

1973

## c 173 The Workmen's Compensation Amendment Act, 1973 (No. 2)

Ontario

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## CHAPTER 173

**An Act to amend  
The Workmen's Compensation Act**

*Assented to December 17th, 1973  
Session Prorogued March 5th, 1974*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, is amended by striking out "workman", "workman's", "workmen" and "workmen's" wherever such expressions occur and inserting in lieu thereof in each instance "employee", "employee's", "employees" and "employees'" as the case may be. <sup>Act, amended</sup>
  
- 2.—(1) Subsection 1 of section 1 of the said Act is amended by adding thereto the following clause: <sup>s.1(1), amended</sup>
  - (ga) "dependent widower" means the man who was the legal husband and a dependant of an employee immediately before her death.
  
- (2) Subsection 4 of the said section 1 is repealed and the following substituted therefor: <sup>s.1(4), re-enacted</sup>
  - (4) For the purposes of this Act, a municipal corporation, commission or board mentioned in subsection 3 shall be deemed to be the employer of a member of a municipal volunteer fire brigade or a municipal volunteer ambulance brigade and such employment shall be deemed to be included in the exercise and performance of the powers and duties of the corporation, commission or board and it shall yearly, on or before such date as the Board may prescribe or at such other times as the Board may prescribe, notify the Board, specifying the number of volunteers engaged and shall select such amount of coverage for such volunteers, which in no case shall be less than a rate which will provide the minimum amount of compensation under section 43 or more than the maximum rate of annual earnings established by subsection 1 of section 44. <sup>Volunteer fire or ambulance brigade</sup>

s. 11,  
re-enacted

3. Section 11 of the said Act is repealed and the following substituted therefor:

Where  
employer  
carried on  
payroll,  
he and  
dependants  
entitled to  
compensation

11. Where compensation is payable out of the accident fund and an employer carries himself on his payroll or an executive officer of a corporation is carried on the payroll of the corporation at a salary or wage that the Board considers reasonable, but at a rate not less than a rate which will provide the minimum amount of compensation provided by section 43 or more than the maximum rate of annual earnings established by section 44 and it is stated in the payroll statement furnished to the Board under section 93 that it is desired that such employer or executive officer be included as an employee, and the amount of his salary or wages is shown in such statement and included in the estimate for the year, such employer or executive officer shall be deemed to be an employee within the meaning of this Act and he or his dependants are entitled to compensation accordingly, but, for the purpose of determining the compensation, his earnings shall not be taken to be more than the amount of his salary or wages as shown by such statement.

s. 26 (4),  
re-enacted

4. Subsection 4 of section 26 of the said Act is repealed and the following substituted therefor:

Advances  
on account  
of compensation

(4) In any case where compensation is payable and the Board is of the opinion that the interest or pressing need of the employee or dependant warrants it, the Board may advance or pay to or for the employee or dependant such lump sum as the circumstances warrant.

s. 36 (1) (c, d),  
re-enacted

- 5.—(1) Clauses *c* and *d* of subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1, are repealed and the following substituted therefor:

(c) where the widow or a widower is the sole dependant, a monthly payment of \$250;

(d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$250, with an additional monthly payment of \$70 to be increased upon the death of the widow or widower to \$80 for each child under the age of sixteen years.

s. 36 (2, 3),  
re-enacted

- (2) Subsections 2 and 3 of the said section 36 are repealed and the following substituted therefor:

Common-law  
wife or  
husband

(2) Where an employee has had for the entire period of six years immediately preceding his or her death a common-law

wife or husband or where an employee has had during the entire period of two years immediately preceding his or her death a common-law wife or husband by whom he or she has had one or more children and leaves no dependent widow or widower, the compensation to which a dependent widow or widower would have been entitled under this Part shall be paid to the dependent common-law wife or husband until such time as he or she marries.

(3) A dependent common-law wife or husband receiving <sup>idem</sup> compensation under this section may not be paid compensation for acting or claiming to act as a foster-mother to the children of the deceased employee.

(3) Subsections 6 and 7 of the said section 36 are repealed <sup>s. 36 (6, 7), re-enacted</sup> and the following substituted therefor:

(6) Where a child is entitled to compensation under this section and is being maintained and taken care of by a <sup>Payment of monthly allowance to person acting in loco parentis</sup> suitable person who is acting *in loco parentis* in a manner that the Board considers satisfactory, such person while so doing is entitled to receive the same monthly payments of compensation for himself or herself and the child as if he or she were a widower or widow of the deceased and in such case the child's part of such payments shall be in lieu of the monthly payments that he would otherwise be entitled to receive.

(7) In addition to any other compensation provided for, <sup>Payment of lump sum</sup> the widow or widower, or where the employee leaves no widow or widower, the person acting *in loco parentis*, as described in subsection 6, is entitled to a lump sum of \$500.

6. Section 37 of the said Act is repealed and the following sub- <sup>s. 37, re-enacted</sup> stituted therefor:

37.--(1) If a dependent widow or widower remarries or a <sup>Remarriage of widow or widower</sup> dependent common-law wife or husband remarries, the monthly payments shall cease, but such widow or widower or dependent common-law wife or husband is entitled in lieu of them to a lump sum equal to the monthly payments for two years, and the lump sum is payable within one month after the day of the remarriage.

(2) Subsection 1 does not apply to payments to a widow or <sup>Exception</sup> widower in respect of a child.

7. Sections 5 and 6 do not apply to a widower or a dependent <sup>Non-application</sup> common-law husband where death occurred before the 1st day of January, 1974.

ss 54-81,  
re-enacted

8. Sections 54 to 71, section 72 as amended by the Statutes of Ontario, 1973, chapter 46, section 5, and sections 73 to 81 of the said Act are repealed and the following substituted therefor:

WORKMEN'S COMPENSATION BOARD

Board  
continued

54.—(1) The body corporate incorporated under the name "Workmen's Compensation Board" is continued.

R.S.O. 1970,  
c. 89 not to  
apply

(2) *The Corporations Act* does not apply to the Board.

Appointment  
of commis-  
sioners

55. The Lieutenant Governor in Council may, from time to time, appoint such persons as he may determine to be commissioners of the Board.

Designation  
of chairman,  
vice-chairmen,  
respectively

56. The Lieutenant Governor in Council shall designate one of the commissioners to be chairman, one to be vice-chairman of administration, one to be vice-chairman of appeals, and not less than two and not more than four to be commissioners of appeals respectively, and such persons shall constitute the Board.

Interpre-  
tation

57. In this Part, the term "commissioner" means the chairman, the vice-chairman of administration, the vice-chairman of appeals, the commissioners of appeals, and such commissioners as the Lieutenant Governor in Council has appointed, and "commissioners" has a corresponding meaning.

Remunera-  
tion, etc., of  
commis-  
sioners

58. The remuneration, benefits and expenses of the commissioners shall be determined from time to time by the Lieutenant Governor in Council and such remuneration, benefits and expenses shall be part of the administrative expenses of the Board.

Filling of  
vacancy

59. The Lieutenant Governor in Council may fill any vacancy that occurs among the commissioners.

Tenure of  
office

60. The commissioners shall hold office for a term of not more than five years but any commissioner whose term is expiring or has expired is eligible for reappointment.

Removal of  
commissioner  
for cause

61. A commissioner may be removed from office before the expiration of his term for cause.

Chief  
executive  
officer

62.—(1) The chairman is the full-time chief executive officer of the Board.

Chief  
administra-  
tive officer

(2) The vice-chairman of administration is the full-time chief administrative officer of the Board and shall perform his duties under the general supervision of the chairman.

(3) The vice-chairman of appeals is the full-time chief <sup>Chief</sup> appeals officer of the Board and shall perform his duties <sup>appeals officer</sup> under the general supervision of the chairman.

(4) The other commissioners shall assist the vice-chairman <sup>Idem</sup> of appeals in the performance of his duties.

63.—(1) In the absence of the chairman from the Province, <sup>Where vice-chairman of administration may act</sup> his inability to act, or where the office of chairman is vacant, his duties shall be performed by the vice-chairman designated by the chairman, or where the chairman has failed to so designate, by a vice-chairman designated by the Minister of Labour.

(2) Wherever it appears that a vice-chairman acted for <sup>Presumption where vice-chairman acts</sup> and instead of the chairman, it shall be conclusively presumed that he has so acted in the absence, disability or vacancy in the office of the chairman.

64.—(1) A commissioner shall not directly or indirectly, <sup>Disqualification of commissioner in certain cases</sup>

(a) have, purchase, take or become interested in any industry to which this Part applies or any bond, debenture or other security of the person owning or carrying it on;

(b) be the holder of shares, bonds, debentures or other securities of any company that carries on the business of employers' liability or accident insurance;

(c) have any interest in any device, machine, appliance, patented process or article that may be required or used for the prevention of accidents.

(2) If any such industry, or interest therein, or any such <sup>Idem</sup> share, bond, debenture, security or thing comes to or becomes vested in a commissioner by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he ceases to hold office.

65.—(1) Where a commissioner resigns or his term expires, <sup>Where commissioner resigns or term expires</sup> he may carry out and complete any duties or responsibilities that he would have had if he had not resigned or his term had not expired in respect of any application, proceeding or matter in which he participated as a commissioner.

(2) Where a person is no longer a commissioner by <sup>Powers of remaining commissioners where death occurs, etc.</sup> reason of death, disqualification or removal from office for cause, the remaining commissioners that heard any application, proceeding or matter in which the person participated may carry out and complete the application, proceeding or matter

as if the person were still a commissioner and, where there is a difference of opinion, the action or decision of the chairman or the vice-chairman of appeals sitting is the action or decision of the Board and, where the chairman or vice-chairman of appeals does not sit, the action or decision of the commissioner sitting and having the longest service as a commissioner of the Board is the action or decision of the Board.

Offices of Board

66.—(1) The main offices of the Board shall be situate in The Municipality of Metropolitan Toronto.

Sittings

(2) Notwithstanding subsection 1, the Board, a panel of the Board or a commissioner may meet or hold sittings in any place in Ontario as is considered convenient.

Board may act on report of officers

67.—(1) The Board may act upon the report of any of its officers.

Powers of Board

(2) Any inquiry that the Board considers necessary to make may be made by any commissioner or officer of the Board or by some other person appointed by the Board to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

Power of Board to make regulations

68. (1) Subject to the approval of the Lieutenant Governor in Council, the Board may make such regulations as may be considered expedient for carrying out the provisions of this Part.

Offence

(2) Every person who contravenes any such regulation or any rule of an association formed as provided by section 119 that has been approved and ratified as provided by that section is guilty of an offence and for every contravention is on summary conviction liable to a fine of not more than \$50, but no prosecution for any such contravention shall be taken without leave of the Board.

Power to acquire real property

69. Subject to the approval of the Lieutenant Governor in Council, the Board may purchase or otherwise acquire such real property as it may consider necessary for its purposes, and may, with the like approval, sell or otherwise dispose of any such property.

Meetings of Board

70.—(1) Meetings of the Board shall be held at the call of the chairman but in no case shall more than two months elapse between meetings of the Board.

Quorum

(2) A majority of the commissioners of the Board for the time being constitutes a quorum for the transaction of business at meetings of the Board.

(3) The Board has power to,

Powers of  
Board

- (a) establish the assessment policies of the Board;
- (b) review this Act and the regulations and recommend amendments or revisions thereof;
- (c) consider and approve annual operating and capital budgets;
- (d) review and approve investment policies of the Board;
- (e) review and approve major changes in programs of the Board;
- (f) enact by-laws and pass resolutions for the adoption of a seal and the conduct of its business and affairs;
- (g) establish, maintain and regulate advisory councils or committees, their functions and composition; and
- (h) establish, with the approval of the Lieutenant Governor in Council, a Joint Consultative Committee representative of labour, management and the public.

71.—(1) In accordance with personnel policies approved from time to time by the Board, the chairman, subject to the approval of the Lieutenant Governor in Council and subject to the provisions of *The Crown Employees Collective Bargaining Act, 1972*, may establish job classifications, personnel qualifications and salary ranges for consultants, actuaries, accountants, experts, officers and employees of the Board, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so approved.

Powers of  
chairman

1972, c. 67

(2) When the Board, by virtue of any power vested in it, appoints or directs any person other than a member of the staff of the Board to perform any services, such person shall be paid such sum for services and expenses as the chairman may determine.

Remuneration for  
services  
performed

72. Every copy of or extract from an entry in any book or record of the Board or of or from any document filed with the Board, certified by the secretary of the Board or by such other officer of the Board as may be appointed for that purpose by the chairman to be a true copy or extract under the seal of the Board shall be received in any court as evidence of the matter so certified without proof of the secretary's or other officer's appointment, authority or signature.

Certified  
copies of  
records, etc.,  
as evidence



Superannua-  
tion Fund

73.—(1) The fund known as the Workmen's Compensation Board Superannuation Fund, for the payment of superannuation allowances or allowances upon the death or disability of an employee or commissioner of the Board, is continued.

## Regulations

(2) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for contributions to the superannuation fund by the commissioners and employees of the Board;
- (b) providing for the terms and conditions upon which any superannuation or other allowance shall be payable out of the superannuation fund and the persons to whom the superannuation or other allowance may be paid;
- (c) providing for the terms and conditions upon which funds will be received and transferred under subsections 6, 7 and 8;
- (d) providing for the terms and conditions under which agreements may be entered into under subsection 8.

Employees  
of accident  
prevention  
associations

(3) The employees of designated associations for accident prevention formed under subsection 1 of section 119 and the employees of designated corporations for accident prevention, the members of which are employees within the meaning of section 119, shall for the purposes of this section be deemed to be employees of the Board, and every employee in the service of any such association or corporation on the 10th day of April, 1952, shall, for the purposes of this section, be deemed to have entered the service of the Board on the date he last entered the service of his association or corporation.

## Idem

(4) The Board may designate associations and corporations for the purposes of subsection 3.

Cost of  
administer-  
ing fund

(5) The cost of maintaining and administering the superannuation fund shall be deemed part of the cost of the administration of this Act and is chargeable to the accident fund.

Transfer  
from super-  
annuation  
fund to  
like fund

(6) Where a commissioner or employee of the Board becomes a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act

of the Legislature of any province or of the Parliament of Canada, a sum of money equal to his contributions and credits in the superannuation fund or such portion thereof as the Board, subject to the approval of the Lieutenant Governor in Council, determines, shall be paid out of the superannuation fund into any like fund maintained to provide superannuation benefits for the members of such public, civil or civic service or staff, as the case may be.

(7) Where a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature of any province or of the Parliament of Canada becomes a contributor to the superannuation fund and a sum of money is paid into the superannuation fund in respect of the period during which he made contributions as a public, civil or civic servant, or an employee of any board, commission or public institution, the Board, subject to the approval of the Lieutenant Governor in Council, may allow him such credit in the superannuation fund in respect of the sum and the period of service represented thereby as is determined.

(8) Notwithstanding subsection 1 and the regulations made under subsection 2, the Board, subject to the approval of the Lieutenant Governor in Council, may enter into an agreement with any government, municipality, board, commission or public institution mentioned in subsection 6 or 7 to provide reciprocal arrangements for the transfer of contributions and credits and where such an agreement exists such transfer shall be in accordance with the agreement.

#### APPLICATIONS, APPEALS AND PROCEEDINGS

74.—(1) The Board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court.

(2) Without limiting the generality of subsection 1, such exclusive jurisdiction includes the power of determining,

- (a) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and, if so, which of them;
- (b) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and, if so, which of them;
- (c) whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of this Part;
- (d) the existence of, and degree of, disability by reason of any injury;
- (e) the permanence of disability by reason of any injury;
- (f) the amount of average earnings;
- (g) the degree of diminution of earning capacity by reason of any injury;
- (h) the existence of the relationship of "member of the family";
- (i) the existence of dependency;
- (j) the question whether personal injury or death has been caused by accident;
- (k) the question whether an accident arose out of and in the course of an employment within the scope of this Act.

Power to  
reconsider

75. The Board may, at any time if it considers it advisable to do so, reconsider any decision, order, declaration or ruling made by it and vary, amend or revoke such decision, order, declaration or ruling.

Quorum of  
commis-  
sioners, etc.

76.—(1) For the purposes of any application, appeal or proceeding before the Board, any three of the commissioners, save and except the vice-chairman of administration, constitute a quorum of the Board and are sufficient to exercise all the jurisdiction and powers of the Board except those contained in subsection 3 of section 70 in dealing with any application, appeal or proceeding.

(2) The Board may sit in two or more panels so long as a <sup>Panels</sup> quorum is present in each panel.

(3) The chairman or the vice-chairman of appeals may <sup>Assignment of commis-</sup> from time to time assign the commissioners to the panels <sup>tioners</sup> and may change any assignment at any time.

(4) The action or decision of the majority of the members <sup>Action or decision</sup> of a panel is the action or decision of the Board, and where there is no majority the action or decision of the chairman or the vice-chairman of appeals sitting is the action or decision of the Board, and where the chairman or vice-chairman of appeals does not sit, the action or decision of the commissioner sitting and having the longest service as commissioner is the action or decision of the Board.

(5) The chairman or vice-chairman of appeals may appoint <sup>Powers re-</sup> a commissioner or any other person to make and conduct an <sup>conduct of</sup> inquiry into any application, appeal or proceeding before the Board or a matter or thing arising therein and to report to the Board on a summary of the evidence his findings of fact and his opinion thereon and the Board or panel may act upon the summary of evidence, the findings of fact and his opinion or may substitute its own findings of fact or opinion therefor. <sup>an inquiry</sup>

77.—(1) Notwithstanding section 76,

<sup>Delegation of powers</sup>

- (a) the chairman or the vice-chairman of appeals; or
- (b) a commissioner except the vice-chairman of administration whenever authorized so to do by either the chairman or the vice-chairman of appeals,

may hear and determine any application, appeal or proceeding before the Board and for such purpose may exercise all the jurisdiction and powers of the Board in dealing with any such application, appeal or proceeding and the action or decision of the chairman, the vice-chairman of appeals, or the commissioner, as the case may be, is the action or decision of the Board.

(2) Where the chairman, vice-chairman, or commissioner <sup>Referral to Board for action or decision</sup> acting under subsection 1 considers it advisable so to do, he may refer or remit the application, appeal or proceeding to the Board for its action or decision.

(3) An appeal lies to the Board or a panel thereof under <sup>Appeal</sup> the provisions of section 76 from the dismissal or refusal of an application, appeal or proceeding by the chairman, vice-chairman or commissioner acting under subsection 1.

Practice  
and  
procedure  
of Board

78. The Board shall determine its own practice and procedure in relation to applications, appeals and proceedings and may, subject to the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable.

Principle of  
decision

79.—(1) Any decision of the Board shall be upon the real merits and justice of the case, and it is not bound to follow strict legal precedent but shall give full opportunity for a hearing.

Non-  
application  
of 1971, c. 47

(2) The proceedings and decisions of the Board shall not be subject to or affected in any way by *The Statutory Powers Procedure Act, 1971*, or by any rules made under it, and the provisions of this Act and the regulations made thereunder shall prevail notwithstanding anything contained in *The Statutory Powers Procedure Act, 1971*, or rules made under it.

Specific  
powers of  
Board re  
hearings,  
etc.

80. The Board has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce such documents or things as the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;
- (b) to accept such oral or written evidence as in its discretion it considers proper whether admissible in a court of law or not;
- (c) to allow to an employee, dependant of a deceased employee or his witnesses travelling and living expenses and other allowances and such expenses and allowances shall be paid out of the accident fund as part of the administrative expenses of the Board;
- (d) to require any person or corporation to post and to keep posted upon their premises in a conspicuous place or places, where they are most likely to come to the attention of all persons concerned, any notices that the Board considers necessary to bring to the attention of such persons in connection with any matter or proceeding under this Act;

- (e) to enter into any premises where work is being or has been done by an employee or in which the employer carries on business whether or not the premises are those of the employer and inspect and view any work, material, machinery, appliance or article therein and interrogate any person respecting any matter and post therein any notice;
- (f) to authorize any person to do anything that the Board may do and to report to the Board thereon.

81.—(1) An order of the Board for the payment of compensation or medical aid by an employer who is individually liable to pay the compensation or medical aid or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the secretary to be a true copy, may be filed with the clerk of any county or district court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court.

(2) For the duties performed by him in connection with the filing of an order or certificate of the Board pursuant to this section or section 112, such clerk is entitled to a fee of \$1, and, notwithstanding any other provision or rule, any proceeding provided for by either of such sections may be carried on by the Board by post without the necessity of personal attendance at any office.

81a.—(1) No commissioner of the Board, or any other commissioner or officer or employee of the Board, or a person who is engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function, shall be required to give testimony in any civil suit or proceeding to which the Board is not a party respecting any information, material, statement or result of any examination, test or inquiry acquired, furnished, obtained, made or received in the performance of his duties under this Act.

(2) Neither the Board, a commissioner thereof or any other commissioner, officer or employee of the Board or a person who is engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function, shall be required to produce in a civil suit to which the Board is not a party a document, extract, report, material or statement acquired, furnished, obtained, made or received in the performance of his duties under this Act.

Liability  
of Board,  
etc.

(3) No action or other proceeding for damages lies against the Board, a commissioner thereof or any other commissioner, officer or employee of the Board or a person engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function for an act or omission done or omitted by it or him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability of  
Crown  
R.S.O. 1970,  
c. 365

(4) Subsection 3 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Board, a commissioner thereof or any other commissioner, an officer or employee of the Board or a person engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection 3 had not been enacted.

Audit of  
accounts

81b. The accounts of the Board shall be audited by the Provincial Auditor or under his direction by an auditor appointed by the Lieutenant Governor in Council for that purpose and the salary and remuneration of the auditor so appointed shall be paid by the Board as part of its administrative expenses.

Annual  
report

81c.—(1) The Board shall after the close of each year file with the Minister of Labour an annual report upon the affairs of the Board.

Tabling

(2) The Minister of Labour shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session and the report shall then be referred to a standing committee of the Assembly.

Report by  
Board

(3) The Board shall after the close of each year file with the Superintendent of Insurance, in such detail as he may require, a report on the accident fund and the Superintendent of Insurance shall report thereon to the Minister of Labour.

Examination  
by Super-  
intendent of  
Insurance

(4) The Superintendent of Insurance shall, whenever required by the Lieutenant Governor in Council or the Board, examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant Governor in Council or the Board.

81*d*. To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding \$100,000 as the Lieutenant Governor in Council may direct. <sup>Provincial grant</sup>

9.—(1) Subsections 1 and 6 of section 118 of the said Act <sup>s. 118 (1, 6), re-enacted</sup> are repealed and the following substituted therefor:

(1) Where an employee suffers from an industrial disease and is thereby disabled or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged, whether under one or more employments, the employee or his dependants are entitled to compensation as if the disease was a personal injury by accident and the disablement was the happening of the accident, subject to the modifications hereinafter mentioned or contained in the regulations, unless at the time of entering into the employment he has wilfully and falsely represented himself in writing as not having previously suffered from the disease. <sup>Industrial diseases to be deemed accidents</sup>

\* \* \* \* \*

(6) The amount of the compensation shall be fixed with reference to the average earnings of the employee as calculated under the provisions of section 44, but for the purposes of this section, where an employee is no longer engaged in the trade, occupation, profession or calling to which the disease is due, the Board may determine his average earnings at an amount that it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling to which the disease is due during the twelve months prior to the commencement of disability, but not in any case exceeding the rate provided by subsection 1 of section 44. <sup>Fixing of compensation</sup>

(6*a*) Subsections 1 and 6 do not apply to an employee who has been awarded compensation for an industrial disease under section 42 prior to the 1st day of January, 1974, or entitle any employee to claim additional compensation for any period prior to that date, and shall apply only to benefits payable to an employee on and after that date. <sup>Idem</sup>

(6*b*) The notice provided for by section 20 shall be given to the employer who last employed the employee in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the employee has voluntarily left the employment. <sup>Notice</sup>



s. 118(9),  
repealed

(2) Subsection 9 of the said section 118 is repealed.

s. 118,  
amended

(3) The said section 118 is amended by adding thereto the following subsection:

Agreements  
for sharing  
costs of  
industrial  
noise claims

(11a) Notwithstanding any other provision in this Act, the Board may enter into an agreement with the appropriate authority in any other province or territory of Canada to provide for the sharing of costs of industrial noise induced hearing loss claims in proportion to the actual or estimated amount of exposure in Ontario to industrial noise which contributed to the hearing loss.

Commence-  
ment

**10.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

**11.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1973 (No. 2)*.