (b) Sex \_\_\_\_\_
  - (c) Age \_\_\_\_\_
  - (d) Speak English \_\_\_\_\_  
If not, what language? \_\_\_\_\_
  - (e) Occupation when injured \_\_\_\_\_
  - (f) Length of experience \_\_\_\_\_
  - (g) Piece or time worker \_\_\_\_\_
  - (h) Wages or average earnings per day \_\_\_\_\_
  - (i) Working days per week \_\_\_\_\_
3. Cause:
  - (a) Name of machine, tool or appliance in connection with which accident  
happened \_\_\_\_\_
  - (b) Describe in full how accident happened \_\_\_\_\_

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## 4. Nature and extent of injury:

- (a) State exactly what part of person injured and nature of injury \_\_\_\_\_  
\_\_\_\_\_
- (b) Has injured person returned to work? \_\_\_\_\_  
If so, on what date? \_\_\_\_\_
- (c) Is injured person still incapacitated for work? \_\_\_\_\_
- (d) Attending physician or hospital where sent \_\_\_\_\_  
Date of report made out by \_\_\_\_\_

## PART II

This part to be filled out and sent in with Part I if extent of injury and disability are then fully known, otherwise detach Part II after filling in names for identification and fill out and send in after two weeks.

Name of employer \_\_\_\_\_

Name of injured person \_\_\_\_\_

## 5. Extent of injury:

- (a) Did injury result in death? \_\_\_\_\_
- (b) Has it caused any permanent physical injury? \_\_\_\_\_

## 6. Amount of disability:

- (a) Has injured person returned to work? \_\_\_\_\_  
If so, on what date? \_\_\_\_\_  
At what occupation? \_\_\_\_\_  
And wages per day? \_\_\_\_\_
- (b) If injured person has not yet returned to work state probable length of disability on account of accident \_\_\_\_\_  
Date of report made out by \_\_\_\_\_

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