



Province of Alberta

# **WORKERS' COMPENSATION ACT**

Revised Statutes of Alberta 2000  
Chapter W-15

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Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Workers' Compensation Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Workers' Compensation Act</b>		
Fair Practices Office.....	211/2018	
Firefighters' Primary Site Cancer.....	102/2003	249/2005, 74/2010, 73/2011,69/2016, 2/2018
Medical Panels .....	21/2018	
Workers' Compensation.....	325/2002	90/2003, 250/2005, 348/2009, 164/2010, 227/2011, 170/2012, 188/2013, SA 2015 c19 s9, 22/2018, 10/2019

# **WORKERS' COMPENSATION ACT**

## Chapter W-15

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#### **Preamble**

WHEREAS the workers' compensation system in Alberta is founded on the principles of no-fault compensation, security of benefits, collective liability, independent administration and exclusive jurisdiction;

WHEREAS the purpose of the workers' compensation system is to provide appropriate compensation to workers who suffer workplace-related injuries and illnesses;

WHEREAS the central focus of the workers' compensation system is the health and well-being of workers;



WHEREAS it is recognized that the success of the workers' compensation system requires a commitment by all parties to work collaboratively with each other;

WHEREAS it is recognized that the workers' compensation system must be sustainable, affordable and fair in order to benefit workers and employers now and in the future;

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

### **Interpretation**

**1(1)** In this Act,

- (a) "accident" means an accident that arises out of and occurs in the course of employment in an industry to which this Act applies and includes
  - (i) a wilful and intentional act, not being the act of the worker who suffers the accident,
  - (ii) a chance event occasioned by a physical or natural cause,
  - (iii) disablement, and
  - (iv) a disabling or potentially disabling condition caused by an occupational disease;
- (b) "Accident Fund" means the fund referred to in section 91;
- (c) "Appeals Commission" means the Appeals Commission established under section 10;
- (c.1) "assessment" means the process by which the premium that is payable under this Act by an employer is determined;
- (d) "Board" means The Workers' Compensation Board;
- (e) "child" includes a grandchild, the child of a spouse by a former marriage, and any other child to whom the worker stood in loco parentis;
- (e.1) "Committee" means the Occupational Disease and Injury Advisory Committee established under section 24.3;
- (f) "compensation" includes medical aid and vocational rehabilitation;
- (g) repealed 2002 c27 s2;

- (h) “dependant” means a member of the family of a worker who was wholly or partially dependent on the worker’s earnings at the time of the worker’s death or who, but for the death or disability due to the accident, would have been so dependent, but a person is not a partial dependant of a worker unless the person was partially dependent on contributions from the worker for the provision of the ordinary necessities of life;
- (i) “dependent child” means
  - (i) a child under the age of 18 years, or
  - (ii) a child under the age of 25 years who is enrolled at an educational institution approved by the Board;

*(NOTE: Clause (i) applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s4(2).)*

- (j) “employer” means
  - (i) an individual, firm, association, body or corporation that has, or is deemed by the Board or this Act to have, one or more workers in the individual’s or its service and includes a person considered by the Board to be acting on behalf of that individual, firm, association, body or corporation,
  - (ii) a proprietor whose application is approved under section 15,
  - (iii) a corporation where the application of a director of the corporation is approved under section 15, and
  - (iv) a partnership where the application of a partner in the partnership is approved under section 15,

and includes the Crown in right of Alberta and the Crown in right of Canada insofar as the latter, in its capacity as employer, submits to the operation of this Act;

- (k) “employment” means employment in an industry;
- (l) “fatal accident” means an accident causing the death of a worker under circumstances that entitle the worker’s dependants, if any, to compensation under this Act;
- (m) “industry” means an establishment, undertaking, trade or business, whether it is carried on in conjunction with other occupations or separately;

- (n) “invalid” means a person who is incapable of becoming gainfully employed due to physical or mental incapacity;
- (o) “learner” means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry to which this Act applies for the purpose of undergoing testing, training or probationary work preliminary to employment in an industry to which this Act applies;
- (p) “medical aid” includes medical and other services provided by a person licensed to practise the healing arts in Alberta, and nursing, hospitalization, drugs, dressing, x-ray treatment, special treatment, appliances, apparatuses, transportation and any other matters and things that the Board authorizes or provides;
- (q) “member of a family” means a spouse or adult interdependent partner, parent, grandparent, step-parent, child, step-child, brother, sister, half-brother and half-sister of a worker;
- (r) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (s) “net earnings” means net earnings as defined in the regulations;
- (t) “occupational disease” means occupational disease as defined in the regulations;
- (u) “pension” means a periodic payment to a worker in respect of whom a permanent disability has been assessed, or to a dependant of a deceased worker, the capital cost of which has been charged to the Accident Fund, and includes periodic payments to workers, or their dependants, of employers specified in the regulations;
- (u.1) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (v) “physician” means a person licensed or authorized under the *Health Professions Act* to practise any of the healing arts in Alberta;
- (v.1) “premium” means the amount that is payable by an employer pursuant to an assessment;

- (w) “proprietor” means
- (i) an individual who owns and operates a business
    - (A) the general business activity of which usually involves performing work for more than one person concurrently, and
    - (B) in connection with which the individual does not employ any workers,
  - and
  - (ii) any other individual or class of individuals deemed by a direction or order of the Board to be proprietors;
- (x) “secretary” means secretary of the Board;
- (y) “wages” or “payroll” include any other relative or descriptive terms when an assessment under this Act is based on them;
- (z) “worker” means a person who enters 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 person whose application to the Board under section 15 is approved, and
  - (iii) any other person who, under this Act or under any direction or order of the Board, is deemed to be a worker,
- but does not include a person who ordinarily resides outside Canada and is employed by an employer who is based outside Canada and carries on business in Alberta on a temporary basis;
- (aa) “year” means a calendar year unless the Board directs otherwise.

**(2)** A reference in this Act to a payment to a person also applies to a payment to another person for or on behalf of that person.

**(3)** Repealed 2002 cA-4.5 s81.

RSA 2000 cW-15 s1;RSA 2000 cH-7 s142;2002 cA-4.5 s81;  
2002 c27 s2;2010 c16 s1(54);2014 c18 s4;2017 c25 Sched. 2 s4

**Insurance Act does not apply**

**1.1** The *Insurance Act* does not apply to the Board in respect of the provision of workers' compensation coverage to persons under this Act and, to avoid any doubt, nothing in section 570 of the *Insurance Act* affects the application of this Act.

2002 c27 s3;2003 c40 s25;2008 c19 s44

## **Part 1**

### **Workers' Compensation Board**

**Continuation**

**2(1)** The corporation previously established and known as The Workers' Compensation Board is continued.

**(2)** The office of the Board shall be located in Edmonton.

1988 c45 s3

**Corporate powers**

**3** The Board has the capacity and the rights, powers and privileges of a natural person.

1988 c45 s3;1995 c32 s3

**Staff**

**4(1)** Without limiting the generality of section 3, but subject to section 12(1), the Board may, notwithstanding any other enactment, hire the employees it considers necessary for the purposes of administering this Act and carrying out the business and affairs of the Board.

**(2)** Neither the Board nor the Crown shall provide variable pay to a member or employee of the Board.

**(3)** In subsection (2), "variable pay" means a bonus or other incentive pay provided in addition to base salary as defined in the regulations.

RSA 2000 cW-15 s4;2002 c27 s4;2017 c25 Sched.2 s5

**Board of directors**

**5(1)** There shall be a board of directors of the Board, to be appointed by the Lieutenant Governor in Council, consisting of

- (a) a member who shall be the chair,
- (b) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of employers,

- (c) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of workers, and
- (d) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of the general public.

**(1.1)** For an appointment of members

- (a) under subsection (1)(b), the persons must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers,
- (b) under subsection (1)(c), the persons must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers, and
- (c) under subsection (1)(d), the persons must be selected from a list of at least 7 members of the public who applied for a position on the Board but who are not members of organizations that represent employers or workers,

but where only one person is being appointed, a list of at least 3 persons is required.

**(2)** Repealed 2017 c25 Sched.2 s6.

**(3)** The Lieutenant Governor in Council may designate one or more members referred to in subsection (1)(b), (c) or (d) as vice-chairs.

**(4)** The chair is, by virtue of the chair's office, a member of all committees of the board of directors.

**(5)** In the event of the chair's absence or inability to act, the senior vice-chair shall act in the chair's place and assume all of the chair's powers and responsibilities.

**(6)** A member of the board of directors shall be appointed for a term not to exceed 3 years, and is eligible for reappointment for one additional term, not to exceed 3 years.

**(6.1)** Notwithstanding subsection (6) but subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, the Lieutenant Governor in Council may, on the recommendation of the Minister, reappoint a member of the board of directors for a third term not exceeding 3 years.

**(6.2)** The Minister may recommend that a member be reappointed under subsection (6.1) if, in the opinion of the Minister, the reappointment would be beneficial to the Board.

**(7)** Notwithstanding subsections (6) and (6.1) but subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act,

- (a) if a person other than a member of the board of directors is appointed chair, the person is eligible to serve as chair for a maximum of 3 terms not exceeding 3 years each, and
- (b) if a member of the board of directors is appointed chair, the member is, subject to subsection (8), eligible to serve as chair for a maximum of 3 terms not exceeding 3 years each.

**(8)** No person is eligible to serve on the board of directors for more than 10 years, taking into account the total number of years served as a member of the board of directors and as chair.

RSA 2000 cW-15 s5;2009 cA-31.5 s80;2017 c25 Sched.2 s6

#### **Duties of board of directors**

**6** The board of directors

- (a) shall
  - (i) determine the Board's compensation policy,
  - (ii) review and approve the programs and operating policies of the Board, and
  - (iii) consider and approve annual operating and capital budgets of the Board,
- and
- (b) may enact bylaws and pass resolutions for the conduct of the business and affairs of the Board.

1988 c45 s3;1990 c39 s2

#### **Meetings of board**

**7(1)** Meetings of the board of directors shall be held at the call of the chair at any place in Alberta that the chair determines, and in no case shall more than 3 months elapse between meetings of the board.

**(2)** A majority of the members of the board of directors appointed constitutes a quorum at any meeting of the board.

(3) When there is a vacancy on the board of directors, the remaining directors may exercise all of the powers of the board.

RSA 2000 cW-15 s7;2002 c27 s5

#### **Annual meeting open to public**

**7.1(1)** The Board shall hold an annual general meeting, which must be open to the public.

(2) The Board shall publish notice of the annual general meeting referred to in subsection (1) on the Board's website and in any other manner that the Board considers most likely to bring the notice to the attention of the public.

(3) The purpose of the annual general meeting is to discuss the reports presented under subsection (4) and any matters raised in relation to the reports by those present at the meeting.

(4) The Board shall ensure that the following reports are presented at the annual general meeting:

- (a) the report of the chair on behalf of the board of directors;
- (b) the report of the President;
- (c) the report referred to in section 93(4) for the preceding calendar year.

2002 c27 s6;2017 c25 Sched.2 s7

#### **President of Board**

**8(1)** The board of directors of the Board shall select and appoint a person to be the President of the Board.

(2) The salary and benefits of the President shall be determined by the board of directors of the Board and shall be paid out of the Accident Fund.

**(2.1)** The salary and benefits referred to in subsection (2) must be determined in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

(3) The President shall

- (a) be the chief executive officer of the Board,
- (b) advise and inform the board of directors on the operating, planning and development functions of the Board,
- (c) be responsible for the implementation of policy as established by the board of directors,



- (d) in accordance with policy as established by the board of directors, be responsible for all functions related to personnel, and
  - (e) carry out any other functions and duties assigned to the President by the board of directors.
- (4) The President may in writing
- (a) delegate to an employee of the Board any of the President's powers or duties, subject to any terms and conditions set out in the delegation, and
  - (b) designate an employee of the Board to act in the President's place and assume all of the President's powers and responsibilities during the President's temporary absence.

RSA 2000 cW-15 s8;2009 cA-31.5 s80

#### **Remuneration**

**9** The remuneration of the members of the board of directors of the Board shall be prescribed by the Lieutenant Governor in Council and shall be paid out of the Accident Fund.

RSA 2000 cW-15 s9;2017 c25 Sched.2 s8

#### **Regulations under the Alberta Public Agencies Governance Act prevail**

**9.1** If regulations under the *Alberta Public Agencies Governance Act* apply in respect of remuneration referred to in section 9, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing remuneration under that section.

2009 cA-31.5 s80

#### **Code of Rights and Conduct**

**9.2(1)** The Board shall, in consultation with workers, employers, the Appeals Commission and the Fair Practices Office, establish a Code of Rights and Conduct that sets out the rights of workers and employers in their interaction with the Board and describes how the Board operates in recognition of those rights.

- (2) The Code of Rights and Conduct must include provisions
- (a) conferring rights on workers and employers, including the right to participate in decisions that affect them,
  - (b) imposing obligations on the Board respecting the manner in which the Board interacts with workers and employers,
  - (c) providing for the procedure for making and handling complaints about breaches of the Code,

- (d) providing for the consequences of, and remedies for, a breach of the Code, and
  - (e) any other matter specified in the regulations.
- (3) The rights and obligations in the Code of Rights and Conduct are in addition to any other rights and obligations under this Act, any other enactment or the general law.
- (4) The Board shall make the Code of Rights and Conduct available to the public by publishing it on the Board's website and by any other means the Board considers appropriate.

2017 c25 Sched. 2 s9

## Part 2 Appeals Commission

### Appeals Commission

**10(1)** The Appeals Commission is continued and consists of the following members appointed by the Lieutenant Governor in Council:

- (a) a chief appeals commissioner, who shall be the chair;
  - (b) one or more appeals commissioners whom the Lieutenant Governor in Council considers to be representative of the interests of employers;
  - (c) one or more appeals commissioners whom the Lieutenant Governor in Council considers to be representative of the interests of workers;
  - (d) any temporary appeals commissioners appointed in accordance with subsection (3).
- (2) The following persons are not eligible to be or continue to be appeals commissioners:
- (a) employees of the Board;
  - (b) members of the board of directors.
- (3) Subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, one or more temporary appeals commissioners may be appointed for terms of not more than one year and are eligible for reappointment for additional terms of not more than one year each.
- (4) Subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, an appeals commissioner

other than a temporary appeals commissioner may be appointed for a maximum term of 3 years and is eligible for reappointment for additional terms of not more than 3 years each.

(5) The chief appeals commissioner is the chief executive officer of the Appeals Commission.

(6) The chief appeals commissioner may designate one of the other appeals commissioners to act in the chief appeals commissioner's place as chief appeals commissioner and to assume all of the chief appeals commissioner's powers and responsibilities during the chief appeals commissioner's temporary absence.

(7) Notwithstanding the resignation or the expiry of the term of office of an appeals commissioner, the appeals commissioner may continue to act as an appeals commissioner for the purpose of completing the appeals commissioner's duties in respect of matters arising before the effective date of the resignation or the expiry of the term of office.

(8) The Lieutenant Governor in Council shall set the remuneration that is payable to appeals commissioners.

(9) The remuneration referred to in subsection (8) must be set in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

RSA 2000 cW-15 s10;2002 c27 s7;2009 cA-31.5 s80

#### **Minister responsible for Commission**

11 The Minister is responsible for the Appeals Commission.

2002 c27 s7

#### **Administration**

12(1) Any officers and employees that are necessary for the purposes of carrying out the business and affairs of the Appeals Commission may be appointed in accordance with the *Public Service Act*.

(2) The chief appeals commissioner may designate employees of the Appeals Commission as officers of the Appeals Commission and may, in writing, delegate administrative powers, duties and responsibilities of the Appeals Commission to such officers.

(3) The costs of carrying on the operations of the Appeals Commission, as approved by the Minister, and the remuneration payable to the appeals commissioners shall be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

2002 c27 s7

**Meetings**

**13(1)** The Appeals Commission may hold meetings of the Appeals Commission at any place in Alberta that the Appeals Commission determines.

**(2)** The Appeals Commission shall hold an annual general meeting, which must be open to the public.

**(3)** The Appeals Commission shall publish notice of the annual general meeting referred to in subsection (2) on the Appeals Commission's website and in any other manner that the Appeals Commission considers most likely to bring the notice to the attention of the public.

**(4)** The Appeals Commission shall ensure that the following are presented at the annual general meeting:

- (a) the report of the chief appeals commissioner, on behalf of the Appeals Commission;
- (b) information relating to the operations of the Appeals Commission from the most recent report of the Auditor General on the Minister's department.

2002 c27 s7;2017 c25 Sched.2 s10

**Power of Appeals Commission**

**13.1(1)** Subject to sections 13.2(11) and 13.4, the Appeals Commission has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act and the regulations in respect of

- (a) appeals from decisions under section 46 made by a review body appointed under section 45,
- (b) appeals from decisions under section 120 made by a review body appointed under section 119,
- (c) appeals from determinations of the Board under section 21(3), and
- (d) any other matters assigned to it under this or any other Act or the regulations under this or any other Act,

and the decision of the Appeals Commission on the appeal or other matter is final and conclusive and is not open to question or review in any court.

**(2)** The chief appeals commissioner may authorize a panel of 2 or more appeals commissioners to act on behalf of the Appeals

Commission under subsection (1) and that panel may exercise the powers of the Appeals Commission for that purpose.

**(2.1)** A decision of a majority of the members of the Appeals Commission present and constituting a quorum is the decision of the Commission.

**(2.2)** Notwithstanding subsections (2) and (2.1), the chief appeals commissioner may authorize an appeals commissioner to sit alone

- (a) to hear and determine matters and questions relating to assessments referred to in section 97,
- (b) to hear and determine whether to grant interim relief while a matter is under appeal, and
- (c) to carry out a review referred to in subsection (7.1).

**(2.3)** When an appeals commissioner sits alone under subsection (2.2), the appeals commissioner is deemed to be the Appeals Commission for the purposes of this Act.

**(2.4)** Interim relief may only be granted in accordance with policies established by the Board, which must be publicly available.

**(3)** The Appeals Commission may make rules governing the practice and procedure applicable to proceedings before it.

**(4)** The *Regulations Act* does not apply to rules made under subsection (3).

**(5)** The Appeals Commission has the same powers as the Court of Queen's Bench for compelling the attendance of witnesses and examining them under oath and for compelling the production and inspection of books, papers, documents and things.

**(6)** The Appeals Commission may cause depositions of witnesses residing in or outside Alberta to be taken before any person appointed by the Appeals Commission in a manner similar to that prescribed by the *Alberta Rules of Court*.

**(7)** The Appeals Commission, at its discretion on the application of a person with a direct interest in the matter, or on its own motion, may reconsider any matter that it has dealt with and may confirm, rescind or amend any decision or order previously made by it.

**(7.1)** Before deciding to hold a hearing to reconsider a matter under subsection (7), on receiving an application, the Appeals

Commission shall review the information provided in support of the application under subsection (7) to determine whether there is an arguable case for reconsideration.

*(NOTE: Subsection (7.1) applies with respect to an application for reconsideration made on or after September 1, 2018. See SA 2017 c25 Sched. 2 s11(2).)*

**(7.2)** Where the Appeals Commission determines that there is an arguable case for reconsideration, the Appeals Commission shall hold a hearing to consider the merits of the application for reconsideration.

*(NOTE: Subsection (7.2) applies with respect to an application for reconsideration made on or after September 1, 2018. See SA 2017 c25 Sched. 2 s11(2).)*

**(7.3)** If the Appeals Commission determines that there is merit to the application for reconsideration, the Appeals Commission shall hold a hearing to reconsider the matter.

*(NOTE: Subsection (7.3) applies with respect to an application for reconsideration made on or after September 1, 2018. See SA 2017 c25 Sched. 2 s11(2).)*

**(8)** Repealed 2017 c25 Sched.2 s11.

**(9)** No proceedings by or before the Appeals Commission shall be restrained by injunction, prohibition or other process or proceedings in any court or are removable by certiorari or otherwise into any court, nor shall any action be maintained or brought against the Appeals Commission or any member of the Appeals Commission in respect of any act done or decision made in the honest belief that it was within the jurisdiction of the Appeals Commission.

**(10)** If the evidence in support of the opposite sides of an issue related to a claim for compensation is approximately equal, the issue shall be resolved in favour of the worker.

RSA 2000 cW-15 s12;2002 c27 s7;2017 c25 Sched. 2 s11

## Appeals

**13.2(1)** A person who has a direct interest in and is dissatisfied with

- (a) a decision under section 46 made by a review body appointed under section 45,
- (b) a decision under section 120 made by a review body appointed under section 119, or

(c) a determination of the Board under section 21(3)

may, in accordance with this section, the regulations and the Appeals Commission's rules, appeal the decision or determination to the Appeals Commission.

(2) In considering an appeal from a decision under section 46, the Appeals Commission shall consider the records of the claims adjudicator and the review body relating to the claim.

(3) In considering an appeal from a decision under section 120, the Appeals Commission shall consider the records and information available to the review body relating to the matter under consideration.

(4) In considering an appeal from a determination of the Board under section 21(3), the Appeals Commission shall consider the records and information available to the Board relating to the matter under consideration.

(5) Where a decision or determination is appealed, the Board shall provide to the Appeals Commission

- (a) the records and information, including personal information, relating to the claim or matter that is under appeal that are in the possession of the Board or the review body, and
- (b) the written reasons for the decision or determination.

(5.1) For the purpose of subsection (5), the Appeals Commission is authorized to collect and use the records and information referred to in subsection (5).

(5.2) The Board may enter into an agreement with the Appeals Commission respecting the manner in which the records, information and reasons required to be provided under subsection (5) are to be provided to the Appeals Commission, including by electronic means.

(6) In the hearing of an appeal under this section, the Appeals Commission

- (a) shall give all persons with a direct interest in the matter under appeal an opportunity to be heard and to present any new or additional evidence,
- (b) is bound by the board of directors' policy relating to the matter under appeal,

- (c) shall, subject to subsection (6.1), permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal,
- (d) may confirm, reverse or vary the decision or determination appealed,
- (e) may direct that its decision be implemented within a specified time period, and
- (f) may refer any matter back to the review body or the Board, as the case may be, for further action or decision, with or without directions.

**(6.1)** The Board may make representations under subsection (6)(c) if it has submitted to the Appeals Commission a notice of intention to attend the hearing, which notice must include a description of the reasons for attending.

**(6.2)** A notice of intention under subsection (6.1) must be provided by the Appeals Commission to the parties described in subsection (6)(a) who have notified the Appeals Commission of their intention to participate in the hearing.

**(6.3)** The Appeals Commission shall determine all matters and questions arising under this Act and the regulations in respect of it having regard to the substance of the matters in dispute and the merit of the positions of the parties, in a manner consistent with the provisions of this Act, the regulations and workers' compensation principles.

**(7)** At the request of an affected person or the Board, the Appeals Commission may clarify any directions given in respect of a decision.

**(8)** The Appeals Commission shall not accept an appeal from a decision under section 46 or 120 unless a written notice of appeal that complies with the regulations is received within 2 years from the date that the appropriate review body made its decision.

*(NOTE: Subsection (8) applies with respect to decisions or determinations referred to in section 13.2(1) made on or after September 1, 2018. See SA 2017 c25 Sched. 2 s12(2).)*

**(9)** Notwithstanding subsection (8), if the chief appeals commissioner, or the appeals commissioner to whom the chief



appeals commissioner delegates the chief appeals commissioner's duties, considers there is a justifiable reason for a delay, that commissioner may extend, with or without conditions, the deadline set out in subsection (8).

(10) There is no appeal from a decision made under subsection (9).

(11) At any stage of the proceedings before it, the Appeals Commission may by application state in the form of a special case for the opinion of the Court of Queen's Bench any question of law or jurisdiction arising in the course of the proceedings, and may adjourn the proceedings for that purpose.

(12) The Appeals Commission shall publish on its website copies of its decisions.

RSA 2000 cW-15 s13;2002 c27 s7;2009 c53 s189;  
2014 c18 s4;2017 c25 Sched. 2 s12

#### **Board is bound by decision**

**13.3(1)** The Board is bound by a decision of the Appeals Commission and by any decision rendered on an appeal or review of a decision of the Appeals Commission.

(2) The Board shall implement a decision referred to in subsection (1)

- (a) within the time prescribed in the decision, or
- (b) if no time is prescribed in the decision, then as soon as is practicable and, in any event, not later than 30 days after being notified of the decision.

2002 c27 s7

#### **Appeal**

**13.4(1)** The Board and any person who has a direct interest in a decision of the Appeals Commission made pursuant to section 13.2 may appeal the decision to the Court of Queen's Bench on a question of law or jurisdiction.

(2) An appeal must be commenced by application.

(3) An application must include a concise statement of

- (a) the grounds on which the decision is being appealed, and
- (b) the nature of the relief claimed.

(4) An application must be filed with the Court and served on the Appeals Commission and the other parties to the appeal, all within 6 months after the date of the decision that is being appealed.

- (5) The Court may not enlarge the time period referred to in subsection (4).
- (6) Where the appellant is a person other than the Board, the appellant must also serve a copy of the application on the Board.
- (7) On being served with an application the Appeals Commission shall forthwith forward to the clerk of the Court
- (a) the record of the proceedings before the Appeals Commission, which consists of
    - (i) the notice of appeal or other document that initiated the appeal before the Appeals Commission,
    - (ii) all documents forwarded to the Appeals Commission under section 13.2(5) that were considered by the Appeals Commission in reaching its decision,
    - (iii) the evidence and all exhibits and other documents received by the Appeals Commission, and
    - (iv) the decision of the Appeals Commission, with reasons, and
  - (b) a certificate stating that the record is true and complete.
- (8) The Court may receive any further evidence that the Court considers is necessary in order to determine a question of law or jurisdiction.
- (9) The Court may stay the operation of the decision being appealed until final disposition of the appeal.
- (10) The Court may direct that any person be added or struck as a party and that the application be served on any other person that the Court considers appropriate.
- (11) On the hearing of the appeal the Court may
- (a) confirm or set aside the decision of the Appeals Commission or any part of it, and
  - (b) where it sets aside the decision, refer the matter back to the Appeals Commission for reconsideration in accordance with any directions the Court considers appropriate.
- (12) If the Court finds that the only ground for appeal that is proven is a defect in form or a technical irregularity, and that no

substantial wrong or miscarriage of justice has occurred, it may deny the appeal and confirm the decision of the Appeals Commission notwithstanding the defect or irregularity, and may order that the decision takes effect from the time and on the terms that the Court considers proper.

**(13)** The Court may make any award as to the costs of the appeal that it considers appropriate.

**(14)** An appeal from a decision of the Court under this section lies to the Court of Appeal.

2002 c27 s7;2009 c53 s189

#### **Consensual resolution process privileged**

**13.5** Where, in the course of an appeal before the Appeals Commission, the Appeals Commission conducts a consensual resolution process, no oral or written statement made and no documents provided as part of the process may be admitted in evidence in any other proceeding before the Appeals Commission or any other tribunal or court without the consent of the person who made the statement or provided the document.

2002 c27 s7

### **Part 3 Jurisdiction of Board**

#### **Application of Act**

**14(1)** This Act applies to all employers and workers in all industries in Alberta except the employers and workers in the industries designated by the regulations as being exempt.

**(2)** Notwithstanding subsection (1), an employer in an industry exempted under the regulations may apply to the Board for an order declaring that the Act applies to workers in the employer's employment in that industry.

**(3)** The Board may, on the terms and conditions it considers appropriate, by order declare that this Act applies to the following classes of persons:

- (a) persons temporarily employed in preventing, combatting or alleviating the effects of any emergency or disaster whether or not remuneration is paid for that employment;
- (b) persons who are engaged on a voluntary basis as firemen, ambulance drivers, ambulance attendants or in a similar activity undertaken in the public interest whether or not remuneration is paid for that activity.

(4) For the purposes of subsection (3), “disaster” and “emergency” have the meanings assigned them in the *Emergency Management Act*.

(5) The Board may, on application by an employer or prospective employer proposing to engage persons in any volunteer activity in which the remuneration, if any, is nominal, order that those persons are deemed to be workers to whom this Act applies.

RSA 2000 cW-15 s14;2007 c12 s13

#### **Application to have Act apply**

**15(1)** Subject to section 16, an employer, a partner in a partnership, a proprietor and a director of a corporation are not workers for the purposes of this Act unless they apply to the Board in accordance with the regulations to have the Act apply to them as workers and the Board approves the application.

(2), (3) Repealed 2002 c27 s8.

(4) If approval of an application under this section is delayed by inadvertence of the Board, the Board may make its approval effective from the date the application would otherwise have been approved.

(5) The Board may at any time revoke an approval given under this section and, on the revocation, the person referred to in the revocation ceases to be a worker to whom this Act applies as of the effective date of the revocation.

RSA 2000 cW-15 s15;2002 c27 s8

#### **Persons deemed workers**

**16(1)** Where an individual performs any work for any other person in an industry to which this Act applies, that individual is deemed to be a worker of the other person, except when the individual

- (a) is performing the work as the worker of another employer,
- (b) is an employer and is performing the work as part of the business of the employer, whether by way of manual labour or otherwise,
- (c) is a director of a corporation and is performing the work as part of the business of the corporation, whether by way of manual labour or otherwise,
- (d) is a partner in a partnership who is a worker under section 15(1) and is performing the work as part of the business of the partnership, whether by way of manual labour or otherwise, in the industry for which coverage has been approved, or

(e) is a proprietor who is a worker under section 15(1) and is performing the work as part of the business of the proprietorship, whether by way of manual labour or otherwise, in the industry for which coverage has been approved.

(2) Notwithstanding anything in this Act, the Board may, in its discretion or on the application of any interested party, by order deem any person or class of persons who have performed or are performing work for or for the benefit of another person to be workers of that other person for the purposes of this Act for the period or periods of time that the work was or is performed.

RSA 2000 cW-15 s16;2002 c27 s9

### **Jurisdiction of Board**

**17(1)** Subject to section 13.1, the Board has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act or the regulations and the action or decision of the Board on such matters and questions is final and conclusive, and is not open to question or review in any court.

(2) No proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceedings in any court or are removable by certiorari or otherwise into any court, nor shall any action be maintained or brought against the Board, any employee or officer of the Board or any member of the board of directors in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the Board.

(3) The Board has authority to reconsider any matter that it has dealt with and to rescind or amend any decision or order previously made by it.

(4) Each matter shall be decided on the merits and justice of the case and the Board is not bound to follow any previous decision or ruling of the Board as a precedent in reaching its decisions or making its rulings.

(4.1) If the evidence in support of the opposite sides of an issue related to a claim for compensation is approximately equal, the issue shall be resolved in favour of the worker.

(5) The Board has the same powers as the Court of Queen's Bench for compelling the attendance of witnesses and of examining them under oath and compelling the production and inspection of books, papers, documents and things.

(6) The Board may cause depositions of witnesses residing in or outside Alberta to be taken before any person appointed by the

Board in a manner similar to that prescribed by the *Alberta Rules of Court*.

RSA 2000 cW-15 s17;2002 c27 s10;2005 c48 s2;  
2017 c25 Sched.2 s13

#### **Investigation by Board**

**18(1)** In this section, “employer” includes a person who the Board considers might be an employer.

**(2)** The Board or a person authorized in writing by the Board for the purpose may on its or the authorized person’s own initiative or on complaint of a person interested, investigate any matter concerning the due administration of this Act.

**(3)** For the purposes of an investigation under subsection (2), the Board or authorized person

- (a) may inquire into and examine
  - (i) the business affairs of an employer involved in the matter under investigation,
  - (ii) the books, files, papers, documents, correspondence, records or other things in relation to or connected with an employer involved in the matter under investigation

as they relate to the subject-matter of the investigation, and may give to the employer or the employer’s agent notice in writing requiring the employer to bring and produce before the Board or authorized person at a place and time stated in the notice, which time shall be at least 10 days after the giving of the notice, all books, files, papers, documents, correspondence, records and other things in the employer’s custody, possession or control that are relevant to the matter under investigation,

- (b) may take possession of, examine and remove and take extracts from or obtain reproduced copies of any of the things referred to in clause (a), and
  - (c) may enter, inspect and examine at all reasonable times any premises or other place, other than a private dwelling, in which an employer carries on business.
- (4)** If a person
- (a) fails to comply with a notice under subsection (3)(a), or

- (b) refuses to permit a person conducting an investigation to enter, inspect and examine a premises or place in accordance with subsection (3)(c),

the person making the investigation may apply to the Court of Queen's Bench and the Court may make any order it considers necessary requiring the person to comply with the notice or permit the entry, inspection or examination.

(5) A copy of the application, and each affidavit in support, shall be served not less than 3 days before the date named in the notice for hearing the application.

(6) A person who, pursuant to subsection (3)(b), removes any of the things permitted by that subsection to be removed shall

- (a) give to the person from whom the things were taken a receipt for the things taken, and
- (b) forthwith make copies of, take photographs of or otherwise record the things removed and forthwith return them to the person to whom the receipt was given under clause (a).

RSA 2000 cW-15 s18;2009 c53 s189

#### **Prohibition**

**19(1)** A person shall

- (a) make prompt and explicit answers to an inquiry made under section 18(3)(a), and
- (b) comply with a notice given under section 18(3)(a).

**(2)** No person shall

- (a) prohibit or interfere with the examination or removal of anything under section 18(3), or
- (b) otherwise obstruct, hinder or interfere with the Board, or a person acting on its behalf, in the making of an investigation under section 18.

RSA 2000 cW-15 s19;2002 c27 s11

#### **General powers on investigation**

**20** For the purposes of conducting an investigation under this Act, the Board or other person conducting the investigation has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

1981 cW-16 s15

**Compensation in place of action**

**21(1)** No action lies for the recovery of compensation under this Act and all claims for compensation shall be determined by the Board.

**(2)** This Act and the regulations apply instead of all rights and causes of action, statutory or otherwise, to which a worker, the worker's legal personal representatives or the worker's dependants are or might become entitled against the employer of the worker by reason of any accident happening to the worker, and no action in respect of that accident lies against the employer.

**(3)** Any party to an action may, on notice to the other parties, apply to the Board for determination of whether a worker who is a party to the action is entitled to compensation under this Act and the regulations.

1981 cW-16 s16

**Action vests in the Board**

**22(1)** In this section and section 22.1,

- (a) "action" means a cause of action and all rights of recovery of a claimant, whether inside or outside Alberta, against any person or persons, in respect of or arising out of the personal injury to or the death of a worker;
- (b) "claimant" means a worker, a worker's legal personal representative or a worker's dependants;
- (c) "compensation costs" means the present and future costs, as determined by the Board, of all benefits paid or payable to or on behalf of a claimant under this Act including, without limitation, all disability, medical aid and vocational rehabilitation benefits.

**(2)** This section

- (a) applies to accidents that occur on or after the date this section comes into force;
- (b) does not apply in respect of an action that the Board has divested itself of under section 22.1.

**(3)** Notwithstanding any other Act, if an accident happens to a worker entitling a claimant to compensation under this Act, any action of the claimant in respect of that accident vests in the Board.



(4) Nothing in subsection (3) shall be construed so as to affect the operation of section 13(b) of the *Motor Vehicle Accident Claims Act*.

(5) Where an action vests in the Board under subsection (3),

(a) the Board

(i) may bring the action in the name of the claimant for the entire value of the action including, without limitation, all compensation costs,

(ii) has the same right to recover any amounts in the action that the claimant would have been entitled to recover, including the compensation costs as if the claimant had been required to pay the compensation costs,

(iii) has the same right to pursue all of the same claims for losses and damages in the action as the claimant would have had but for the vesting of the action in the Board, whether or not those claims or damages have been accepted by the Board, in whole or in part, in the adjudication of the compensation claim,

(iv) has control of the action including, without limitation,

(A) determining whether or not to bring the action,

(B) compromising and effecting a settlement of the action at any time for any amount it considers advisable,

(C) fully or partially releasing any party from liability, and

(D) retaining and instructing counsel of its choice, including counsel employed by the Board, to bring the action,

and

(v) may enter evidence by way of a certificate issued under section 149,

and

(b) the court, in hearing the action, may consider any evidence that the Board gathered in its adjudication of the claimant's compensation claim.

(6) No decision made or required to be made by the Board under this section shall be construed as placing the Board in a conflict of interest in respect of a decision made or required to be made by the Board under any other section of this Act, nor shall the pursuit of an action under this section by the Board be construed as placing the Board in a fiduciary relationship with the claimant.

(7) Notwithstanding anything to the contrary in this section, no legal fees are payable by the Board to counsel retained by a claimant in respect of an action to which the *Motor Vehicle Accident Claims Act* applies.

(8) No settlement may be made and no payment shall be made to any person other than the Board or its designate for or in respect of any action except with the approval of the Board, and any release, payment or settlement made in contravention of this subsection is void.

(9) The claimant shall not adversely affect the conduct of an action and shall co-operate fully with the Board in bringing an action or any appeal of an action including, without limitation, by

- (a) securing and providing any or all information or evidence,
- (b) attending at any or all meetings, mediations, arbitrations, questionings under Part 5 of the *Alberta Rules of Court*, medical examinations, including independent medical examinations, and the trial of the action, and
- (c) providing and executing any or all documents required by the Board to bring the action, including endorsing an assignment or release of the action and providing consents to secure information, in the form and manner prescribed by the Board, in favour of the Board,

as and when required by the Board.

(10) If a claimant does not comply with subsection (9), the Board may suspend the payment of periodic compensation to the claimant during the period of non-compliance.

(11) All proceeds of settlement or judgment resulting from an action, including any costs and disbursements recovered, shall be paid to the Board or its designate and shall be distributed in the following order:

- (a) payment of any costs awarded against the claimant;
- (b) payment of disbursements approved or incurred by the Board;

- (c) if the claimant has complied with subsection (9), payment of 25% of the remaining amount to the claimant;
- (d) where the Board retained counsel to bring the action, payment of legal fees from the proceeds of the action in an amount prescribed by the regulations unless the Board determines that that amount is insufficient, in which case the Board may increase the amount;
- (e) where the action was pursued by counsel employed by the Board, payment of an administration fee as determined by the Board;
- (f) payment of any compensation costs;
- (g) payment of the balance, if any, to the claimant.

**(12)** The Board shall set off any amount due to the Board by a claimant against any payment under subsection (11)(c) or (g) or both.

**(13)** Where future compensation costs are incurred by the Board in addition to the compensation costs recovered under subsection (11)(f) and a payment is made to the claimant under subsection (11)(g), the amount of the payment is deemed to be an advance of any future benefits determined to be payable under Part 4, including benefits relating to periods of time prior to the date of settlement or judgment, and shall be set off against any of those future benefits.

**(14)** No employer shall, directly or indirectly, by agreement, threats, promises or persuasion or by any other means, discourage or impede a worker of the employer, or the worker's dependant, from participating in or co-operating with the Board in pursuing an action under this section.

RSA 2000 cW-15 s22;2005 c48 s3;2009 c53 s189

#### **Divested action**

**22.1(1)** If the Board determines that it is not in the best interests of the Accident Fund or the workers' compensation system to bring an action under section 22, the Board may divest itself of the action and assign it in writing to the claimant, in which event the claimant may bring the action.

**(2)** After an action is divested under subsection (1), the Board is not liable for the payment of any legal or other costs or damages, or entitled to recover any amount, in connection with the claimant's pursuit of the action.

2005 c48 s4

**Circumstances removing cause of action**

**23(1)** If an accident happens to a worker entitling the worker or the worker's dependants to compensation under this Act, neither the worker, the worker's legal personal representatives, the worker's dependants nor the worker's employer has any cause of action in respect of or arising out of the personal injury suffered by or the death of the worker as a result of the accident

- (a) against any employer, or
- (b) against any worker of an employer,

in an industry to which this Act applies when the conduct of that employer or worker that caused or contributed to the injury arose out of and in the course of employment in an industry to which this Act applies.

**(2)** In an action to which section 22 applies, a defendant may not bring third party or other proceedings against any employer or worker whom the plaintiff may not, by reason of this section bring an action against, but if the court is of the opinion that that employer or worker, by that employer's or worker's fault or negligence, contributed to the damage or loss of the plaintiff, it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

RSA 2000 cW-15 s23;2005 c48 s5

### **Part 3.1 Fair Practices Office**

**Fair Practices Office**

**23.1(1)** The Fair Practices Office is established and consists of the Fair Practices Commissioner appointed by the Lieutenant Governor in Council and any employees that are necessary for the purposes of carrying out the business and affairs of the Fair Practices Office appointed in accordance with the *Public Service Act*.

**(2)** The Lieutenant Governor in Council may also appoint one or more Deputy Fair Practices Commissioners.

**(3)** Subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, the Fair Practices Commissioner and any Deputy Fair Practices Commissioners may be appointed for a maximum term of 3 years and are eligible for reappointment for additional terms of not more than 3 years each.

**(4)** The Lieutenant Governor in Council shall determine the remuneration that is payable to the Fair Practices Commissioner and a Deputy Fair Practices Commissioner.

(5) The remuneration referred to in subsection (4) must be set in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

2017 c25 Sched. 2 s14

### **Fair Practices Commissioner**

**23.2(1)** The Fair Practices Commissioner shall

- (a) subject to subsection (2), review and make recommendations to the Board, the Appeals Commission or the Medical Panels Office, or any one or more of them, as the Fair Practices Commissioner considers appropriate,
  - (i) relating to any matter under this Act, for the purpose of determining administrative fairness and processes used to reach decisions, and
  - (ii) relating to a breach of the Code of Rights and Conduct,
- (b) establish programs directed at providing independent advice, assistance and advocacy services to employers and to workers and their dependants, and
- (c) perform any other function or duty provided for in the regulations.

(2) In accordance with the regulations, the Fair Practices Commissioner may review and make recommendations on a matter referred to in subsection (1)(a),

- (a) if a complaint is made in accordance with the regulations to the Fair Practices Commissioner by a worker, the worker's dependant or an employer,
- (b) if a matter is referred to the Commissioner by the Board or the Appeals Commission, or
- (c) on the Commissioner's own motion.

(3) The powers and duties conferred on the Fair Practices Commissioner by this section may be exercised and performed notwithstanding any provision in this Act or any other Act to the effect

- (a) that any matter referred to in subsection (1)(a) is final,
- (b) that no appeal lies in respect of the matter referred to in subsection (1)(a), or

(c) that no proceeding or decision of the Board, the Appeals Commission or the Medical Panels Office, or by any officer, employee or member of the Board, the Appeals Commission or the Medical Panels Office whose decision, act or omission it is, may be challenged, reviewed, quashed or called into question.

(4) The Fair Practices Office may request the Board, the Appeals Commission, the Medical Panels Office, a worker, worker's dependant or employer to provide it with any records or information, including personal information, that it considers necessary to make a recommendation, including the records and information relating to a matter that is being reviewed that are in the possession of the Board or the review body.

(5) For the purposes of subsection (4),

- (a) the Fair Practices Office is authorized to collect and use the records and information, and
- (b) the Board, the Appeals Commission and the Medical Panels Office are authorized to disclose the records and information.

(6) The Board, the Appeals Commission and the Medical Panels Office may each enter into an agreement with the Fair Practices Office respecting the manner in which the records and information required to be provided under subsection (4) are to be provided to the Fair Practices Office, including by electronic means.

(7) A person receiving records and information under this section shall not use or disclose the records or information except for a purpose related to this section.

2017 c25 Sched. 2 s14

#### **Annual report and meetings**

**23.3(1)** The Fair Practices Commissioner shall, in a form satisfactory to the Minister,

- (a) submit a report to the Minister annually, and
- (b) at any other times that the Minister directs, submit a report containing the information requested by the Minister.

(2) The Fair Practices Commissioner shall meet with the Board at least annually and at any other times that the Minister directs or that the Fair Practices Commissioner requests.

2017 c25 Sched. 2 s14

**Costs of the Fair Practices Office**

**23.4** The costs of carrying on the operations of the Fair Practices Office, as approved by the Minister, and the remuneration payable to the Fair Practices Commissioner shall be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

2017 c25 Sched. 2 s14

**Immunity**

**23.5** No action may be maintained or brought against the Fair Practices Commissioner, a Deputy Fair Practices Commissioner or any employees or agents of the Fair Practices Office in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the Fair Practices Office.

2017 c25 Sched. 2 s14

**Regulations**

**23.6** The Lieutenant Governor in Council may make regulations

- (a) respecting the functions and duties of the Fair Practices Office;
- (b) respecting the functions and duties of the Fair Practices Commissioner;
- (c) respecting the ownership, custody, control, collection, use and disclosure of records, reports and information submitted to or created or acquired by the Fair Practices Office, the Fair Practices Commissioner or a Deputy Fair Practices Commissioner;
- (d) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this section and sections 23.1 to 23.5.

2017 c25 Sched. 2 s14

## **Part 4**

### **Compensation Entitlement, Application and Payment**

**Eligibility for compensation**

**24(1)** Subject to this Act, compensation under this Act is payable

- (a) to a worker who suffers personal injury by an accident, unless the injury is attributable primarily to the serious and wilful misconduct of the worker, and
- (b) to the dependants of a worker who dies as a result of an accident.

(2) The Board shall pay compensation under this Act to a worker who is seriously disabled as a result of an accident notwithstanding that the injury is attributable primarily to the serious and wilful misconduct of the worker.

(3) If a worker is found dead at a place where the worker had a right, during the course of the worker's employment, to be, it is presumed that the worker's death was the result of personal injury by accident arising out of and during the course of the worker's employment, unless the contrary is shown.

(4) If the personal injury or death of a worker arose out of the employment, unless the contrary is shown, it is presumed that it occurred during the course of the employment, and if the personal injury or death of a worker occurred during the course of the employment, unless the contrary is shown, it is presumed that it arose out of the employment.

(5) If a worker is required as a condition of the worker's employment to attend any classes or take any course of instruction, the classes or course of instruction are, for the purposes of this Act, deemed to be part of the worker's employment.

(6) If a worker suffers disablement

- (a) from or because of any occupational disease, or
- (b) from or because of a disease or condition deemed under section 24.3(4)

and at some time during the 12 months preceding the disablement was employed in an industry or process or performed activities deemed by the regulations or deemed by section 24.3(4) to have caused that disease or condition, the disease or condition is deemed to have been caused by that employment or activity, unless the contrary is shown.

(7) If a worker suffers disablement or potential disablement caused by an occupational disease referred to in subsection (6)(a) or a disease or condition referred to in subsection (6)(b), the date of the accident for the purposes of this Act is deemed to be

- (a) in the case of disablement, the date the disablement occurs, and
- (b) in the case of potential disablement, the date the potential disablement comes to the Board's attention.

(8) If the Appeals Commission is of the opinion that a disease or condition may be linked to employment in a particular industry or



process or linked to an activity carried out in a particular type of employment, the Appeals Commission shall so notify the Board and the Committee.

RSA 2000 cW-15 s24;2002 c27 s12;2017 c25 Sched. 2 s15

### **Presumption re firefighters**

**24.1(1)** In this section,

(a) “full-time firefighter” means an employee, including an officer and a technician, employed by a municipality or Metis settlement and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;

(b) “municipality” means a municipality as defined in the *Municipal Government Act*;

(b.1) “paramedic” means a paramedic as defined in section 24.2;

*(NOTE: Clause (b.1) applies with respect to accidents that occur on or after April 1, 2018. See SA 2017 c25 Sched. 2 s16(2).)*

(c) “part-time firefighter” means a casual, volunteer or part-time member of a fire protection service of a municipality or Metis settlement.

**(2)** If a worker who is or has been a full-time firefighter or part-time firefighter suffers an injury that is a primary site cancer of a type specified in the regulations, the injury shall be presumed to be an occupational disease, the dominant cause of which is the employment as a full-time firefighter or part-time firefighter, unless the contrary is proven.

**(3)** The presumption in subsection (2) applies only to a worker who has been a full-time firefighter or part-time firefighter for a minimum period prescribed by the Lieutenant Governor in Council by regulation and who has been regularly exposed to the hazards of a fire scene, other than a forest-fire scene, throughout that period.

**(4)** The Lieutenant Governor in Council shall make regulations

(a) designating primary site cancers to which the presumption in subsection (2) applies;

(b) prescribing periods of employment for the purpose of subsection (3) which may be different for the different diseases designated under clause (a).

**(5)** and **(6)** Repealed 2011 c17 s2.

(7) If a worker who is a full-time firefighter or part-time firefighter suffers a myocardial infarction within 24 hours after being dispatched or attending at an emergency response, whichever is later, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a full-time firefighter or part-time firefighter unless the contrary is proven.

*(NOTE: Subsection (7) applies with respect to accidents that occur on or after April 1, 2018. See SA 2017 c25 Sched. 2 s16(2).)*

(7.1) If a worker who is a paramedic suffers a myocardial infarction within 24 hours after being dispatched or attending at an emergency response, whichever is later, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a paramedic unless the contrary is proven.

2003 c10 s2;2005 c49 s2;2011 c17 s2;2017 c25 Sched. 2 s16

*(NOTE: Subsection (7.1) applies with respect to accidents that occur on or after April 1, 2018. See SA 2017 c25 Sched. 2 s16(2).)*

#### **PTSD presumptions**

**24.2(1)** In this section,

- (a) “correctional officer” means a peace officer referred to in section 10 of the *Corrections Act*;
- (b) “emergency dispatcher” means an emergency dispatcher for a first responder;
- (c) “firefighter” means a full-time firefighter or part-time firefighter as defined in section 24.1;
- (d) “first responder” means a firefighter, paramedic, peace officer or police officer;
- (e) “paramedic” means an individual who is a regulated member of the Alberta College of Paramedics under the *Health Professions Act* and who holds a practice permit issued under that Act;
- (f) “peace officer” means an individual appointed as a peace officer under section 7 of the *Peace Officer Act* who is authorized by that appointment to use the title “Sheriff”;
- (g) “physician” means an individual who is a regulated member of the College of Physicians and Surgeons of Alberta under the *Health Professions Act* authorized to use the title “physician” and who holds a practice permit that allows for

unsupervised practice issued under that Act, or an individual who has a similar status under similar legislation in Canada;

- (h) “police officer” means an individual appointed as a police officer under section 5 or 36 of the *Police Act* or as a chief of police under section 36 of the *Police Act*;
- (i) “post-traumatic stress disorder” means Posttraumatic Stress Disorder as that condition is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
- (j) “psychological injury” means any psychological disorder or condition that meets the diagnostic criteria for a disease or condition that is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
- (k) “psychologist” means an individual who is a regulated member of the College of Alberta Psychologists and who holds a practice permit issued under the *Health Professions Act*, or an individual who has a similar status under similar legislation in Canada.

(2) If a first responder, correctional officer, emergency dispatcher or any other class of worker prescribed by the regulations is or has been diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.

(3) If a worker

- (a) is or has been exposed to a traumatic event or events during the course of the worker’s employment, and
- (b) is or has been diagnosed with a psychological injury by a physician or psychologist,

the psychological injury shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.

(4) The Board shall

- (a) assist a worker who is diagnosed with a psychological injury in obtaining, or
- (b) provide to the worker

treatment by culturally competent clinicians who are familiar with the research concerning treatment for psychological injuries.

2012 c8 s2;2016 c9 s30;2017 c25 Sched. 2 s17

*(NOTE: Section 24.2 applies with respect to accidents that occur on or after April 1, 2018. See SA 2017 c25 Sched. 2 s17(2).)*

### **Occupational Disease and Injury**

#### **Advisory Committee**

**24.3(1)** The Occupational Disease and Injury Advisory Committee is established under the administration of the Minister and

- (a) must consist of
  - (i) the Director of Medical Services, Occupational Health and Safety, who shall be the chair,
  - (ii) an employee of the Board who is a physician, designated by the Board, who shall be the vice-chair,
  - (iii) an employee of the Department of Health, designated by the Deputy Minister of Health,
  - (iv) an employee of Alberta Health Services, designated by Alberta Health Services, and
  - (v) an employee of Covenant Health, designated by Covenant Health,

and

- (b) may also include 3 persons appointed by the Minister in accordance with subsection (2).

**(2)** If the Minister decides to appoint members under subsection (1)(b),

- (a) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers,
- (b) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers, and
- (c) one person must be selected from a list of at least 3 members of the public who applied for a position on the Committee but who are not members of organizations that represent employers or workers.

- (3) The purpose of the Committee is to
- (a) propose recommendations to the Minister respecting amendments to the Act or the regulations relating to occupational diseases,
  - (b) periodically review the regulations referred to in sections 24(6) and 24.1(4) and provide advice to the Minister respecting amendments to those regulations,
  - (c) monitor trends and stay informed about occupational diseases, injuries and conditions, and
  - (d) provide any other advice or recommendations requested by the Minister.
- (4) Where the Committee considers that a disease or condition is linked to employment in a particular industry or process or is linked to an activity carried out in a particular type of employment, the Committee may direct the Board to deem the disease or condition to have been caused by that employment or activity, as the case may be, and the Board shall deem it.
- (5) The chair may engage other persons to assist the Committee in carrying out its purposes.
- (6) The Committee may make rules governing the calling of its meetings, the conduct of business at its meetings and any other matters as required.
- (7) In accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, the Minister may pay members of the Committee reasonable travelling and living expenses and may pay remuneration to those members referred to in subsection (2).
- (8) The Minister may provide administrative support to the Committee.
- (9) The costs of carrying on the operations of the Committee, as approved by the Minister, the costs of providing administrative support referred to in subsection (8) and the expenses payable to the members must be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

2017 c25 Sched. 2 s18

**Payment of compensation**

- 25(1)** If an accident disables a worker for all or part of the day of the accident,

- (a) the employer shall, by the end of the next regularly scheduled pay period after that day, pay compensation to the worker for that day in an amount equal to the minimum normal net wage the worker would have received for that day if the worker had not been disabled and had been available for work in the normal course, and
  - (b) the Board is not responsible for providing compensation to the worker, other than medical aid, for that day.
- (2)** If an accident disables a worker for longer than the day of the accident,
- (a) the employer shall pay compensation to the worker in respect of the day of the accident in accordance with subsection (1)(a), and
  - (b) the Board shall pay compensation to the worker in respect of every day after the day of the accident to which the worker is entitled under this Act to receive that compensation, excluding any day on which the worker would not have worked in the normal course of the worker's employment, or for which the worker would not have been paid.
- (3)** An employer may refuse to make a payment under subsection (1)(a) or (2)(a) until the worker provides to the employer a report from a physician of the worker's choice stating that the injury resulting from the accident was the cause of the consequent absence of the worker from work.
- (4)** No employer shall deduct sick pay entitlement or otherwise reduce the usual benefits to which the worker is entitled by reason of the employer having to make a payment under subsection (1)(a) or (2)(a).
- (5)** If an employer contravenes subsection (1)(a) or (2)(a), the Board
- (a) may pay to the worker the amount due under that subsection, and in that case the employer is liable to repay to the Board the amount so paid, and
  - (b) may impose a fee of not more than \$100 on the employer each time the Board makes a payment under clause (a).

1981 cW-16 s20;1981 c62 s6

**Time limit for claims**

**26(1)** Subject to subsection (2), the Board shall not pay compensation

- (a) to a worker unless the worker reports the accident to the Board within 24 months after the date of the accident or the date on which the worker becomes aware of the accident, or
- (b) to a dependant unless the dependant reports the accident to the Board within 24 months after the date of the death of the worker.

**(2)** If a worker or dependant does not report an accident within the time prescribed by subsection (1), the Board may nevertheless pay compensation if it is satisfied that there are reasonable and justifiable grounds for the accident's not being reported within the prescribed time or that the claim is a just claim and should be allowed despite the failure to report within the prescribed time.

RSA 2000 cW-15 s26;2002 c27 s13

**Intervention by Lieutenant Governor in Council**

**27** Notwithstanding anything in this Act, if, after considering the report and recommendations of the Ombudsman, the Lieutenant Governor in Council is of the opinion that an injustice or hardship to a worker has resulted or will result, the Lieutenant Governor in Council may direct the Board

- (a) to pay to the worker from the Accident Fund an amount that the Lieutenant Governor in Council considers appropriate, or
- (b) to refer the matter to the Court of Queen's Bench for an assessment of damages and to pay to the worker from the Accident Fund the amount of any damages so assessed.

1981 cW-16 s22

**Out-of-province accidents**

**28(1)** If an accident happens while the worker is employed out of Alberta, the worker or the worker's dependants are entitled to compensation under this Act if

- (a) the worker
  - (i) is a resident of Alberta, or
  - (ii) has his or her usual place of employment in Alberta and the work out of Alberta is a continuation of the employment by the same employer or an employer that

is related to that employer within the meaning of section 134,

- (b) the nature of the employment is such that, in the normal course of the employment, the work or service the worker performs is required to be performed both in and out of Alberta, and
- (c) subject to subsection (2), the employment out of Alberta has lasted less than 12 continuous months.

**(2)** The Board may, on application by an employer and subject to any terms it considers appropriate,

- (a) waive any of the requirements of subsection (1)(a) and (b), and
- (b) extend the period referred to in subsection (1)(c).

**(3)** If, by the law of the jurisdiction in which the accident happens, the worker or the worker's dependants are entitled to compensation or some other remedy in respect of the accident, the worker or dependants shall elect

- (a) to claim compensation or the other remedy under the law of the other jurisdiction, or
- (b) to claim compensation under this Act,

and shall give notice of that election to the Board under subsection (4), but if there is in existence an agreement under section 29, the right of election is subject to the terms of that agreement.

**(4)** Subject to subsection (5), notice of election shall be given to the Board

- (a) by the worker within 30 days after the happening of the accident, or
- (b) if the accident results in death, by a dependant within 30 days after the death,

and if notice of election is not given in accordance with this subsection, the worker or dependant is deemed to have elected not to claim compensation under this Act.

**(5)** The Board may, on application either before or after the expiration of the 30-day period referred to in subsection (4), extend that period.



(6) If a worker or dependant elects under subsection (3) to claim compensation under this Act and at any time claims compensation or some other remedy under the law of another jurisdiction in respect of the same accident, the worker or dependant is deemed to have forfeited all rights to compensation under this Act in respect of that accident, and any money paid to the worker or dependant or on the worker's or dependant's behalf by the Board in respect of it constitutes a debt due from the worker or dependant to the Board.

(7) Repealed 2005 c48 s6.

(8) Notwithstanding subsection (6), if a worker or dependant, before claiming compensation under this Act, and in ignorance of the worker's or dependant's rights or the extent of the worker's or dependant's rights under this Act, claims compensation under the law of the other jurisdiction where the accident happened and is found to be not entitled to compensation, the worker or dependant is deemed not to have forfeited the worker's or dependant's rights under this Act by reason only of making that claim.

RSA 2000 cW-15 s28;2002 c27 s14;2005 c48 s6

#### **Agreements with other provinces or territories**

**29(1)** The Board may enter into an agreement with the workers' compensation board or similar body in another province or territory to provide for the payment of compensation for injuries to workers who are employed under conditions such that part of the work incidental to the employment is performed in Alberta and part of the work is performed in that other province or territory, in order to ensure that those workers or their dependants receive compensation either in conformity with this Act or in conformity with the Act in force in the other province or territory relating to workers' compensation and to avoid a duplication of assessments.

(2) Payment out of the Accident Fund of money required to be paid pursuant to an agreement under subsection (1) may be made to the workers' compensation board or other body with which the agreement has been made, and all money received by the Board pursuant to the agreement shall be paid by it into the Accident Fund.

1981 cW-16 s24

#### **Cost sharing agreements**

**30(1)** The Board may enter into an agreement with the Government of Canada or with the appropriate authority in any province or territory providing for the sharing of the costs of claims in proportion to the exposure or estimated amount of exposure to probable causes of the injury giving rise to the claims encountered by the claimants within their respective jurisdictional areas.

(2) All money paid or received by the Board pursuant to any agreement under subsection (1) shall be paid out of or into the Accident Fund, as the case may be, by the Board.

1981 cW-16 s25

**31** Repealed 2005 c48 s7.

**Notice by worker**

**32(1)** If a worker

- (a) suffers personal injury by an accident, or
- (b) regardless of whether the worker is injured, is, as a result of an accident, entitled to medical aid under Part 5,

the worker shall give notice of the accident as provided in subsection (2).

(2) If subsection (1) applies, the worker shall, as soon as practicable after the accident, give notice of the accident in accordance with the regulations

- (a) to the employer, and
- (b) to the Board, if the injury disables or is likely to disable the worker for more than the day of the accident.

(3) If a worker suffers an accident that results in the worker's death, the worker's dependant shall, as soon as practicable after the accident, give notice of the accident in accordance with the regulations to the employer and to the Board.

(4) Repealed 2002 c27 s15.

RSA 2000 cW-15 s32;2002 c27 s15

**Notice by employer**

**33(1)** An employer who receives notice of an accident under section 32 or otherwise acquires knowledge of an accident or of an allegation of an accident

- (a) shall forthwith record the details of the accident as required by the regulations and forthwith provide a copy of that record to the worker,
- (b) shall, if the accident disables or is likely to disable the worker for more than the day of the accident,
  - (i) give notice of the accident to the Board within 72 hours after acquiring knowledge of the accident or the

allegation, and at the same time give a copy of that notice to the worker, and

(ii) if the employer acquires knowledge that the worker has returned to work or is able to return to work, give notice of that fact to the Board within 24 hours after the employer acquires knowledge of it,

(c) shall, if the accident is one to which section 32(1)(b) applies, except in those cases where only first aid, as determined by the Board, is rendered, give notice of the accident to the Board within 72 hours after the employer acquires knowledge of the accident or the allegation, and

(d) shall provide the Board with any other information it requires in connection with the accident.

(2) If an employer or a person who, in the opinion of the Board, is or might be an employer fails to

(a) provide any information as required by this section, or

(b) reply to the Board's request for information within 30 calendar days after the date of that request,

the Board may investigate the accident and may charge the costs of the investigation to the employer or other person.

RSA 2000 cW-15 s33;2002 c27 s16

#### **Report by physician**

**34(1)** A physician who attends an injured worker shall

(a) forward a report to the Board

(i) within 2 days after the date of the physician's first attendance on the worker if the physician considers that the injury to the worker will or is likely to disable the worker for more than the day of the accident or that it may cause complications that may contribute to disablement in the future, and

(ii) at any time when requested by the Board to do so,

(b) advise the Board when, in the physician's opinion, the worker will be or was able to return to work, either in the physician's report referred to in clause (a)(i) or in a separate report forwarded to the Board not later than 3 days after the worker was, in the physician's opinion, so able, and

(c) without charge to the worker, give all reasonable and necessary information, advice and assistance to the worker and the worker's dependants in making a claim for compensation and in furnishing any certificates and proofs that are required in connection with the claim.

(2) The Board shall pay an attending physician fees prescribed by the regulations for a report under this section.

(3) Notwithstanding subsection (1), where an injured worker is attended to in a hospital or other treating agency, the Board may request the hospital or treating agency to furnish it with a report and, on receiving that request, the administrator or person in charge of the hospital or treating agency shall ensure that the request is forthwith complied with.

(4) A report made or submitted to the Board under this Act by a physician or a hospital or other treating agency is for the use and purpose of the Board only, and is a privileged communication of the person making or submitting it and, unless it is proved that it was made maliciously, is not admissible in evidence or subject to production in any court in an action or proceeding against that person.

(5) Payment by the Board of an account for medical aid rendered to an injured worker does not of itself constitute the making of a claim for compensation by the worker or acceptance of a claim by the Board.

1981 cW-16 s29;1984 c68 s9

#### **Progress report**

**35** On the written request of the employer of an injured worker, the Board shall provide the employer with a report of the progress being made by the worker.

1981 cW-16 s30

#### **Board's entitlement to information**

**36** The Board may require from any person entitled to compensation, whether a worker or dependant, particulars of that person's place of residence, address and other information relative to the disability and compensation, that it considers necessary, and pending the receipt of those particulars the Board may withhold compensation payments.

1981 cW-16 s31

#### **Inspection of records**

**37** A record required to be kept under the *Occupational Health and Safety Act* or the regulations under that Act to record cases in which first aid treatment is given to a worker for or in respect of

any injuries suffered by the worker, is open to inspection by the Board or any member or representative of the Board and by the injured worker or that worker's representative.

1981 cW-16 s32

#### **Medical examination and investigation**

**38(1)** A worker claiming compensation or to whom compensation is payable under this Act shall, if the Board requires it, undergo a medical examination, at a time and place determined by the Board, to be conducted by a physician selected by the worker from a roster established by the Medical Panels Office, and the Board shall pay the costs of that examination.

**(2)** If a worker contravenes subsection (1) or in any way obstructs an examination,

- (a) the worker's right to compensation is suspended until the examination has taken place, and
- (b) the worker's condition as found by the examination is, unless the Board otherwise directs, deemed to have been the worker's condition at the date for which the examination was called.

**(3)** If a worker claims compensation under this Act the Board, in order to assist it in determining the worker's entitlement to compensation, may

- (a) require that a medical investigation be conducted in respect of the worker in the manner it considers necessary, or
- (b) accept the results of a medical investigation already conducted in respect of that worker,

and, in either case, the Board may pay the costs of the investigation.

**(4)** While a medical investigation is being conducted under subsection (3), the Board may pay compensation to the worker notwithstanding that the worker's entitlement to it has not yet been determined.

1981 cW-16 s33;1981 c62 s7;1983 c32 s3;2017 c25 Sched. 2 s19

#### **Employer may require medical examinations**

**39(1)** At the written request of the employer of a worker who claims compensation or to whom compensation is payable under this Act, the Board may require the worker to undergo a medical examination by a physician selected by the Board.

(2) If a worker fails to undergo or in any way obstructs the examination, the Board may suspend the worker's right to compensation until the examination has taken place.

(3) A physician who makes an examination of a worker pursuant to this section shall submit the physician's report on the worker to the Board and to the worker on the worker's request.

(4) The cost of the examination and the reasonable expenses of the worker in connection with the examination shall be borne by the employer and, if the employer fails to pay those expenses, the Board may pay the expenses and the employer is liable to pay the Board the amount so paid.

1981 cW-16 s34;1983 c32 s3;1984 c68 s10

#### **Board may require autopsy**

**40** If the Board considers an autopsy to be necessary to assist in determining the cause of death of a worker, the Board may direct that the autopsy be conducted within a time fixed by the Board, and if the dependants of the worker refuse to permit the autopsy, the Board may reject any claim for compensation under this Act.

1981 cW-16 s35

#### **Hospital authority must report death**

**41** If the death of a worker to whom this Act applies occurs while the worker is confined to a hospital, the hospital authority shall immediately report the death to the Board.

1981 cW-16 s36

#### **Application for compensation**

**42** An application for compensation under this Act shall be dealt with and determined in the first instance on behalf of the Board by a claims adjudicator employed by the Board.

1981 cW-16 s37

#### **Evaluation of disability**

**43(1)** If permanent disability results from an accident, the evaluation of the worker's disability shall be made on behalf of the Board by one physician and one claims adjudicator employed by the Board.

(2) Permanent total disability shall be conclusively presumed in all cases in which the injuries suffered consist of or include any or all of the following:

- (a) total and permanent loss of the sight of both eyes;
- (b) the loss of both feet at or above the ankle;
- (c) the loss of both hands at or above the wrist;

- (d) the loss of one hand at or above the wrist and one foot at or above the ankle;
- (e) an injury to the spine resulting in permanent and complete paralysis of both legs, both arms or one leg and one arm;
- (f) an injury to the central nervous system resulting in mental incompetence that renders the worker incapable of being gainfully employed.

1981 cW-16 s38

**Notice of decision**

**44** On the making of a determination as to the entitlement of a worker or the worker's dependant to compensation under this Act, the employer and the worker or, in the case of the worker's death, the worker's dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.

1981 cW-16 s39

**Review body**

**45(1)** The Board shall appoint a review body for the purposes of section 46 consisting of not fewer than 3 persons, one of whom shall be designated as the chair.

**(2)** The chair of the review body may designate one or more members of the review body to conduct a review under section 46 on behalf of the review body.

**(3)** When one or more members of the review body are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the review body.

**(4)** Where a claims adjudicator or a physician referred to in section 42 or 43 made a decision or was involved in a matter that is the subject of a review under section 46, that person is not eligible to conduct a review in respect of that decision or matter.

**(5)** The review body may grant interim relief while the decision is under review in accordance with policies established by the Board, which must be publicly available.

RSA 2000 cW-15 s45;2002 c27 s17;2017 c25 Sched. 2 s20

**Review of decision**

**46(1)** Where a person has a direct interest in a claim for compensation in respect of which a claims adjudicator has made a decision, that person may, within one year from the day the

decision was issued by the claims adjudicator, seek a review of the decision by the review body appointed under section 45.

(2) On receiving a request for a review, the Board shall cause all the information in the Board's possession in respect of the matter that is the subject of the review to be reviewed by the review body.

(3) For the purposes of subsection (1), any decision made by a claims adjudicator prior to June 1, 1995 is deemed to have been issued on June 1, 1995.

(4) Unless otherwise allowed by the review body a request for a review must be in writing and must

- (a) set out the date and place of the accident and the claim number,
- (b) identify the decision or issue that is to be reviewed, and
- (c) set out the reasons as to why the decision or issue should be reviewed.

(5) The review body

- (a) must receive the representations, if any, made on behalf of any one or more of the interested parties, and
- (b) may confirm, vary or reverse any decision made in respect of the claim.

(6) For the purposes of a review, the review body may require the worker or the worker's dependant, if the dependant is claiming compensation, to undergo a medical examination by a physician not employed by the Board and, in that case, section 38 applies.

(7) The one-year period referred to in subsection (1) may be extended if the chair of the review body or the chair's delegate considers there is a justifiable reason for extending the time period.

(8) Where the one-year period is extended under subsection (7), the person extending the time period may do so with or without conditions.

(9) There is no appeal from a decision made under subsection (7).

RSA 2000 cW-15 s46;2002 c27 s18

#### **Minister responsible for Medical Panels Office**

**46.1** The Minister is responsible for the Medical Panels Office.

2017 c25 Sched. 2 s21



**Medical Panels Office**

**46.2(1)** The Medical Panels Office is established and consists of, subject to subsection (2), the Medical Panels Commissioner appointed by the Lieutenant Governor in Council and any employees that are necessary for the purposes of carrying out the business and affairs of the Medical Panels Office appointed in accordance with the *Public Service Act*.

**(2)** The Lieutenant Governor in Council may also appoint one or more Deputy Medical Panels Commissioners.

**(3)** A Deputy Medical Panels Commissioner may act in the absence of the Medical Panels Commissioner and may carry out any power, duty or function delegated under subsection (8).

**(4)** Subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, the Medical Panels Commissioner and any Deputy Medical Panels Commissioner may be appointed for a maximum term of 3 years and are eligible for reappointment for additional terms of not more than 3 years each.

**(5)** The Lieutenant Governor in Council shall determine the remuneration that is payable to the Medical Panels Commissioner and a Deputy Medical Panels Commissioner.

**(6)** The remuneration referred to in subsection (5) must be set in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

**(7)** In addition to the Medical Panels Commissioner's other powers, duties and functions under this Act, the Medical Panels Commissioner is responsible for the operation of the medical panel process, including, without limitation,

- (a) coordinating the referral of medical issues and matters to medical panels,
- (b) developing and implementing processes to ensure the timely completion of medical panel reviews and reports,
- (c) establishing the roster referred to in section 38(1),
- (d) ensuring the efficient operation and management of the Medical Panels Office, and
- (e) any other functions prescribed in the regulations.

**(8)** The Medical Panels Commissioner may, in writing, delegate any powers, duties and functions of the Medical Panels Commissioner to the Deputy Medical Panels Commissioner.

(9) The costs of carrying on the operations of the Medical Panels Office, as approved by the Minister, and the remuneration payable to the Medical Panels Commissioner and any Deputy Medical Panels Commissioner shall be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

(10) The Medical Panels Commissioner shall, in a form satisfactory to the Minister,

- (a) submit a report to the Minister annually, and
- (b) at any other times that the Minister directs, submit a report containing the information requested by the Minister.

(11) No action may be maintained or brought against the Medical Panels Commissioner, a Deputy Medical Panels Commissioner, a medical panel or a member of a medical panel or any employees or agents of the Medical Panels Office in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the Medical Panels Commissioner or the Deputy Medical Panels Commissioner.

2017 c25 Sched. 2 s21

#### **Medical panels**

**46.3(1)** Where it considers it appropriate to do so, the Board or the Appeals Commission may, in the course of evaluating a claim for compensation under this Act, request that a medical panel be established under this section to deal with a medical issue relative to the claim.

(2) Where, in the Board's or the Appeals Commission's opinion, a difference of medical opinion arises in the course of the Board's or Appeals Commission's evaluation of a claim for compensation under this Act, the Board or the Appeals Commission, as the case may be, shall request that a medical panel be established to deal with the matter.

(3) Where a difference of medical opinion arises in the course of evaluating a claim for compensation under this Act and a medical panel has not been established to deal with the matter under subsection (2), the worker or a worker's dependant may apply to the Appeals Commission for the purpose of having a medical panel established to deal with the matter if the worker or the worker's dependant, as the case may be, has exhausted the worker's or dependant's rights to a review under section 46.

(4) The Appeals Commission shall request that a medical panel be established to deal with the matter referred to in the application if

- (a) the requirement under subsection (3) is met, and
  - (b) in the Appeals Commission's opinion, there is a difference of medical opinion.
- (5)** A request for the establishment of a medical panel shall be made to the Medical Panels Office and must include the records and information, including personal information, available to the Board or the Appeals Commission, as the case may be, relating to the medical issue or matter.
- (6)** For the purposes of subsection (5),
- (a) the Medical Panels Office is authorized to collect and use the records and information, and
  - (b) the Board and the Appeals Commission are authorized to disclose the records and information.
- (7)** Where the Medical Panels Office receives a request for the establishment of a medical panel, the Medical Panels Commissioner shall, in accordance with the regulations and subject to section 46.4, establish a medical panel to deal with the issue or matter that is the subject of the application.
- (8)** A person is not eligible to be a member of a medical panel unless the person is a regulated member of the College of Physicians and Surgeons of Alberta who holds a practice permit issued under the *Health Professions Act* or has a similar status under similar legislation in a jurisdiction outside Alberta.
- (9)** For the purposes of providing a report of its medical findings, the medical panel established under subsection (7)
- (a) shall review the records and information received under subsection (5),
  - (b) if the worker has selected a physician to provide input and make representations on behalf of the worker before a medical panel pursuant to the regulations, shall arrange to receive the physician's input and representations, and
  - (c) may
    - (i) interview or examine the worker,
    - (ii) invite a physician, including the worker's treating physician, and any other health provider who holds a practice permit under the *Health Professions Act* whom

the medical panel considers appropriate, to provide input,

- (iii) seek, or request the Medical Panels Commissioner to seek, advice or information relevant to the medical issue or matter from one or more of any of the following:
    - (A) physicians;
    - (B) medical specialists;
    - (C) health care providers who hold a practice permit under the *Health Professions Act*,
- and
- (iv) request the Medical Panels Commissioner to do one or both of the following:
    - (A) to arrange for any tests on or assessments of the worker;
    - (B) to compile medical information relevant to the medical issue or matter.

**(10)** For the purposes of this section, a difference of medical opinion arises where

- (a) the medical issue is substantial and material to the claim,
- (b) the physicians who provided the medical opinions are in possession of the same facts in respect of the medical issue,
- (c) the physicians have reasonably similar qualifications or expertise in respect of the medical issue, and
- (d) the medical opinions relate to the same time frame

and the Board is not able to resolve the outstanding medical issue through consultation with the physicians.

**(11)** If the evidence in support of the opposite sides of an issue relating to the difference of a medical opinion in the course of evaluating a claim for compensation is approximately equal, the issue shall be resolved in favour of the worker.

**(12)** The medical findings of a medical panel are binding on the Board, the Appeals Commission and all other persons with a direct interest in the claim.

(13) The medical findings of a medical panel are final and conclusive and not open to question or review in any court.

2017 c25 Sched. 2 s21

#### **Case conferencing**

**46.4(1)** Before referring a matter to a medical panel under section 46.3, and unless it is impractical to do so, the Medical Panels Commissioner may request any of the following to attend a case conference:

- (a) any physicians referred to in section 46.3(10);
- (b) any health care provider who holds a practice permit under the *Health Professions Act* the Medical Panels Commissioner considers appropriate;
- (c) the parties;
- (d) any other person the Medical Panels Commissioner considers appropriate.

(2) The participants in the conference may consider

- (a) the resolution of the difference of medical opinion, the process for resolving the difference and how the resolution process can be facilitated,
- (b) simplification or clarification of a matter or issue referred to the medical panel under section 46.3, and
- (c) any other matter that may aid in the resolution or facilitate the resolution of the matter referred to the medical panel.

(3) The Medical Panels Commissioner shall provide the parties and any other person directed to attend the conference with notice of the conference and any material to be relied on in the conference in a reasonable time before the date the conference is scheduled to take place.

(4) The Medical Panels Commissioner may make a procedural order before, at or following the conference.

(5) A case conference and any statements disclosed during the conference are without prejudice.

2017 c25 Sched. 2 s21

#### **Regulations**

**46.5** The Lieutenant Governor in Council may make regulations

- (a) respecting the powers, duties and functions of the Medical Panels Commissioner and the Medical Panels Office;
- (b) respecting the ownership, custody, control, collection, use and disclosure of records, reports and information submitted to or created or acquired by the Medical Panels Office, the Medical Panels Commissioner, a Deputy Medical Panels Commissioner and a medical panel;
- (c) respecting the appointment and removal of the members of a medical panel;
- (d) respecting the remuneration and expenses to be paid to the members of a medical panel;
- (e) respecting the duties of the members of a medical panel;
- (f) respecting applications under section 46.3;
- (g) respecting the practice and procedure applicable to proceedings before a medical panel;
- (h) respecting the establishment and maintenance of the roster referred to in section 38(1);
- (i) respecting the selection of a physician for the purpose of section 38(1);
- (j) respecting the procedures relating to a case conference referred to in section 46.4;
- (k) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of sections 46.1 to 46.4.

2017 c25 Sched. 2 s21

**Commutation of periodic payments**

**47(1)** The Board may commute to a lump sum periodic compensation payments to a worker or dependant, regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act.

**(2)** The fact that the Board makes a lump sum payment to a worker or dependant in full settlement of the worker's or dependant's claim does not affect the worker's or dependant's right to compensation under Parts 5 and 6 or the Board's right to alter the amount of compensation if a change in disability occurs.

**(3)** In the case of

- (a) death or permanent total disability, or
- (b) permanent partial disability resulting in greater than 25% impairment of the worker's earning capacity immediately before the accident,

the Board shall not commute any periodic compensation payments except with the agreement of the worker or dependant entitled to them.

**(4)** A lump sum payment made by the Board shall be computed on the basis of the rate of compensation being paid at the date the lump sum payment is approved by the Board.

RSA 2000 cW-15 s47;2017 c25 Sched. 2 s22

*(NOTE: Subsection (4) applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s22(2).)*

#### **Lump sum advance**

**48** The Board may, in any case in which in its opinion the interest or pressing need of the worker or dependant warrants it, advance or pay to the worker or dependant a lump sum that it considers appropriate, and any sum so advanced or paid shall be on account of and is chargeable against the compensation payable to the worker or dependant.

1981 cW-16 s43

#### **Payments to spouse or adult interdependent partner or child**

**49** If the Board is satisfied

- (a) that a spouse or adult interdependent partner or child dependent on the worker and residing in Alberta is without adequate means of support and is or is likely to become a charge on the Government or on the municipality where the spouse or adult interdependent partner or child resides or on private charity, or
- (b) that a spouse or adult interdependent partner or child dependent on the worker and residing in or out of Alberta is not being supported by the worker and an order has been made against the worker by a court for support or maintenance of the spouse or adult interdependent partner or child or for alimony,

the Board may pay the compensation payable to the worker in whole or in part to the spouse or adult interdependent partner or child.

RSA 2000 cW-15 s49;2002 cA-4.5 s81;2003 cF-4.5 s128

**Payment to child**

**49.1** Where a dependent spouse or dependent adult interdependent partner receives or is entitled to receive a pension under section 70 and there are dependent children of the deceased worker who resided with the worker at the time of the worker's death but do not reside with that dependent spouse or dependent adult interdependent partner following the death of the worker, the Board may pay the pension in whole or in part to the children.

2003 c50 s2

**Payment for person under disability**

**50** The Board may, instead of making a payment to the worker or dependant, pay the money to some other person for the benefit of the worker or dependant or direct that the payment be applied in a manner that it considers to be for the best advantage of the worker or dependant if it is satisfied that the worker or dependant is under the age of 18 years, that the worker or dependant suffers from some other disability or incapacity or that for some other reason the money should not be paid directly to the worker or dependant.

1981 cW-16 s45

**Only one pension payable**

**51** If a person who is receiving or is entitled to receive a pension because of the death of a worker subsequently becomes entitled to a pension because of the death of another worker, that person shall not receive both pensions but shall be paid the greater of the 2 pensions.

1981 cW-16 s46

**Worker leaving Alberta**

**52** If a worker who is entitled to compensation under this Act leaves Alberta and takes up residence in another jurisdiction, the Board may cease paying compensation under this Act to that worker unless

- (a) the worker provides medical evidence in a manner satisfactory to the Board confirming the continuation of the disablement and the Board is satisfied that the period of disablement is not prolonged by the worker leaving Alberta, or
- (b) the worker has been granted an award for permanent disability arising out of the accident.

1981 cW-16 s47;1984 c68 s12

**Compensation to dependants residing outside Canada**

**53** The Board may, in its discretion, pay compensation to a dependant who resides outside Alberta but no such dependant is



entitled to receive greater compensation than the dependant would receive if the dependant were resident in Alberta.

1981 cW-16 s48

#### **Reduction or suspension of compensation**

**54** If a worker behaves in a manner that tends to imperil or retard the worker's recovery or refuses to undergo any medical aid that the Board, based on independent medical advice, considers reasonably essential to promote the worker's recovery, the Board may reduce or suspend the compensation payable to that worker.

1981 cW-16 s49

#### **Payments to end of month**

**55** If, under this Act, periodic payments of compensation, other than for temporary disability, are to cease on the happening of an event, the Board shall pay the compensation up to the end of the month in which the event happens.

1981 cW-16 s50

### **Disability**

#### **Compensation for disability**

**56(1)** The Board shall pay periodic compensation

- (a) on a monthly basis in the case of permanent disability,
- (b) on a bi-weekly basis in the case of temporary disability, or
- (c) on a basis other than under clause (a) or (b), if the Board considers it appropriate to do so.

**(2)** If an accident results in an impairment of earning capacity after the date of the accident, the Board shall estimate the impairment of earning capacity resulting from the accident and shall pay periodic compensation to the worker in an amount equal to 90% of the estimated loss of net earnings as determined by the Board in accordance with subsection (3).

**(3)** Subject to section 68(1), the estimated loss of net earnings shall be based on the difference between

- (a) the worker's net earnings at the time of the accident based on a period or periods of time prior to the accident or the date of disablement, as the case may be, that, in the Board's opinion, fairly and justly represent the worker's net earnings at that time, and
- (b) the greater of the worker's
  - (i) actual earnings after the accident, and

(ii) estimated earning capacity after the accident,

as periodically determined by the Board.

(4) Subject to section 88.1, the Board may estimate earning capacity referred to in subsection (3)(b)(ii) only after the Board has demonstrated it has made every reasonable effort to support the worker in the worker's search for suitable employment.

(5) Compensation shall be paid in accordance with subsection (1) for as long as the impairment of earning capacity lasts.

(6) If the period or periods of time prior to the accident referred to in subsection (3)(a) are, in the Board's opinion, insufficient to allow the Board to calculate the worker's net earnings, the Board may pay periodic compensation based on another amount as determined by the Board.

(7) In making a calculation under subsection (3), the Board shall consider separately each source of employment the worker had at the time of the accident from which the worker no longer has the ability to earn wages or in which the worker's ability to earn wages is impaired, due to the accident, regardless of whether the source of employment is in an industry to which this Act applies.

(8) Payments customarily made by an employer to a worker to cover any special expenses incurred by the worker in the course of the worker's employment shall not be included in computing the worker's net earnings under subsection (3) for the purposes of this Act.

(9) In determining impairment of earning capacity, the Board shall not consider any disability benefit paid by the employer, either by way of continued salary or otherwise.

(10) The amount of the periodic payment of compensation is

- (a) in the case of permanent total disability and temporary total disability, 90% of the worker's net earnings, and
- (b) in the case of permanent partial disability and temporary partial disability, a proportionate part of 90% of the worker's net earnings based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.

(11) Compensation for permanent total disability and permanent partial disability is payable to the worker during the worker's lifetime and must not be less than

- (a) in the case of permanent total disability, \$1640.90 per month, and
- (b) in the case of permanent partial disability, a proportionate part of \$1640.90 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.

**(12)** Compensation for temporary total disability and temporary partial disability is payable to the worker only as long as the disability lasts, and compensation for temporary total disability must be

- (a) where the worker's bi-weekly net earnings are greater than the sum referred to in subsection (11)(a), the greater of
  - (i) the sum referred to in subsection (11)(a), and
  - (ii) the bi-weekly equivalent of the amount that the worker would have received under subsection (10) had the worker been permanently totally disabled,

and

- (b) where the worker's bi-weekly net earnings are equal to or less than the sum referred to in subsection (11)(a), 100% of those bi-weekly net earnings.

**(13)** Where work is made available to a worker who is temporarily partially disabled and the Board is satisfied that the worker is medically and physically capable of doing the work and that, considering all the circumstances, it is fair and just to expect the worker to accept the work, the following applies, notwithstanding subsection (12):

- (a) if the worker accepts the work, the Board shall pay periodic compensation to the worker if, in doing the work, the worker suffers an earnings loss that is caused by the residual disability, and in that case the compensation must be in an amount that is a proportionate part of 90% of the worker's earnings loss, based on the Board's estimate of the degree to which the earnings loss is caused by the residual disability;
- (b) if the worker refuses the work, the Board shall continue to pay periodic compensation to the worker in accordance with clause (a) as if the worker had accepted the work.

**(14)** Notwithstanding subsection (13), if the worker is subsequently terminated or the work is withdrawn by the employer, the Board shall pay compensation for temporary total disability

until the Board determines the worker is capable of other suitable employment.

**(15)** Subsection (13) applies regardless of whether the work is in an industry to which this Act applies.

**(16)** Where the Board determines that a worker has reached both medical and vocational plateaus in respect of the worker's injury, and the worker continues to suffer impairment of earning capacity, the Board shall pay to the worker periodic compensation in the form of an economic loss payment for permanent disability, calculated in accordance with subsection (3).

**(17)** After the worker has reached both medical and vocational plateaus, the Board may, at such times as it considers appropriate, investigate the worker's circumstances for the purposes of reviewing the worker's entitlement to an economic loss payment, and may, following the investigation, confirm or adjust the level of the economic loss payment payable in accordance with the worker's actual or estimated earning capacity at the time.

**(18)** In computing net earnings for the purposes of this Act with respect to accidents that occurred before September 1, 2018, no regard may be taken of the aggregate gross annual earnings of the worker in excess of an amount prescribed by order of the Board.

RSA 2000 cW-15 s56;2002 c27 s20;2017 c25 Sched. 2 s23

*(NOTE: Section 56 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s23(2).)*

#### **Non-economic loss payment**

**56.1(1)** When the worker has reached medical plateau, the Board shall pay the worker a non-economic loss payment as compensation for permanent clinical impairment, including disfigurement, that results from the accident.

**(2)** A worker's non-economic loss payment is calculated by multiplying the worker's percentage of permanent clinical impairment by \$90 772.20.

**(3)** This section applies in respect of accidents that occur on or after September 1, 2018.

2017 c25 Sched. 2 s24

**57** Repealed 2017 c25 Sched. 2 s25.

*(NOTE: The repeal of section 57 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s25(2).)*

**58** Repealed 2017 c25 Sched. 2 s25.

*(NOTE: The repeal of section 58 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s25(2).)*

#### **Cost of living adjustments**

**59(1)** Commencing for the 2018 calendar year and for subsequent calendar years, for the purpose of maintaining parity with the cost of living, the amounts payable as compensation to persons who are receiving compensation under this Act or any predecessor of this Act in respect of permanent total disability, permanent partial disability or death of a worker must be adjusted cumulatively from year to year by a percentage equal to the increase to the Alberta Consumer Price Index, All-items, published by Statistics Canada for each year for the 12 months ending September 30 of the year immediately prior to the adjustment.

**(2)** If the percentage increase in the Alberta Consumer Price Index is a negative number, that negative number must be treated as if it were zero.

**(3)** Subsection (1) does not apply to amounts specifically referred to in this Act for the 2018 calendar year as those amounts have been adjusted for the 2018 calendar year.

**(4)** An adjustment under this section with respect to an accident that occurred on or before September 1, 2018 is subject to the maximum pension payable under section 56.

RSA 2000 cW-15 s59;2017 c25 Sched. 2 s26

#### **Adjustment to temporary disability**

**60(1)** If after December 31, 1989 a worker is receiving compensation for temporary disability 24 months after the date of the accident, the Board shall adjust the compensation by the same percentage as it would have had the worker been permanently totally disabled at the time of the accident.

**(2)** An adjustment under subsection (1) is subject to the maximum pension payable under section 56 that is in effect on the day that the worker is entitled to receive the adjustment.

RSA 2000 cW-15 s60;2005 c48 s8

#### **Retirement benefit**

**60.1(1)** For the purposes of this section, “worker’s retirement date” means the later of

- (a) the date the worker reaches the age of 65 years,

- (b) 5 years following the date of the accident, and
- (c) another date, if the Board is satisfied that the worker would have retired at a later date than provided for in clauses (a) and (b).

(2) Where immediately prior to the worker's retirement date the worker had been in receipt of economic loss payments, the Board shall, effective on the worker's retirement date, pay an annual retirement benefit calculated by multiplying the total amount of the periodic compensation paid up to the month in which the periodic compensation ended by 2%.

(3) The annual retirement benefit is payable on a monthly basis for the lifetime of the worker.

(4) Where a worker has been in receipt of periodic compensation continuously for a period of at least 2 years, and the worker's entitlement to periodic compensation ends before the worker's retirement date, the worker is entitled to receive a lump sum retirement benefit calculated by multiplying the total amount of the periodic compensation paid up to the month in which the periodic compensation ended by 2%.

RSA 2000 cW-215 s59;2017 c25 Sched. 2 s27

*(NOTE: Section 60.1 applies in respect of accidents that occur on or after January 1, 2018. See SA 2017 c25 Sched. 2 s27(2).)*

#### **Recurrence of disability**

**61(1)** The Board may, if

- (a) a worker who was awarded compensation in respect of an accident ceases to receive that compensation by reason of recovery from the disability,
- (b) there is a recurrence of disability in the form of temporary disability and that disability is due to the same accident,
- (c) the worker has, at the time of recurrence of the disability, earnings in an amount that is greater than the amount of the worker's net earnings at the time of the accident, and
- (d) more than 12 months have elapsed since the date of the accident,

pay compensation on and from the date of the recurrence on the same basis as if the worker had suffered another accident and been disabled on the date of the recurrence of disability.

(2) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act.

1981 cW-16 s55;1984 c68 s15;1986 c33 s5

**62** Repealed 2017 c25 Sched. 2 s28.

#### **Determining impairment of earning capacity**

**63** In determining the degree of impairment of earning capacity, the Board may consider as a factor the nature of the injury and the physical and mental fitness of the worker to continue in the employment in which the worker was injured or to adapt himself or herself to some other suitable employment.

1981 cW-16 s57

#### **Deduction of allowance or benefit from employer**

**64(1)** The Board may, in fixing the amount of compensation payable to a worker, deduct all or part of the amount of any payment, allowance or benefit that the worker will receive from the worker's employer in respect of the period of the worker's disability and the Board may pay all or part of that amount to the employer out of the Accident Fund.

(2) An employer who receives money under subsection (1) shall credit that amount to the account of the worker from whom the deductions were made.

1981 cW-16 s58

**65** Repealed 2017 c25 Sched. 2 s29.

**66** Repealed 2017 c25 Sched. 2 s30.

#### **Compensation to learner and apprentice**

**67(1)** If a worker who is a learner suffers impairment of earning capacity because of an accident, the periodic compensation to which the worker is entitled must be calculated on the same basis as if the worker were, at the time of the accident, a beginner in the industry in which the worker was a learner.

(2) If a worker who is an apprentice in an industry suffers impairment of earning capacity because of an accident and is entitled to periodic compensation, the Board may grant the worker an adjustment in the periodic compensation at the time that the worker would, in the normal course, have become qualified in the worker's trade.

RSA 2000 cW-15 s67;2017 c25 Sched. 2 s31

**Increase in compensation for young workers**

**68(1)** For the purposes of section 56, the worker's net earnings is the Alberta average weekly earnings for the year prior to the issuance of the compensation payment if

- (a) the worker was
  - (i) under the age of 25 years at the date of the accident, or
  - (ii) 25 years of age or older at the date of the accident and was enrolled in a vocational or academic program approved by the Board,
- (b) the Alberta average weekly earnings exceed the worker's actual net earnings at the time of the accident, and
- (c) the worker
  - (i) has been assessed as having a permanent clinical impairment of 50% or higher, or
  - (ii) has been receiving compensation for temporary disability for 24 months after the date of the accident and is expected to have a permanent clinical impairment of 50% or higher.

**(2)** For the purposes of subsection (1), the Alberta average weekly earnings is an amount based on the average weekly earnings for Alberta as published annually by Statistics Canada for the year preceding the date of the accident.

RSA 2000 cW-15 s68;2017 c25 Sched. 2 s32

*(NOTE: Section 68 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s32(2).)*

**69** Repealed 2017 c25 Sched. 2 s33.

**Death****Compensation for death**

**70(1)** For the purposes of this Act, if at the time of the worker's death there is both a spouse and an adult interdependent partner of the worker, then

- (a) if the spouse is a dependent spouse, the spouse is entitled to a pension under this section, or



- (b) if the spouse is not a dependent spouse and the adult interdependent partner is a dependant, the adult interdependent partner is entitled to a pension under this section,

and nothing in this subsection affects the rights under this Act of dependent children of either relationship.

**(2)** If a worker dies as a result of an accident and leaves a dependent spouse or dependent adult interdependent partner, a pension is, subject to this section, payable to the dependent spouse or dependent adult interdependent partner in an amount equal to the pension the worker would have received had the worker lived and been permanently totally disabled.

**(3)** If a worker dies as a result of an accident and leaves a dependent spouse or dependent adult interdependent partner and dependent children, the pension payable under subsection (2) shall be paid to the dependent spouse or dependent adult interdependent partner for the dependent spouse's or dependent adult interdependent partner's benefit and the benefit of the dependent children until 5 years has expired from the month in which there is no longer a dependent child.

**(4)** If, following the month in which there is no longer a dependent child, a child who is 18 years of age or older but less than 25 years of age becomes a dependent child because of being enrolled at an educational institution approved by the Board, the dependent spouse or dependent adult interdependent partner is entitled to a pension until the child is no longer a dependent child.

**(5)** If a worker dies as a result of an accident and leaves a dependent spouse or dependent adult interdependent partner and no dependent children, the pension payable under subsection (2) is payable to the dependent spouse or dependent adult interdependent partner for a term of 5 years.

**(6)** If a dependent spouse or dependent adult interdependent partner is not gainfully employed in the month in which the pension payable in accordance with subsection (3) or (5) ends, and the dependent spouse or dependent adult interdependent partner accepts vocational or other rehabilitation services referred to in section 89(1), the pension payable under subsection (2) continues until the earlier of

- (a) the date the dependent spouse or dependent adult interdependent partner becomes gainfully employed, and

(b) the expiration of 5 years after the pension payable under subsection (3) or (5) ends.

(7) A pension under subsection (6) to a dependent spouse or dependent adult interdependent partner with no dependent children or where there is no longer a dependent child is payable until

- (a) the worker would have attained the age of 65, or
- (b) the dependent spouse or dependent adult interdependent partner attains the age of 65,

whichever is later.

(8) If a worker dies as a result of an accident and

- (a) leaves dependent children but no dependent spouse or dependent adult interdependent partner, or
- (b) leaves a dependent spouse or dependent adult interdependent partner and dependent children, but the dependent spouse or dependent adult interdependent partner later dies,

the pension payable under subsection (2) shall be paid to the person who acts as guardian of the dependent children for the maintenance and education of the dependent children until the month in which there is no longer a dependent child, at which time the pension payable under subsection (2) continues for a term of 5 years, to be divided equally among the surviving children who were dependent children at the time of the worker's death.

(9) If more than one person is acting as a guardian referred to in subsection (8), the Board may divide the amount payable under that subsection proportionately among those persons according to the number of children of whom they are the guardian.

(10) Notwithstanding anything in this Act, if the Board considers that a dependent spouse or dependent adult interdependent partner is incapable of substantially benefitting from rehabilitation services referred to in section 89(1)(c) or of becoming gainfully employed, the Board may continue payment of the pension payable under subsection (2), or a percentage of it that the Board considers appropriate, for as long as the incapability continues.

(11) Where a dependent spouse or dependent adult interdependent partner is receiving a pension other than under subsection (10) and that pension ends, that person is entitled to receive a lump sum retirement benefit calculated by multiplying the total amount of the

pension paid up to the month in which the pension payments ended by 2%.

RSA 2000 cW-15 s70;2002 cA-4.5 s81;2017 c25 Sched. 2 s34

*(NOTE: Section 70 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s34(2).)*

#### **Lump sum death payment**

**70.1(1)** If a worker dies as a result of an accident and leaves a dependent spouse or dependent adult interdependent partner to whom compensation is payable, in addition to any other compensation payable, the dependent spouse or dependent adult interdependent partner is entitled to a lump sum payment of \$90 772.20.

**(2)** If a worker dies as a result of an accident and leaves dependent children but no dependent spouse or dependent adult interdependent partner, the lump sum payable under subsection (1) must be divided equally among the dependent children.

**(3)** If a worker dies as a result of an accident and leaves no dependent spouse or dependent adult interdependent partner or dependent children, the lump sum payable under subsection (1) must be paid to the worker's estate.

**(4)** This section does not apply if the worker has received compensation under section 56.1 or section 69 before its repeal.

2017 c25 Sched. 2 s35

#### **Compensation to child not residing with dependent spouse or dependent adult interdependent partner**

**71** Notwithstanding any payment to a dependent spouse or dependent adult interdependent partner under section 70, the Board may pay compensation to a dependent child of the deceased worker who is not residing with the dependent spouse or dependent adult interdependent partner at the time of the worker's death in an amount not exceeding \$420 per month.

RSA 2000 cW-15 s71;2002 cA-4.5 s81;2017 c25 Sched. 2 s36

*(NOTE: Section 71 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s36(2).)*

#### **Additional payments to child**

**72** If a worker dies as a result of an accident and leaves no spouse or adult interdependent partner, or if a surviving spouse or adult interdependent partner subsequently dies or is confined to an institution, prison or correctional institution, the Board may make additional payments of not more than \$420 per month to a

dependent child of the worker to assist in that child's maintenance and support.

RSA 2000 cW-15 s72;2002 cA-4.5 s81;2017 c25 Sched. 2 s37

*(NOTE: Section 72 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s37(2).)*

#### **Payments to dependants for illness**

**73** If a worker dies as a result of an accident, the Board may pay to the worker's dependent spouse or dependent adult interdependent partner or dependent child, or both of them, who are in necessitous circumstances because of illness, any additional amount it considers appropriate.

RSA 2000 cW-15 s73;2002 cA-4.5 s81

**74 and 75** Repealed 2017 c25 Sched. 2 s38.

#### **Compensation to other dependants**

**76(1)** If the only dependant of a deceased worker is a person other than a dependent spouse or dependent adult interdependent partner or dependent child of the worker, the Board shall pay compensation to that dependent person in an amount the Board considers to be reasonable and proportionate to the pecuniary loss caused to that dependent person by the death of the worker, subject to the maximum amount payable pursuant to section 56.

**(2)** The Board may in respect of an accident occurring before January 1, 1982, pay to a dependant referred to in subsection (1) who is receiving compensation in respect of that accident under a predecessor of this Act, an additional amount of compensation determined by the Board to be reasonable and proportionate to the pecuniary loss caused to that dependant by the death of the worker, subject to the maximum amount payable under the predecessor of this Act at the time of the accident, as adjusted pursuant to that Act.

**(3)** Compensation to which this section applies shall continue for as long as, in the opinion of the Board, it might reasonably be expected that the worker, had the worker lived, would have continued to contribute to the support of the dependant.

RSA 2000 cW-15 s76;2002 cA-4.5 s81

#### **Funeral and other expenses**

**77** If a worker dies as a result of an accident for which compensation is payable, the Board shall, subject to the maximum amounts prescribed by an order of the board of directors of the Board, pay

- (a) a sum of money to assist in defraying costs resulting from the death of the worker, and
- (b) the necessary expenses for burial or cremation, including the reasonable cost of transporting the body.  
1981 cW-16 s72;1981 c62 s14;1984 c68 s21;  
1995 c32 s12

## **Part 5 Medical Aid**

### **Provision of medical aid**

#### **78(1)** The Board may

- (a) provide medical aid to a worker who suffers an accident, or
- (b) pay for the cost of medical aid provided to a worker who suffers an accident.

**(2)** Subsection (1) applies regardless of whether the accident referred to occurred before or after the coming into force of this Act.

**(3)** If any apparatus or appliance, or the cost of any apparatus or appliance, is provided by the Board pursuant to subsection (1), the Board shall also provide for or pay for the cost of the repair, maintenance and replacement of that apparatus or appliance if it is in need of repair, maintenance or replacement by reason of accident or ordinary wear and tear and if the disability in respect of which the apparatus or appliance was provided continues.

1981 cW-16 s73;1983 c32 s3;1984 c68 s22

### **Clothing allowance**

#### **79** The Board may

- (a) assume the cost of replacement or repair of articles of clothing, dentures, eye-glasses, artificial eyes or limbs or hearing aids that are lost, damaged or destroyed as a result of an accident, regardless of the date of the accident, and
- (b) on application of the worker, pay to the worker an annual amount prescribed by an order of the board of directors of the Board for the replacement of clothing that is worn or damaged
  - (i) by reason of the wearing of an upper or lower limb prosthesis or appliance, or
  - (ii) by use of a wheelchair

required as a result of an accident, regardless of the date of the accident.

1981 cW-16 s74;1995 c32 s13

#### **Amount of medical aid**

**80(1)** The Board shall determine all questions as to the necessity, character and sufficiency of, and the amount payable in respect of, any medical aid provided to a worker who suffers an accident.

**(2)** No action lies against

- (a) a worker, the worker's legal personal representatives or the worker's dependants for the recovery of any money in connection with medical aid provided to the worker under this Part, or
- (b) the Board for any amount in excess of the amount determined by the Board as payable in respect of medical aid provided under this Part,

regardless of whether the medical aid is provided before or after the coming into force of this Act.

1981 cW-16 s75;1981 c62 s16;1983 c32 s3;1986 c33 s10

**81** Repealed 2002 c27 s21.

#### **Allowance for home care**

**82** If a worker is disabled and is receiving home care that is, in the opinion of the Board, comparable in the circumstances to nursing home care, the Board may pay an allowance in respect of that home care.

1981 cW-16 s77

#### **Agreements respecting medical aid**

**83(1)** The Board may do any or all of the following:

- (a) contract with physicians, nurses and hospitals or any other persons or institutions for any medical aid that is required by injured workers;
- (b) with the approval of the Lieutenant Governor in Council, construct, equip, maintain and operate any hospitals in Alberta that, in the opinion of the Board, are necessary or advisable for the purpose of providing medical aid to injured workers;
- (c) with the approval of the Lieutenant Governor in Council, construct, equip, maintain and operate clinics or residence

facilities for the treatment and rehabilitation of injured workers.

(2) On the establishment of a hospital, institution or clinic under this section, the Board may extend the services of the hospital, institution or clinic to persons other than those entitled to medical aid under this Part, to the extent and on the terms and conditions that it thinks fit.

1981 cW-16 s78

#### **Worker may select physician**

**84** If medical aid is to be provided to a worker under this Part, the Board may, if it considers it appropriate, permit the worker to select the physician of the worker's choice.

1981 cW-16 s79;1981 c62 s17;1983 c32 s3

#### **Accounts to Board**

**85** Accounts for medical aid for which the Board is liable to pay shall be provided to the Board in accordance with the regulations.

1981 cW-16 s80

#### **No charge for medical aid**

**86** No part of the cost of any medical aid provided to or in respect of a worker under this Part is payable by the worker.

1981 cW-16 s81;1981 c62 s18;1983 c32 s3

#### **Transportation of injured workers**

**87(1)** Where a worker suffers an accident and is in need of medical aid, the worker's employer shall, if the worker is in need of transportation, furnish at the employer's expense immediate transportation for the worker to a hospital or other treating agency, to a physician or to any other place that is appropriate for the treatment of the worker's condition.

(2) If a worker refuses an employer's offer of transportation under subsection (1) and the Board is satisfied that the worker's refusal has prolonged or will prolong the recovery period, the Board may relieve the employer's accident experience record of the additional costs resulting from the refusal.

(3) If an employer

(a) fails to provide transportation to the appropriate place under subsection (1), or

(b) fails to pay the cost of transportation under subsection (1),

the Board may provide the transportation and pay the cost of it and the employer is liable to the Board for the amount so paid.

1981 cW-16 s82;1984 c68 s23

**Reimbursement of General Revenue Fund**

**88(1)** The Board may make an arrangement with the Minister responsible for the *Alberta Health Care Insurance Act* respecting the following matters:

- (a) the submission to that Minister of all or any specified classes of claims made by persons other than the Board who have provided medical aid to workers under this Part;
- (b) the payment of all or part of the claims referred to in clause (a) by that Minister from the General Revenue Fund under the *Alberta Health Care Insurance Act*;
- (c) the payment by the Board into the General Revenue Fund of all or part of the administrative costs incurred by that Minister under the arrangement;
- (d) the manner in which and the times by which the Board is to reimburse the General Revenue Fund pursuant to subsection (3).

**(2)** An arrangement under this section may be effective as of any date not earlier than January 1, 1982.

**(3)** The Board shall reimburse the General Revenue Fund for all payments made from the General Revenue Fund pursuant to an arrangement under this section.

**(4)** The Board may include in its assessment on employers amounts that will enable the Board to carry out its obligations under an arrangement under this section.

1983 c32 s3;1989 cD-21.5 s13;1996 c28 s50

## **Part 5.1 Obligation to Reinstate Worker and Continue to Provide Benefits**

### **Obligation to return injured workers to work**

**88.1(1)** In accordance with this section, an employer shall offer to reinstate a worker

- (a) who has been unable to work as a result of an accident, and
- (b) who, on the date of the accident, had been employed by the employer for at least 12 continuous months on a full-time or regular part-time basis.

**(2)** This section does not apply to



- (a) persons declared to be workers pursuant to section 14(3),
  - (b) persons whose applications under section 15 have been approved by the Board,
  - (c) individuals deemed to be workers pursuant to section 16,
  - (d) persons declared to be workers by orders of the Board made pursuant to the regulations, or
  - (e) unless subject to an order issued under section 14(2), employers and workers in an industry designated by the regulations as being exempt.
- (3)** The employer shall accommodate the work or the workplace to the needs of the worker to the extent that the accommodation does not cause the employer undue hardship.
- (4)** When the worker is medically and physically capable to perform the essential duties of the worker's employment on the date of the accident, the employer shall
- (a) offer to reinstate the worker in the position the worker held on the date of the accident, or
  - (b) offer to provide the worker with alternative employment of a comparable nature at not less than the earnings and benefits earned by the worker on the date of the accident.
- (5)** When the worker is medically and physically capable to perform suitable work but is unable to perform the essential duties of the worker's employment on the date of the accident, the employer shall offer the worker the first opportunity to accept suitable employment that becomes available with the employer.
- (6)** Where an employer reinstates a worker in accordance with this section and then terminates the employment, the employer is presumed not to have fulfilled the employer's obligations under this section if the worker is terminated
- (a) within 6 months after reinstatement, or
  - (b) while the worker is continuing to receive compensation under this Act.
- (7)** The employer may rebut the presumption under subsection (6) by demonstrating to the Board that the termination was not related to the worker's accident.
- (8)** Nothing in this section prevents an employer from

- (a) refusing to continue to employ a worker,
- (b) terminating, laying off or suspending a worker, or
- (c) altering the status of or transferring a worker,

if the employer satisfies the Board that the employer's decision to do so was for a business reason made in good faith and that the decision was not affected by the worker being or having been unable to work as a result of an accident.

**(9)** The employer or the worker shall notify the Board of disputes concerning whether the employer has fulfilled the employer's obligations to the worker under this section.

**(10)** On receiving a notice under subsection (9), the Board shall, within 60 days or within any longer period that the Board allows, determine whether the employer has fulfilled the employer's obligations to the worker under this section.

**(11)** The Board may attempt to resolve the dispute referred to in subsection (9) through mediation.

**(12)** The Board is not required to make a determination under subsection (10) where the worker's notice under subsection (9) is provided to the Board more than 3 months after the date of termination.

**(13)** If the Board determines that the employer has not complied with an obligation under this section, the employer is subject to an administrative penalty under section 152.1 in an amount not exceeding the amount of the worker's net average earnings for the year before the accident.

**(14)** The Board may provide to the worker an amount not exceeding the penalty paid by the employer under subsection (13).

**(15)** If the employer's obligations under this section provide the worker greater reinstatement terms than does a collective agreement that is binding on the employer, this section prevails over the collective agreement except that this subsection does not operate to displace the seniority provisions of the collective agreement.

**(16)** An employer is obligated under this section until the date on which the worker declines an offer from the employer to reinstate the worker that, in the opinion of the Board, complied with this section.

**(17)** The employer of an injured worker shall cooperate in the early and safe return to work of the worker by

- (a) contacting the worker as soon as possible after the accident occurs and maintaining communication throughout the period of the worker's recovery and impairment,
- (b) attempting to provide suitable employment that is available and consistent with the worker's functional abilities and that, when possible, restores the worker's earnings payable to the worker on the date of the accident,
- (c) giving the Board such information as the Board may request concerning the worker's return to work, and
- (d) doing such other things as may be prescribed by the Board.

**(18)** The worker shall cooperate in the worker's early and safe return to work by

- (a) contacting the worker's employer as soon as possible after the accident occurs and maintaining communication throughout the period of the worker's recovery and impairment,
- (b) assisting the employer, as may be required or requested, to identify suitable employment that is available and consistent with the worker's functional abilities and that, when possible, restores the worker's earnings payable to the worker on the date of the accident,
- (c) giving the Board such information as the Board may request concerning the worker's return to work, and
- (d) doing such other things as may be prescribed by the Board.

**(19)** If a worker fails to comply with subsection (18), the Board may reduce or suspend the compensation payable to the worker.

**(20)** For the purposes of section 22 of the *Alberta Human Rights Act*,

- (a) the Board shall notify the director of the Alberta Human Rights Commission if a matter under this section is being dealt with by the Board under this section, and
- (b) the Appeals Commission shall notify the director of the Alberta Human Rights Commission if a matter under this section is under appeal to the Appeals Commission.

**Continuation of employment benefits**

**88.2(1)** In this section, “contributions for health benefits”, in relation to a worker, means amounts paid in whole or in part by an employer on behalf of the worker or the worker’s spouse or adult interdependent partner or dependants for health benefits.

(2) Throughout the first year after a worker is injured as a result of an accident, the employer shall make contributions for health benefits when the worker is absent from work because of the injury sustained from the accident. However, the contributions are required only if

- (a) the employer was making contributions for health benefits in respect of the worker when the accident occurred, and
- (b) the worker continues to pay the worker’s contributions, if any, for the health benefits while the worker is absent from work.

(3) Subsection (2) does not apply to persons or individuals referred to in section 88.1(2).

(4) If an employer fails to make contributions for health benefits under subsection (2) and the worker incurs expenses for the provision of health services that would otherwise have been covered by the health benefit, the Board shall reimburse the worker for the amount incurred and the employer is liable to the Board for the amount so paid.

(5) If the Board determines that the employer has not complied with an obligation under this section, the employer is subject to an administrative penalty under section 152.1 in an amount not exceeding one year’s contributions for health benefits in respect of the worker.

(6) The Board may provide to the worker an amount not exceeding the penalty paid by the employer under subsection (5).

(7) Where an employer participates in a multi-employer benefit plan in respect of a health benefit, subsection (2) does not apply with respect to that employment benefit if

- (a) the plan continues to provide the worker with the health benefit to which the worker would otherwise be entitled, and
- (b) the plan does not require the employer to make contributions during the worker’s absence and does not

require the worker to draw on the benefit credits, if any, under the plan during the absence.

**(8)** For the purpose of determining a worker's entitlement to an employment benefit under a health benefit plan, fund or arrangement, the worker is deemed to continue to be employed by the employer for one year after the date of the accident.

2017 c25 Sched. 2 s39

*(NOTE: Part 5.1 applies in respect of accidents that occur on or after September 1, 2018. See SA 2017 c25 Sched. 2 s39(2).)*

## **Part 6**

### **Vocational Rehabilitation**

#### **Board to provide vocational and rehabilitation services**

**89(1)** The Board shall take whatever measures it considers necessary to assist a worker injured in an accident and entitled to compensation to return to work and to lessen or eliminate any handicap resulting from that injury and, without limiting the generality of the foregoing, may offer to do any or all of the following:

- (a) provide physical, social and psychological services;
- (b) relocate a worker who suffers from an occupational disease and the worker's dependants if, in the opinion of the Board, a change of industry or occupation is advisable;
- (c) provide vocational or other rehabilitation services;
- (d) reimburse a worker engaged in a vocational or rehabilitation program the worker's actual and reasonable expenses, including the cost of relocation, if applicable.

**(2)** If a worker dies as a result of an accident, the worker's dependent spouse or dependent adult interdependent partner is entitled to receive the same benefits and services as would have been available to the worker under subsection (1) had the worker lived.

**(3)** The Board may, if it is of the opinion that such action will assist in the rehabilitation of a dependent spouse or dependent adult interdependent partner receiving benefits under section 70, provide that dependent spouse or dependent adult interdependent partner with a pension advance but the total of the term pension payments received and the pension advance shall not exceed the total amount payable under section 70.

RSA 2000 cW-15 s89;2002 cA-4.5 s81

## Part 7 Accident Fund and Assessments

### Definition

**90** In this Part, “cost of the claim” includes the capital cost of the pension awarded and all amounts expended by the Board in connection with compensation, including assigned and apportioned costs.

1981 cW-16 s84;1984 c68 s24

### Accident Fund

**91(1)** The Accident Fund previously established is continued.

**(2)** The general purpose of the Accident Fund is to support a sustainable workers’ compensation system for the benefit of workers and employers.

**(3)** All money received by the Board must be paid into the Accident Fund and all expenditures of the Board shall be paid from the Accident Fund.

**(4)** The Board shall ensure that there is sufficient money available in the Accident Fund for the payment of present compensation and future compensation as estimated by the Board’s actuary.

**(5)** In addition to the funds referred to in subsection (4), the Board may maintain a reserve fund sufficient to meet costs arising from extraordinary events that might otherwise

(a) unfairly burden employers in the short term, or

(b) prevent full funding of the Accident Fund.

RSA 2000 cW-15 s91;2002 c27 s22;2017 c25 Sched.2 s40

### Investment of Board funds

**92(1)** With respect to any funds arising under this Act or under the Board’s control, the Board has exclusive authority to invest in, sell and reinvest in any securities or other investments as it considers to be expedient.

**(2)** The Board may borrow from a bank, insurance company, loan corporation, trust corporation or treasury branch.

1981 cW-16 s86;1991 cL-26.5 s335(49);1995 c32 s16

### Auditor

**93(1)** The Auditor General is the auditor of the Board and the Accident Fund.

**(2)** Repealed 2002 c27 s23.

(3) The Board shall have an Audit Committee composed of no fewer than 3 members of the board of directors of the Board, a majority of whom must not be officers or employees of the Board or any of its affiliates, and the operations of the Audit Committee shall be guided by section 171 of the *Business Corporations Act*.

(4) The Board shall, on or before May 31 in 2003 and each succeeding year, submit a report of its business and affairs during the preceding calendar year to the Minister, and the report must contain

- (a) the audited financial information in respect of the Board including, without limitation, the Board's financial statements, and
- (b) any other performance information that the Minister requires.

(5) The report shall be forthwith laid by the Minister before the Legislative Assembly if it is then in session, and if it is not then in session, within 15 days after the opening of the next session.

(6) The Board shall have an actuarial evaluation of its liabilities made every 5 years, or in any lesser period the Lieutenant Governor in Council directs, by an independent duly qualified actuary, whose report shall be made to the Board and included in the annual report of the Board.

RSA 2000 cW-15 s93;2002 c27 s23

#### **Employer liable for premiums**

**94** An employer in an industry to which this Act applies is liable for the payment of premiums.

RSA 2000 cW-15 s94;2002 c27 s24

#### **Separate experience accounts for each employer**

**95(1)** The Board shall maintain separate experience accounts in respect of assessments levied and costs of claims chargeable in respect of each employer, but for the purpose of paying compensation the Accident Fund is one indivisible fund.

(2) If it appears to the satisfaction of the Board that a worker has been injured or killed due to the negligence of another employer or another employer's worker, the Board may direct that the cost of the claim shall be included in the experience account of that employer and, where the employers are in different classes, charged to the class in which that employer is included in the same manner as if that cost had been expended in respect of a worker of that employer, except that where it appears to the satisfaction of the Board that the injury to or death of the worker is due to the

negligence of 2 or more persons, one of whom may be the worker who was injured or killed, the Board may direct

- (a) that the cost of the claim be included and charged in the experience accounts and classes of the employers who, or whose workers, were negligent, in proportion to the degree of negligence of each person involved, or
- (b) that the cost of the claim be included and charged in equal proportions in the experience accounts and classes of the employers involved where the Board is of the opinion that it cannot establish different degrees of negligence.

**(3)** For the purposes of this Act, the experience account of the employer of the worker shall not take into consideration earnings from other employment that the worker had at the time of the accident.

1981 cW-16 s89;1990 c39 s16

#### **Apportionment of fatal awards**

**96** Subject to the regulations, the costs of capitalized awards made in any year arising from fatal accidents to workers shall, irrespective of the year in which the accident that caused the death occurred, be apportioned equally among all fatal accidents accepted in that year by the Board.

1981 cW-16 s90;1984 c68 s26

#### **General assessment**

**97(1)** In accordance with and for the purposes specified in the regulations, the Board shall assess and levy on employers a sum based on a percentage of payroll or on some other rate or a specific sum that the Board chooses.

**(2)** For the purposes of assessments under this Act, the Board may

- (a) establish classes and subclasses of industries,
- (b) establish differentials and proportions in the rates as between the different kinds of employment or types of coverage in the same class or subclass as the Board considers proper, and
- (c) where any particular industry is shown to be so circumstanced or conducted that the hazard is greater or less than the average of the class or subclass to which the industry is assigned, impose on the industry a special assessment to correspond with the hazard.

1981 cW-16 s91;1984 c68 s27



**Assessment procedure**

**98(1)** An assessment may be general as applicable to any class or subclass or special as applicable to any industry or part or department of an industry.

**(2)** It is not necessary that assessments on employers in a class or subclass be uniform, but they may be fixed, graded or varied by the Board in relation to the hazard or other circumstances of the operations of the employer.

1981 cW-16 s92

**Assessment for purposes of Occupational Health and Safety Act**

**99** The Board may include in its assessment on employers amounts that will enable the Board to carry out its obligations under section 90 of the *Occupational Health and Safety Act* and pay those amounts to the Crown.

RSA 2000 cW-15 s99;2005 c48 s9;2006 c23 s83;  
2017 c25 Sched. 1 s100**Assessments due**

**100** Premiums pursuant to an assessment made under this Act are due on January 1 in the year for which the assessment is made, but the Board may collect those premiums in half-yearly, quarterly, monthly or other instalments and if it considers that the amount available in the Accident Fund in respect of a particular industry is sufficient for the time being, abate the premiums or defer their collection.

RSA 2000 cW-15 s100;2002 c27 s25

**Publication of assessment**

**101(1)** The Board shall publish in The Alberta Gazette a notice containing a statement of percentages and rates determined and fixed by the Board and of the industries to which they respectively apply and, subject to subsection (2) and the Board's powers in this Part to subsequently alter the amount of the assessment, that publication constitutes the making of an assessment on, and notice of it to, each employer in an industry named in the notice for the year or other period named in the notice, computed on the payroll of the employer at the applicable percentage or rate set out in the notice.

**(2)** Publication of a percentage or rate under subsection (1) does not limit the right of the Board to increase or decrease that percentage or rate from time to time, if notice of the increase or decrease is also published in The Alberta Gazette, and on that publication the new percentage or rate has effect in the same manner and to the same extent as if it had been the percentage or rate originally fixed by the Board.

1981 cW-16 s95

**Basis of payments**

**102** Payments on account of their respective assessments shall in the first instance be made by employers in amounts determinable by and based on

- (a) the estimates furnished by them under sections 103 to 110, or
- (b) the estimates made by the Board under section 111.

1981 cW-16 s96

**Statement of wages by employer**

**103(1)** An employer shall, at any time required by the Board, prepare and deliver to the Board a statement showing either or both of the following:

- (a) the amount of wages paid to workers employed by the employer in the period specified by the Board;
- (b) the amount that the employer estimates the employer will pay in wages to workers employed by the employer in the period specified by the Board.

**(2)** An employer who is obliged to prepare and deliver a statement under this section shall include on the employer's payroll any person, other than a director of a corporation, who renders service to the employer, whether or not the employer is under a legal obligation to pay that person any wages, salary or other remuneration, and if that person is not being paid any wages or salary, or is being paid a nominal remuneration, the Board shall, for the purposes of assessment, fix a sum that in its opinion represents a reasonable wage or salary for the service rendered by the person, having regard to the nature of the service, and the Board shall for the purpose of its assessment add the sum so fixed by it to the amount of the payroll of the employer.

RSA 2000 cW-15 s103;2002 c27 s26

**104** Repealed 2017 c25 Sched. 2 s41.

**Employer commencing business**

**105** If an employer commences or recommences carrying on an industry to which this Act applies, the employer shall, within 15 days, notify the Board of that fact by registered mail and prepare and deliver to the Board the statement required by section 103 with respect to the remainder of the current year and any other information the Board requires, and that employer is, in respect of the part of the then current year during which the employer carried

on that industry, liable for payment to the Accident Fund of a premium pursuant to the assessment for that year.

RSA 2000 cW-15 s105;2002 c27 s49

#### **Employer ceasing to be employer**

**106** If an employer ceases to be an employer, the employer shall, within 10 days afterwards, notify the Board of that fact by registered mail, and shall at the same time prepare and forward a statement of the total amount of wages earned by all the employer's workers for the portion of the then current year during which the employer was an employer and is in respect of that period, liable to pay a premium to the Accident Fund pursuant to the assessment for that year.

RSA 2000 cW-15 s106;2002 c27 s49

#### **Assessment in case of exemption**

**107** On the exemption of an industry from the application of this Act, the employers in that industry are, in respect of the part of the then current year during which this Act was applicable to that industry, liable for payment to the Accident Fund of a premium pursuant to the assessment for that year.

RSA 2000 cW-15 s107;2002 c27 s49

#### **Employers' records**

**108** An employer shall keep in Alberta in the form and detail required by the Board a careful and accurate account of all wages paid to the employer's workers and of any other features and particulars of the employer's operations the Board may require.

1981 cW-16 s102

#### **Persons who might be employers**

**109** The Board may require a person who, in its opinion might be an employer in an industry to which this Act applies, to prepare and deliver to the Board a statement signed by the person giving full particulars concerning the nature of the different types of work carried on by the person and any particulars required by the Board concerning the person's payroll or other matters pertaining to the person's work, and that person shall prepare and deliver the statement as prescribed by the Board.

1981 cW-16 s103;1984 c68 s30

#### **Separate statements for each industry**

**110** If the business of an employer consists of more than one industry, the Board may require of the employer separate statements under sections 103 to 109 as to each industry and the employer shall prepare and deliver those statements as prescribed by the Board.

1981 cW-16 s104;1984 c68 s31

**Basis of assessment when no statement**

**111(1)** The Board may base the assessment on what the Board estimates the probable amount of payroll or other basis of assessment to be if

- (a) an employer does not prepare and deliver the statement prescribed in sections 103 to 110 to the Board within the prescribed time, or
- (b) the statement referred to in clause (a) does not, in the Board's opinion, reflect the probable amount of payroll of the employer or other applicable basis of assessment.

**(2)** If the amount estimated by the Board under subsection (1) is less than the actual amount of the payroll or other basis of assessment, the employer is liable to pay to the Board the difference between the amount for which the employer was assessed and the amount for which the employer should have been assessed on the basis of the employer's payroll or on the other basis of assessment.

**(3)** If the amount estimated by the Board under subsection (1) is more than the actual amount of payroll or other basis of assessment, the Board shall credit the employer with the amount by which the employer was over-assessed.

**(4)** Repealed 2002 c27 s28.

RSA 2000 cW-15 s111;2002 c27 s28

**Presumption of payroll**

**112(1)** Unless a statement or other satisfactory evidence of an employer's payroll for any period is submitted to or obtained by the Board, the payroll estimated by the employer under this Part or by the Board under section 111, as the case may be, is, for all purposes under this Act, deemed to be the actual payroll of the employer.

**(2)** If, in an employer's statement to the Board of the amount or estimated amount the employer will expend for wages during the then current year, the employer underestimates that amount, the employer shall pay to the Board as a penalty an amount prescribed by the regulations.

**(3)** If, in a statement referred to in subsection (2), the employer overestimates the wages, the Board shall credit the employer with the amount the employer is over-assessed as a result of the overestimate.

1981 cW-16 s106

**Rate modification**

**113** If the Board considers it appropriate, it may adopt systems of rate modification in accordance with the guidelines it establishes in relation to the employer's accident experience record and may modify the assessment rate or grant a credit or rebate to the employer or levy a surcharge on the employer, as the case may be.

1981 cW-16 s110;1984 c68 s33

**Work in industry not under Act**

**114(1)** If an employer in an industry to which this Act applies directs a worker who is working in that industry to do other work that is not in an industry to which this Act applies, and the worker is injured in the course of that other work, that other work is deemed for the purposes of this Act, to be in an industry of that employer to which this Act applies and the Board may require the employer to pay to the Board an additional premium in an amount not more than the greater of

- (a) the full cost of the claim in respect of the injury, and
- (b) \$1000.

**(2)** A person who has control and direction of a worker and who directs the worker to do other work as mentioned in subsection (1) is deemed to have given the direction on behalf of the worker's employer.

RSA 2000 cW-15 s114;2002 c27 s49

**115** Repealed 2002 c27 s29.

**Minimum assessment**

**116** No assessment levied by the Board against an employer in respect of any industry carried on by the employer to which this Act applies shall be less than \$200.

RSA 2000 cW-15 s116;2017 c25 Sched. 2 s42

**Premium payable without demand**

**117** The full amount of a premium owing pursuant to an assessment made under this Part is payable by an employer, notwithstanding the absence of a specific demand or request for payment made by the Board.

RSA 2000 cW-15 s117;2002 c27 s49

**Liability where no assessment**

**118** If for any reason an employer liable to assessment is not assessed, the employer is nevertheless liable to pay to the Board the amount for which the employer should have been assessed or so

much of it as the Board considers just and equitable, and payment of that amount may be enforced as if the employer had been assessed for that amount.

1981 cW-16 s115

#### **Review body**

**119(1)** The Board shall appoint a review body for the purposes of section 120 consisting of not fewer than 3 persons, one of whom shall be designated as the chair.

**(2)** The chair of the review body may designate one or more members of the review body to conduct a review under section 120 on behalf of the review body.

**(3)** When one or more members of the review body are designated under subsection (2) to conduct a review, a decision made by them in respect of that review is a decision of the review body.

**(4)** Where an employee of the Board was involved in an assessment made under this Act, that person is not eligible to conduct a review in respect of that assessment.

**(5)** The review body may grant interim relief while the decision is under review in accordance with policies established by the Board, which must be publicly available.

RSA 2000 cW-15 s119;2002 c27 s30;2017 c25 Sched. 2 s43

#### **Review of decision**

**120(1)** Where a person has a direct interest in an assessment made under this Act, that person may, within one year from the day that a decision was made in respect of the assessment, seek a review of the decision by the review body appointed under section 119.

**(1.1)** An administrative penalty under section 152.1 is considered to be an assessment for the purposes of this section.

**(2)** On receiving a request for a review, the Board shall cause all the information in the Board's possession in respect of the matter that is the subject of the review to be reviewed by the review body.

**(3)** Unless otherwise allowed by the review body, a request for a review must be in writing and must

- (a) set out the date that the decision that is to be reviewed was made,
- (b) identify the decision or issue that is to be reviewed, and
- (c) set out the reasons as to why the decision or issue should be reviewed.

**(4)** The review body

- (a) must receive the representations, if any, made on behalf of any one or more of the interested parties, and
- (b) may confirm, vary or reverse the decision.

**(5)** The one-year period referred to in subsection (1) may be extended if the chair of the review body or the chair's delegate considers there is a justifiable reason for extending the time period.

**(6)** Where the one-year period is extended under subsection (5), the person extending the time period may do so with or without conditions.

**(7)** There is no appeal from a decision made under subsection (5).

RSA 2000 cW-15 s120;2002 c27 s31

**Non-payment of premium**

**121(1)** The Board has a cause of action against the employer in respect of any amount of a premium under this Act that remains unpaid.

**(2)** If a premium is not paid at the time when it becomes payable, the employer shall pay to the Board as a penalty for the employer's default an amount prescribed by the regulations.

RSA 2000 cW-15 s121;2002 c27 s49

**122** Repealed 2002 c27 s32.

**Board may waive penalty**

**123** The Board may waive the payment of all or part of a penalty imposed on an employer pursuant to this Act or the regulations, except a fine under section 152.

RSA 2000 cW-15 s123;2002 c27 s33

**Board may require security**

**124(1)** The Board may serve notice on an employer to furnish to it security in the amount and form the Board considers sufficient to provide security for the payment of premiums pursuant to assessments that are or might be levied against the employer in respect of the then current year.

**(2)** The employer shall, within 15 days after being served with the notice, provide the security to the Board.

**(3)** If the Board at any time considers that the security provided is no longer sufficient, due to an increase in the number of workers

employed by the employer, it may require further security from the employer, and subsections (1) and (2) apply.

(4) If the employer defaults in the payment of any premium that is payable to the Board by the employer and is levied in the period for which the security is given, the Board may do all things it considers necessary, having regard to the nature of the security, to realize on it.

(5) The proceeds of security realized on under subsection (4) shall be applied by the Board in the following priority:

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

RSA 2000 cW-15 s124;2002 c27 s49

#### **Order to cease to employ workers**

**125(1)** If an employer defaults in providing security to the Board under section 124, the Board may order the employer to cease to employ workers until the default is remedied to the Board's satisfaction.

(2) Repealed 2002 c27 s34.

RSA 2000 cW-15 s125;2002 c27 s34

#### **Liability of principal, contractor and subcontractor**

**126(1)** Where any work is performed by a contractor for any person, including the Crown, called in this section the "principal",

- (a) both the principal and the contractor are liable for the amount of any premium pursuant to an assessment relating to that work, and
- (b) that amount may, in the discretion of the Board, be collected from either of them, or partly from one and partly from the other,

but in the absence of any term in the contract to the contrary, the contractor is, as between the contractor and the principal, liable for that amount.

(2) Where any work is performed under a subcontract,



- (a) the principal, the contractor and the subcontractor are each liable for the amount of any premium pursuant to an assessment relating to that work, and
- (b) that amount may, in the discretion of the Board, be collected from any of them or partly from one and partly from the other or others,

but in the absence of any term in the subcontract to the contrary, the subcontractor is, as between the subcontractor and the others, liable for that amount.

**(3)** A principal may withhold from any money payable to a contractor the amount that the principal is liable to pay under this section and pay that amount to the Board, and as between the principal, the contractor and the subcontractor, the payment is deemed to be a payment on the contract or subcontract, or both, as the nature of the payment requires.

**(4)** A contractor may withhold from any money payable to a subcontractor the amount that the contractor is liable to pay with respect to the subcontractor under this section and pay that amount to the Board and, as between the contractor and the subcontractor, the payment is deemed to be a payment on the subcontract.

RSA 2000 cW-15 s126;2002 c27 s49

#### **Certificate of default and financing statement**

**127(1)** Where default is made in the payment of all or part of a premium or any other money due to the Board under this Act, the Board may

- (a) issue a certificate or certified statement setting out the basis of the payment to be made, the amount remaining unpaid and the person by whom it is payable and directing the payment of the amount by that person, and
- (b) register a financing statement in the Personal Property Registry.

**(2)** A certificate or certified statement issued under subsection (1)(a), or a copy of it certified by the secretary under the seal of the Board to be a true copy, may be filed with the clerk of the Court of Queen's Bench at any judicial centre and, when so filed, it becomes an order of the Court and may be enforced as a judgment of the Court.

(3) Nothing in subsection (1) or (2) affects the priority of the Board under section 129.

(4) All reasonable costs and charges incurred or paid in respect of the filing of a certificate or certified statement under subsection (2) or in respect of any proceedings taken to collect the amount certified are recoverable in the same way as if they had been included in the amount certified in the certificate or certified statement when it was filed.

RSA 2000 cW-15 s127;2002 c27 s35;2009 c53 s189

### Prohibition from carrying on business

**128** If

- (a) an employer defaults in the payment of a premium owing pursuant to an assessment and a person on behalf of a civil enforcement agency states by way of affidavit that the civil enforcement agency was unable to wholly satisfy the default through remedies taken under this Act or the *Civil Enforcement Act*, and
- (b) that employer continues to carry on business in an industry to which this Act applies in which workers are employed,

a judge of the Court of Queen's Bench, on application made on behalf of the Board may, without the issue of any writ or the commencement of any action, restrain that employer from carrying on business in an industry to which this Act applies until the premium, together with the costs of the application, is paid.

RSA 2000 cW-15 s128;2002 c27 s49;2009 c53 s189

### Priority of amount due to Board

**129(1)** Notwithstanding anything in any other Act, any amount due to the Board by an employer

- (a) pursuant to an assessment made under this Act,
- (b) in respect of any amount that the employer is required to pay to the Board under this Act, or
- (c) on any judgment for an amount referred to in clause (a) or (b)

creates a fixed, specific and continuing charge in favour of the Board as provided in subsection (2).

(2) If subsection (1) applies, a fixed, specific and continuing charge in favour of the Board is created

- (a) on the property or proceeds of property, whether real or personal, of the employer in Alberta, including money payable to, for or on account of the employer, whether the property, proceeds or money is acquired or is to be acquired by the employer before or after the amount becomes due, and
- (b) on any other property or proceeds of property, whether real or personal, in Alberta that is used by the employer in or in connection with, or produced by the employer in, the industry with respect to which the employer is assessed or the amount becomes due, whether the property is used or produced before or after the amount becomes due.

(3) Subject to subsection (4) and section 131, the charge created by this section is payable in priority over all writs, judgments, debts, liens, charges, security interests as defined in the *Personal Property Security Act*, rights of distress, assignments including assignments of book debts and other claims or encumbrances of whatever kind of any person, including the Crown, whether legal or equitable in nature, whether absolute or not, whether specific or floating, whether crystallized or otherwise perfected or not and whenever created or to be created.

(4) The charge created by this section does not have priority over wages due from the employer to the employer's workers where the exercise of the priority would deprive the workers of any of their wages.

1981 cW-16 s126;1984 c68 s35;1990 c39 s19

#### **Assignments, charges and mortgages void**

**130(1)** When an employer in an industry to which this Act applies defaults in the payment of all or part of a premium owing pursuant to an assessment, or all or part of any other money due to the Board under this Act, any assignment of the employer's personal property made by the employer, including an assignment of book debts, is void as against the Board to the extent of money that has not, at the time of default, been paid under the assignment to or on behalf of the assignor, regardless of

- (a) whether the assignment is absolute or not, or
- (b) whether the assignment is made before or after the date the premium or other money becomes due or the default occurs.

(2) When an employer in an industry to which this Act applies defaults in the payment of

- (a) all or part of a premium owing pursuant to an assessment, or

- (b) all or part of any other money due to the Board under this Act,

any security interest of the employer is void as against the Board to the extent of money that has not, at the time of default, been paid under the security interest to the holder of it regardless of whether the security interest is created before or after the date the premium or other money becomes due or the default occurs.

**(3)** In this section, “security interest” means any security interest as defined in the *Personal Property Security Act* that is created by the employer

- (a) on the employer’s personal property in Alberta, or
- (b) on any other personal property in Alberta that is used by the employer in or in connection with, or produced by the employer in, the industry with respect to which the employer is assessed or the money referred to in subsection (1) becomes due.

RSA 2000 cW-15 s130;2002 c27 s49

#### **Filing certificate against title to land**

**131(1)** The Board may file

- (a) a certified copy of the certificate, or
- (b) the certified statement

referred to in section 127 in the land titles office for the district in which any real property of the employer is situated and, on being filed, all the real property of the employer situated in that district is bound by the certificate or certified statement to the same extent as it would be by a registered mortgage.

**(2)** The charge referred to in section 129 does not attach to real property until a certificate or certified statement in respect of the amount due that creates the charge is filed pursuant to subsection (1).

1981 cW-16 s127;1984 c68 s36

#### **Sale of business**

**132(1)** In the case of a sale of an industry to which this Act applies or of the stock or equipment in bulk used in connection with that industry, the purchaser shall demand of the vendor and the vendor shall deliver to the purchaser, before the purchaser pays any of the purchase price for the industry, stock or equipment, a certificate from the Board stating that it has no claim under this Act against the vendor of the industry, stock or equipment.

(2) If the vendor fails to provide the certificate, the purchaser is liable to the Board for an amount that is equal to the amount due from the vendor to the Board, up to an amount equal to the fair market value of the industry, stock or equipment.

1981 cW-16 s128

### **Sale of primary timber products**

**133(1)** Except in the case of a retail sale of primary timber products by a retail dealer in the ordinary course of the retail dealer's business, a purchaser of primary timber products shall demand of the vendor and the vendor shall deliver to the purchaser, before the purchaser pays any of the purchase price for the primary timber products, a certificate from the Board stating that it has no claim under this Act against the producer or vendor of the primary timber products.

(2) If the vendor fails to provide the certificate, the purchaser is liable to the Board for an amount that is equal to the amount due from the producer or vendor to the Board but not greater than the fair market value of the primary timber products.

(3) Repealed 2002 c27 s36.

(4) A purchaser of primary timber products to whom this section applies shall keep in the form and detail that the Board requires, accounts of all primary timber products purchased by the purchaser, and when required shall submit those accounts for examination by the Board or any authorized officer of the Board.

(5) Money owing to the Board by a purchaser of primary timber products under this section may be paid out of the purchase price of the primary timber products, and that payment constitutes a payment to the vendor on account of the purchase price of the primary timber products.

(6) Money owing to the Board by a purchaser of primary timber products under this section is payable not later than the last day of the month following the month in which the primary timber products were purchased and may be collected from the purchaser in the same way as if it were owing pursuant to an assessment for that amount against the purchaser.

(7) In this section, "primary timber products" includes boards, sawlogs, cordwood, chips, ties, lath, bolts, shakes, mine props, posts, poles, plywood peelers and other products deemed by the Board to be primary timber products.

RSA 2000 cW-15 s133;2002 c27 s36

**Non-arm's length transactions****134(1)** In this section,

- (a) "related group" means a group of persons each member of which is related to every other member of the group;
- (b) "related persons" or "persons related to each other" means
  - (i) individuals connected by blood relationship, marriage or adoption or by virtue of an adult interdependent relationship,
  - (ii) a corporation and
    - (A) a person who controls the corporation, if it is controlled by one person,
    - (B) a person who is a member of a related group that controls the corporation, or
    - (C) any person related to a person described in paragraph (A) or (B),
  - (iii) any 2 corporations
    - (A) if they are controlled by the same person or group of persons,
    - (B) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
    - (C) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
    - (D) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
    - (E) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
    - (F) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

- (2) For the purposes of this subsection,
- (a) a corporation is associated with another if
    - (i) one of the corporations controls the other,
    - (ii) both of the corporations are controlled by the same person or group of persons,
    - (iii) each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the corporations,
    - (iv) one of the corporations is controlled by one person and that person is related to each member of a group of persons that controls the other corporation, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the corporations, or
    - (v) each of the corporations is controlled by a related group and each of the members of one of the related groups is related to all of the members of the other related group, and one of the members of one of the related groups owns directly or indirectly one or more shares of the capital stock of each of the corporations,
  - (b) related persons are deemed not to deal with each other at arm's length, and
  - (c) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.
- (3) If a corporation that is in default of the payment of any money due to the Board sells, assigns or transfers ownership of any stock or equipment used in connection with an industry to which this Act applies to a related person or an associated corporation, the purchaser, assignee or transferee is liable to the Board for an amount equal to the amount due from the corporation to the Board, up to the fair market value of the stock or equipment sold, assigned or transferred.

RSA 2000 cW-15 s134;2002 cA-4.5 s81

**Distress**

**135(1)** Subject to subsection (2), the *Civil Enforcement Act* does not apply to anything done under this section.

(2) If any person fails to pay to the Board any money that the person is liable to pay under this Act within the time provided for that payment, the Board may by itself or by its agent or a civil enforcement agency collect the amount owing with costs by distress of

- (a) the goods of that person, or
- (b) any property, other than real property, or any proceeds of property that is subject to the charge under section 129.

(3) No distress shall be made and no levy shall be made under any distress under this section unless the Board executes and delivers a proper warrant in that behalf to a person authorized by subsection (2) to make and levy a distress.

(4) No person to whom a distress warrant is delivered for execution is bound to proceed unless the person has been furnished with security in an amount the person considers reasonably sufficient to indemnify the person in respect of the person's fees, charges and expenses, and any claims for damages in respect of the distress and levy, and anything done in relation to it.

(5) A person executing a distress warrant under this section shall

- (a) serve on the debtor, and if there is more than one debtor, on each of them, or on an adult member of the debtor's household,
- (b) attach to the goods to be seized or some or all of them, or
- (c) post in some conspicuous place on the premises on which the goods or some part of them are at the time of seizure,

a notice of seizure setting out the name of the creditor and debtor, a description of the goods seized and the nature of the indebtedness.

(6) For the purpose of effecting the seizure of goods authorized by a distress warrant under this section, or of obtaining the possession of goods that have been previously seized, the person executing the distress warrant

- (a) has the right to enter on any land or premises on which any goods subject to distress under the warrant are situated, and to seize, sell or remove the goods that the person executing the distress warrant requires, and
- (b) may, if it is not possible otherwise to effect the seizure or obtain possession of the goods previously seized, as the case may be, either by himself or herself or with the assistance of



any persons the person executing the distress warrant requests, break open the door or doors of any building, other than a private dwelling house, in which any goods liable to seizure are contained, and on the order of a judge of the Court of Queen's Bench may similarly break open the door or doors of a private dwelling house.

**(6.1)** At any time after making a seizure, the person executing the distress warrant may appoint the debtor or some other person in possession of the property seized as bailee if the debtor or other person executes a written undertaking in the prescribed form

- (a) to hold the property as bailee for the person executing the distress warrant, and
- (b) to deliver up possession of the property to the person executing the distress warrant on demand.

**(6.2)** Property held by a bailee under subsection (6.1) is deemed to be held under seizure by the person executing the distress warrant.

**(7)** A seizure made pursuant to this section is a continuing seizure until the secretary by notice in writing releases the seizure or until the goods under seizure have been sold.

**(8)** The person executing the distress warrant may, in accordance with the regulations, sell by public auction the goods seized or so much of them as is necessary to pay the money due with all lawful costs.

**(9)** If goods seized under this section are offered for sale and remain unsold, the person executing the distress warrant may sell the goods by private contract, either to the Board or any other person, if the price offered for the goods is, in the opinion of the person executing the distress warrant, a fair and reasonable price having regard to all the circumstances.

**(10)** A sale of goods seized under this section is without warranty of title and the purchaser acquires no more than the precise interest in the goods that can be sold under the power of distress.

**(11)** If the goods seized are sold for more than the amount due and costs, and if no claim to the surplus is made within 6 months from the date of the sale by any other person on the ground that the goods sold belonged to that other person or that that other person was entitled by lien or other right to the surplus, it shall be paid to the person in whose possession the goods were when the distress was made.

(12) If a claim to the surplus under subsection (11) is contested, the surplus money shall be paid by the person executing the distress warrant to the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the seized goods were situated, who shall retain the surplus until the respective rights of the parties have been determined by action at law or otherwise.

(13) When, at the time a distress warrant under this section is placed in the hands of a civil enforcement agency, goods of the person against whom the warrant is issued are already under seizure or distraint by the same civil enforcement agency, or are subsequently seized or distrained by the civil enforcement agency, under a distress warrant or writ of enforcement other than the Board's, the goods are, from the time of the placing of the Board's warrant in the hands of the civil enforcement agency, or from the time the seizure or distraint is made, as the case may be, deemed to have also been seized or distrained on by the civil enforcement agency, under the Board's warrant.

RSA 2000 cW-15 s135;2002 c27 s37;2009 c53 s189

## Part 8 General

### Grants

**136(1)** An organization of employers or workers engaged in an industry to which this Act applies may apply to the Board in a manner acceptable to the Board for a grant under this section.

(2) On receiving an application, the Board may make a grant to an organization in any amount the Board determines if it is satisfied

- (a) that a primary objective and purpose of the organization is the promotion of education in accident prevention in the industry in which the employers or workers are engaged,
- (b) that the organization sufficiently represents the interests of the employers or workers in that industry in Alberta, and
- (c) that the organization has met the criteria set out by the Minister responsible for the *Occupational Health and Safety Act*.

(3) A grant under subsection (2) must be used for the purpose of assisting in the payment of the expenses of the organization related to the promotion of education in accident prevention in the industry.

(4) The Board may make a grant subject to any terms and conditions it considers appropriate, including, without limitation,

terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(5) Any money paid by the Board under this section must be charged against the industry represented by the organization and levied as part of the assessment against the industry, and where the organization represents more than one industry, the Board may apportion the charge among the industries in the manner it considers appropriate.

(6) The Board shall publish on the Board's website the names of recipients of grants made under this section, the purpose for which the grant will be used and the amount of the grant.

RSA 2000 cW-15 s136;2017 c25 Sched. 2 s44

#### **Grants for improving the health and safety of workers**

**136.1(1)** The Board may make grants for the purpose of improving the health and safety of workers.

(2) A grant under this section is subject to any terms and conditions the Board considers appropriate, including, without limitation, terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(3) The Board shall publish on the Board's website the names of recipients of grants made under this section, the purpose for which the grant will be used and the amount of the grant.

2017 c25 Sched. 2 s45

#### **Programs**

**137(1)** For the purposes of preventing accidents and minimizing the effect of work-related injuries on workers and employers, the Board may establish, fund and carry out programs directed at injury prevention and injury management in the workplace.

(2) The Board may authorize, take measures for and provide for the funding of any program or service that in the opinion of the Board

- (a) is a benefit to workers or employers, or
- (b) otherwise promotes the operations of the Board,

including undertaking or supporting research in matters relating to its responsibilities under this Act.

1995 c32 s19

**Travel allowances, etc.**

**137.1** If, under the direction of the Board or the Appeals Commission, a worker is required to travel to a place other than the place where the worker resides, the Board may pay to the worker a travel allowance, a subsistence allowance and a wage loss allowance, or any of them, in accordance with the terms and conditions prescribed by an order of the board of directors of the Board.

2002 c27 s38

**Board order ceasing to employ workers**

**138** If an employer is in default of payment of any money due by the employer to the Board and the default continues for at least 30 days, the Board may order the employer to discontinue and subsequently refrain from employing any worker, and the employer shall not afterwards employ a worker until the employer pays to the Board all money due to it from the employer.

1981 cW-16 s132

**Unauthorized deductions**

**139(1)** Except as authorized by this Act, no employer shall, either directly or indirectly, deduct from the wages of the employer's workers any part of any sum that the employer is or might become liable to pay to the Board or require or permit any of the employer's workers to contribute in any manner toward indemnifying the employer against any liability that the employer has incurred or might incur under this Act.

**(2)** Where the Board considers that an employer has contravened subsection (1), in addition to any other action that may be taken by the Board pursuant to this Act, the Board may

- (a) collect from the employer the amount of any deduction prohibited by subsection (1) as if it were a premium payable under this Act, and
- (b) pay the amount collected to the worker from whom it was deducted or who paid it.

RSA 2000 cW-15 s139;2002 c27 s39

**Agreements to waive Act void**

**140** No person shall enter into an agreement to waive or forego any of the benefits to which a worker or a worker's dependants are or might become entitled under this Act, and any such agreement is void.

RSA 2000 cW-15 s140;2002 c27 s40

**Impeding reporting of accident**

**140.1** No employer shall, directly or indirectly, by agreement, threats, promises, persuasion or any other means, discourage or impede a worker of the employer, or the worker's dependant, from reporting an accident to the Board.

2002 c27 s41

**Compensation not assignable**

**141** Except as otherwise provided in this Act, no sum payable as compensation or by way of commutation of any periodical payment in respect of it, is capable of being assigned, charged or attached, unless the Board gives its approval.

1981 cW-16 s135

**Overpayments**

**142** When compensation payments have been made by the Board to a worker beyond the period of the worker's disability or to a worker or dependant in an amount in excess of that to which the worker or dependant is entitled, the amount of the overpayment may be recovered by the Board as a debt due to the Board.

RSA 2000 cW-15 s142;2005 c48 s10

**Right of set off**

**143** Without limiting the Board's remedies for recovery, any money due to the Board under this Act may be set off against any compensation that may be or that may become payable to the person indebted to the Board.

RSA 2000 cW-15 s143;2005 c48 s10

**Forms, notices, etc.**

**144** All books, returns, notices, reports, forms or other documents or papers and copies of them required to be kept, prepared, posted or forwarded in accordance with this Act or the regulations shall be in a form approved by the Board.

1981 cW-16 s138

**Posting of notices**

**145** An employer shall post and keep posted in a conspicuous place on the premises where the work performed by the employer's workers is being carried on, and where they may be readily seen by the employer's workers, any notices the Board requires to be posted.

1981 cW-16 s139

**Service of documents**

**146** An order, notice or other document issued, made or given by the Board under this Act may be served on the person for whom it is intended by registered mail, and, if served by registered mail, is deemed to be received at the time it would have been delivered in

the ordinary course of mail, unless there are reasonable grounds for believing that the person did not receive the order, notice or document at that time or at all.

1981 cW-16 s140

### **Confidentiality of information**

**147(1)** No member of the board of directors, no officer or employee of the Board and no person authorized to make an investigation under this Act shall, except as provided in this section, disclose or allow to be disclosed any information that is obtained by that person in making the investigation or that comes to that person's knowledge in connection with the investigation.

**(2)** No member of the board of directors and no officer or employee of the Board shall, except as provided in this section, disclose or allow to be disclosed information respecting a worker or the business of an employer that comes to that person's knowledge or is in that person's possession as a member, officer or employee.

**(3)** Information referred to in subsections (1) and (2), including personal information, may be disclosed to

- (a) a person directly concerned, for a purpose the Board considers necessary to carry out the purposes of this Act, or
- (b) an agency or department of the Government of Canada, the Government of Alberta or the government of another province or territory, for a purpose the Board considers necessary to carry out the purposes of this Act or for any purpose in accordance with an enactment of Alberta, of another province or territory of Canada or of Canada that authorizes or requires the disclosure.

**(4)** Where a matter is being, or may be, reviewed under section 21(3), 46 or 120 or appealed under section 13.2, the following persons are entitled, on request, to receive, and the Board is authorized to disclose, copies of information, including personal information, that is in the Board's possession and related to the claim or matter under review or appeal:

- (a) the worker, or the worker's personal representative or dependant in the case of the death or incapacity of the worker, or the agent of any of them;
- (b) the employer or the employer's agent;

(c) a person with a direct interest in the claim or matter that is the subject of the review or appeal, or the agent of that person.

(5) Persons referred to in subsection (4) shall not use or disclose the information provided under that subsection for any purpose other than the review or appeal.

RSA 2000 cW-15 s147;2014 c18 s4

### Information

**147.1** The Board may collect information, including personal information, in addition to the information necessary to administer this Act, in order to disclose the information to the Minister responsible for the *Occupational Health and Safety Act* if the information is for research and educational purposes related to the prevention of occupational injuries and illnesses, so long as the collection and disclosure are carried out in accordance with the *Occupational Health and Safety Act*.

2017 cO-2.1 s100

### Board records privileged

**148(1)** The books, records, documents and files of the Board and all reports, statements and other documents filed with the Board or provided to it are privileged and are not admissible in evidence in any action or proceeding without the consent of the Board.

(2) With respect to any information or material obtained, received or produced by a person in the performance of that person's duties under this Act, neither

- (a) a member of the board of directors of the Board,
- (b) an employee of the Board,
- (c) an appeals commissioner, nor
- (d) an employee of the Appeals Commission

shall be required to give evidence in a civil suit or proceeding to which the Board or the Appeals Commission is not named as a party.

(3) Nothing in subsection (2) shall be construed so as to affect the powers of the Board or the Appeals Commission under section 17(5) and (6) or the powers, privileges or immunities of the Board under section 20.

1981 cW-16 s142;1995 c32 s20

### Board's certificate

**149** A certificate purporting to be signed by the secretary

- (a) setting out the substance of any order, ruling or decision of the Board, or
- (b) setting out information from any books, records, documents or files of the Board in the form of an extract or description

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the signature or official character of the person signing it.

1981 cW-16 s143

#### **Enforcement of other amounts payable**

**150** If money is payable under this Act by an employer to the Accident Fund or the Board, the Board may enforce payment of that money in the same manner as if it were a premium payable under this Act.

RSA 2000 cW-15 s150;2002 c27 s42

#### **Costs**

**151** Notwithstanding that the remuneration of counsel representing the Board is paid wholly or partly by salary, the Board is entitled to costs in any action or proceeding to which the Board is a party or which the Board brings under section 22.

RSA 2000 cW-15 s151;2009 c53 s189

#### **Prohibition**

**151.1(1)** No person shall, in connection with a claim for compensation,

- (a) knowingly provide false or misleading information to the Board,
- (b) fail to report to the Board, without lawful excuse, the person's return to work, or
- (c) fail to inform the Board of a material change in the person's circumstances that may affect the person's entitlement to compensation or other benefits under this Act or the amount of that compensation or those benefits.

**(2)** No person shall, in connection with an assessment or an employer account,

- (a) knowingly provide false or misleading information to the Board, or
- (b) have or use a document that purports to be a clearance certificate issued in respect of section 126, 129, 132, 133 or 134 but that was not issued by the Board or is otherwise invalid.



(3) No person shall knowingly make a false or misleading statement or representation to the Board to obtain payment for goods or services, whether or not the Board actually received the goods or services.

2002 c27 s43

#### **Offence**

**152(1)** A person who contravenes this Act or a regulation or order made under it is guilty of an offence.

(2) Where a person is guilty of an offence referred to in subsection (1), the person is liable

- (a) to a fine of not more than \$25 000 and, where the offence is a continuing offence, a further fine of not more than \$10 000 for each day during which the offence continues, and
- (b) in the case of an individual, to imprisonment for a period not exceeding 6 months in addition to or instead of the fine.

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

(4) No prosecution for a contravention of this Act shall be commenced without the consent of the Board and no prosecution shall be commenced more than 24 months after the subject-matter of the prosecution arose.

(4.1) A person who pays an administrative penalty under section 152.1 in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

(5) In the case of a prosecution for a contravention of this Act or the regulations that consists of failing to prepare and forward to or provide the Board with any report, statement or other document or of failing to pay any money to the Board in accordance with this Act, a certificate purporting to be signed by the secretary certifying that the report, statement, document or money has not been received by the Board shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the signature or official character of the person signing it.

RSA 2000 cW-15 s152;2002 c27 s44

#### **Liability of directors, officers**

**152.01** Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to

the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

2002 c27 s45

### **Administrative penalty**

**152.1(1)** Where the Board is of the opinion that a person has contravened section 19, 33(1), 87, 88.1, 88.2(2), 103, 105, 106, 108, 109, 110, 138, 139, 140, 140.1, 145, 147(5) or 151.1, the Board may by notice in writing given to that person require that person to pay to the Board within the time specified in the notice an administrative penalty in respect of each contravention in the amount set out in the notice.

**(2)** A person who contravenes a provision referred to in subsection (1) is liable for the administrative penalty for each day or part of a day on which the contravention occurs and continues.

**(3)** Subject to sections 88.1(13) and 88.2(5), an administrative penalty may not exceed \$25 000

- (a) for each contravention, or
- (b) for each day or part of a day on which the contravention occurs and continues,

as the case may be.

**(4)** A notice of administrative penalty may not be issued more than 2 years after the later of

- (a) the date on which the contravention to which the notice relates occurred, and
- (b) the date on which evidence of the contravention first came to the notice of the Board.

2002 c27 s45;2017 c25 Sched. 2 s46

### **Regulations**

**153(1)** The Lieutenant Governor in Council may make regulations

- (a) governing applications by persons for inclusion within the application of the Act;
- (b) exempting industries from the application of this Act;
- (c) governing the giving of notice of an accident;
- (d) governing the recording by an employer of the particulars of an accident or the allegation of the happening of an accident under section 33(1);

- (e) governing the payment for medical aid provided to injured workers, including the amount to be paid;
  - (f) governing the rendering of accounts to the Board;
  - (g) relating to employers' statements of wages;
  - (h) governing the sale by auction of distrained goods;
  - (i) respecting the amount of the penalty payable under sections 112(2) and 121(2);
  - (j) defining "net earnings" for the purposes of this Act;
  - (k) defining "occupational disease" for the purposes of this Act and deeming employment in specified industries or processes or deeming an activity carried out in a particular type of employment to be the cause of specified occupational diseases;
  - (l) governing the legal costs and fees payable for the purposes of sections 22(11) and 34(2);
  - (l.1) defining base salary for the purpose of section 4(3);
  - (l.2) for the purpose of section 9.2(2)(e);
  - (l.3) prescribing classes of workers for the purpose of section 24.2(2);
  - (m) governing any other matter necessary to carry out this Act according to its purpose.
- (2)** The Lieutenant Governor in Council may, in respect of persons to whom this Act does not apply, make regulations
- (a) authorizing the Board to make orders declaring that the Act applies to any class of those persons;
  - (b) designating those classes of persons in respect of whom the Board may make an order under a regulation made under clause (a);
  - (c) prescribing terms and conditions, or either of them, that must be met by those persons;
  - (d) prescribing
    - (i) the amount of compensation payable, or

- (ii) the method of determining the amount of compensation payable,

to those persons.

**(3)** Where the Board makes an order under a regulation made under subsection (2)(a) declaring that this Act applies to a class of persons, the persons in that class are, for the purposes of this Act, considered to be workers employed by the Government of Alberta.

RSA 2000 cW-15 s153;2002 c27 s46;  
2005 c48 s11;2017 c25 Sched.2 s47

#### **Additional powers of Board**

**154** The Lieutenant Governor in Council may by order refer or assign to the Board

- (a) the administration of any other Act,
- (b) the performance of any duty or task, or
- (c) the performance of any duty or task in connection with the administration of a statute or ordinance of a public authority in Canada relating to workers' compensation, and that is requested of it by the proper authority in that regard.

1981 cW-16 s148

#### **Exemption from publication**

**155** Notwithstanding the *Regulations Act*, no order, ruling, decision or direction of the Board made under this Act needs to be published in The Alberta Gazette.

1981 cW-16 s149

#### **Financial Administration Act**

**156(1)** Except for sections 1, 6 and 80 of the *Financial Administration Act*, the *Financial Administration Act* does not apply to the Board or the Accident Fund.

**(2)** The Lieutenant Governor in Council, on the advice of the Treasury Board, may make regulations and issue directives that the Lieutenant Governor in Council considers necessary in connection with the exercise or performance of the Treasury Board's powers and duties under the *Financial Administration Act* or any other Act with respect to the Board, the Appeals Commission and the Accident Fund.

RSA 2000 cW-15 s156;2002 c27 s47;2017 c25 Sched.2 s48

#### **Effective date of a Board order**

**157** Unless otherwise specified in this or another enactment, any order that the Board is empowered to make under this Act takes effect on the date named in the order as the effective date and,

where the Board in its discretion considers it appropriate to do so, the order may be made to take effect on a date that is prior to the date on which the order is made.

1995 c32 s22

## **Part 8.1**

### **Long-standing Contentious Matters**

#### **Review of long-standing contentious matters**

**157.1(1)** In this section,

- (a) “award” means an award from the fund;
- (b) “fund” means a fund established pursuant to a regulation under subsection (2)(a);
- (c) “review body” means a review body established pursuant to a regulation under subsection (2)(c).

**(2)** The Lieutenant Governor in Council may make regulations

- (a) authorizing the Board to establish as part of the Accident Fund a fund for the payment of awards to workers, dependants and employers who the review body determines are eligible for an award;
- (b) prescribing the amount or the maximum amount of the fund;
- (c) providing for the establishment of one or more review bodies to consider applications for awards and to make awards;
- (d) governing all aspects related to eligibility for and the payment of awards, including, without limitation, regulations
  - (i) governing the factors that a review body must or may consider in determining whether an applicant is eligible for an award and in determining the amount of an award;
  - (ii) respecting the form and contents of applications for awards;
  - (iii) respecting the process by which applications for awards are made and dealt with;
  - (iv) respecting the time within which applications for awards must be received by a review body in order to be considered by the review body;

- (v) authorizing the Board to pay from the fund the reasonable and necessary expenses as determined by the review body that were incurred by an applicant for an award in connection with the proceedings before the review body;
  - (vi) respecting the minimum or maximum amounts that may be applied for or awarded;
  - (vii) respecting the manner in which awards are allocated, both in respect of individual applicants and in respect of applicants generally;
  - (viii) respecting the manner in which awards are to be paid by the Board, and authorizing a review body to make an award subject to terms and conditions;
  - (ix) prescribing a date after which no awards may be made;
- (e) authorizing a review body to make rules governing its practice and procedure generally with respect to its operations;
  - (f) governing the administration of the fund by the Board generally;
  - (g) requiring a review body to submit reports on its operations and respecting the contents of such reports and the persons to whom they are to be submitted.
- (3)** Subject to subsection (4), the decision of a review body in respect of an award is final.
- (4)** A decision or proceeding of a review body in respect of an award may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on a review body no later than 30 days after the date of the decision or proceeding, or reasons in respect of it, whichever is later.

2002 c27 s48;2009 c53 s189

## Part 9 Transitional

### Transitional

**158(1)** Except where this Act specifically states otherwise, it applies only to accidents that occur on or after January 1, 1982 and to benefits, rights and privileges arising out of them.

(2) Except where this Act specifically states otherwise, claims in respect of accidents occurring before January 1, 1982 must be administered in accordance with the law in effect at the time the accident occurred and, for that purpose, the predecessors of this Act are deemed to be of full force and effect insofar as they relate to those accidents and the benefits and other rights and privileges related to them, except to the extent that those benefits, rights or privileges are expressly modified or revoked by any subsequent *Workers' Compensation Act* or by this Act, or by amendments to any of those Acts indicating their application to those benefits, rights or privileges.

1981 cW-16 s150

## Part 10 Review of Act

### Review of Act

**159(1)** The Lieutenant Governor in Council shall, on or before February 1, 2021 and at least once every 5 years thereafter, appoint a review committee consisting of at least 3 persons to review and report on all matters concerning the Act, the regulations and the administration of the Act and the regulations.

(2) For an appointment of members under subsection (1),

- (a) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers,
- (b) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers, and
- (c) one person must be selected from a list of at least 3 persons who applied to be a member of the review committee but who are not members of an organization that represents employers or workers.

(3) The Lieutenant Governor in Council shall designate one of the members of the review committee as chair of the committee and may designate another member as vice-chair.

(4) The membership of the review committee must include equal representation of the interests of employers, workers and the general public.

(5) On completion of the report, the review committee shall submit the report to the Minister, who shall make it publicly available.

2017 c25 Sched.2 s49



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