1937

c 204 Workmen's Compensation Act

Ontario

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CHAPTER 204.

The Workmen's Compensation Act.

PRELIMINARY.

<table>
<thead>
<tr>
<th>Interpretation</th>
<th>1.—(1) In this Act,—</th>
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</thead>
<tbody>
<tr>
<td>&quot;Accident.&quot;</td>
<td>(a) &quot;Accident&quot; shall include a wilful and an intentional act, not being the act of the workman, and a fortuitous event occasioned by a physical or natural cause; R.S.O. 1927, c. 179, s. 1 (1), cl. (a).</td>
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<tr>
<td>&quot;Accident fund.&quot;</td>
<td>(b) &quot;Accident fund&quot; shall mean the fund provided for the payment of compensation, outlays and expenses under this Act in respect of Schedule 1 and for payment of the salaries of the commissioners; R.S.O. 1927, c. 179, s. 1 (1), cl. (b); 1928, c. 26, s. 4.</td>
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<tr>
<td>&quot;Board.&quot;</td>
<td>(c) &quot;Board&quot; shall mean Workmen's Compensation Board;</td>
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<tr>
<td>&quot;Construction.&quot;</td>
<td>(d) &quot;Construction&quot; shall include reconstruction, repair, alteration and demolition;</td>
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<tr>
<td>&quot;Dependants.&quot;</td>
<td>(e) &quot;Dependants&quot; shall mean such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent;</td>
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<tr>
<td>&quot;Employer.&quot;</td>
<td>(f) &quot;Employer&quot; shall include every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry, and where the services of a workman are temporarily lent or hired to another person by the person with whom the workman has entered into such a contract the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person;</td>
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<tr>
<td>&quot;Employment.&quot;</td>
<td>(g) &quot;Employment&quot; shall include employment in an industry or any part, branch or department of an industry;</td>
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</table>
(h) "Industrial disease" shall mean any of the diseases "Industrial disease" mentioned in Schedule 3, and any other disease which by the regulations is declared to be an industrial disease;

(i) "Industry" shall include establishment, under- "Industry" taking, trade and business;

(j) "Invalid" shall mean physically or mentally in- "Invalid." capable of earning;

(k) "Manufacturing" shall include making, preparing, "Manufacturing." altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;

(l) "Medical referee" shall mean medical referee "Medical referee." appointed by the Board;

(m) "Member of the family" shall mean and include "Member of the family." wife, husband, father, mother, grandfather, grand- mother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood in loco parentis to the workman or to whom the workman stood in loco parentis, whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child, shall include such child, and where the workman is an illegitimate child shall include his parents and grandparents;

(n) "Outworker" shall mean a person to whom articles "Outworker." or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(o) "Regulations" shall mean regulations made by the "Regulations." Board under the authority of this Act;

(p) "Workman" shall include a person who has entered "Workman." into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour, or otherwise, but when used in Part I shall not include an outworker or an executive officer of a corporation. R.S.O. 1927, c. 179, s. 1 (1), cls. (c-p).
(2) The exercise and performance of the powers and duties of,—

(a) a municipal corporation;

(b) a public utilities commission;

(c) any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation;

(d) the board of trustees of a police village; and

(e) a school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board of trustees or school board, but the obligation to pay compensation under Part I shall apply only to such part of the trade or business as, if it were carried on by a company or an individual, would be an industry for the time being included in Schedule 1 or Schedule 2, and to workmen employed in or in connection therewith. R.S.O. 1927, c. 179, s. 1 (2).

PART I.

COMPENSATION.

2.—(1) Where in any employment to which this Part applies, personal injury by accident arising out of and in the course of the employment is caused to a workman his employer shall be liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned except where the injury,—

(a) does not disable the workman for the period of at least seven days from earning full wages at the work at which he was employed; or

(b) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

(3) Where compensation for disability is payable it shall be computed and be payable from the date of the disability.
(4) This section shall not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business. R.S.O. 1927, c. 179, s. 2.

3. Employers in the industries for the time being included in Schedule 2 shall be liable individually to pay the compensation. R.S.O. 1927, c. 179, s. 3.

4. Employers in the industries for the time being included in Schedule 1, shall be liable to contribute to the accident fund as hereinafter provided, but shall not be liable individually to pay the compensation. R.S.O. 1927, c. 179, s. 4.

5. (1) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and an accident happens while the workman is employed out of Ontario and his employment out of Ontario has lasted less than six months, the workman or his dependants shall be entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

(2) Where the place of business or chief place of business of the employer is situate in Ontario and the residence of the workman is out of Ontario but his usual and principal place of employment is in Ontario and an accident happens while the workman is out of Ontario merely for some temporary purpose connected with his employment, the workman or his dependants shall be entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

(3) Where an accident happens out of Ontario and the employer's place of business or chief place of business is situate out of Ontario and the workman is entitled to compensation under the law of the place where the accident happens, compensation shall not be payable to the workman or his dependants whether he is resident within or without Ontario unless his place of employment is within Ontario and he is at the time of the accident out of Ontario merely for some casual or incidental purpose connected with his employment.

(4) Where an accident happens out of Ontario on a steamboat, ship or vessel or on a railway and the workman is a resident of Ontario and the work or service rendered by him is required to be performed both within and without Ontario,
the workman or his dependants shall be entitled to compensation under this Part as if the accident had happened in Ontario.

(5) Except as provided in this section no compensation shall be payable under this Part where the accident to the workman happens while he is employed elsewhere than in Ontario.

(6) Compensation payable in respect of an accident happening elsewhere than in Ontario shall, except where the employer has fully contributed to the accident fund in respect of all the wages of workmen in his employ who are engaged in the business or work in which the accident happens, be paid by the employer individually, and the business or work carried on elsewhere than in Ontario by an employer who has not so contributed to the accident fund shall be deemed to be in Schedule 2. R.S.O. 1927, c. 179, s. 5.

6.—(1) Where by the law of the country or place in which the accident happens the workman or his dependants are entitled to compensation in respect of it they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and if such election is not made and notice given it shall be presumed that they have elected not to claim compensation under this Part.

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer, and where the compensation is payable out of the accident fund to the Board and shall be given in both cases within three months after the happening of the accident, or in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow. R.S.O. 1927, c. 179, s. 6.

7.—(1) Where a dependant is not a resident of Canada he shall not be entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country if resident in Canada would be entitled to compensation and where such dependants would be entitled to compensation under such law the compensation to which the non-resident dependant shall be entitled under this Part shall not be greater than the compensation payable in the like case under that law.

(2) Notwithstanding the provisions of subsection 1 the Board may award such compensation or sum in lieu of com-
penis to any such non-resident dependant as may be
deemed proper and may pay the same out of the accident
fund, or order it to be paid by the employer as the case may
be.

(3) Notwithstanding any provision elsewhere contained,
where a workman in the employ of a railway company has
been obliged by the nature of his work to change his residence
from Ontario to a place outside of Ontario, the dependants
of such workman, who have become non-residents of Ontario
by reason thereof, shall in respect of an accident to such
workman happening in Ontario, be entitled, while residing
in Ontario, to the same compensation as if they were residents
of Ontario at the time of the workman's death and this
provision shall apply to all pension payments to dependants
accruing after the coming into effect of this Act, whether the
accident happened before or after that date, and whether
the award of compensation has been heretofore or is hereafter
made, but shall not entitle any person to claim additional
compensation for any period prior to the coming into effect
of this Act. R.S.O. 1927, c. 179, s. 7.

8.—(1) Where an accident happens to a workman in the
course of his employment under such circumstances as entitle
him or his dependants to an action against some person
other than his employer the workman or his dependants if
entitled to compensation under this Part may claim such
compensation or may bring such action.

(2) If an action is brought and less is recovered and col-
lected than the amount of the compensation to which the
workman or his dependants are entitled under this Part the
difference between the amount recovered and collected and
the amount of such compensation shall be payable as com-
penation to such workman or his dependants.

(3) If the workman or his dependants elect to claim com-
penation under this Part the employer, if he is individually
liable to pay it, and the Board if the compensation is payable
out of the accident fund shall be subrogated to the rights
of the workman or his dependants and may maintain an
action in his or their names or in the name of the Board
against the person against whom the action lies and any sum
recovered from him by the Board shall form part of the acci-
dent fund.

(4) The election shall be made and notice of it shall be
given within the time and in the manner provided by section 6.
(5) No employer in Schedule 1 and no workman of an employer in Schedule 1 or dependant of such workman shall have a right of action against any employer in Schedule 1 in any case within the provisions of subsection 1 but in any case where it appears to the satisfaction of the Board that a workman of an employer in any class in Schedule 1 is injured or killed owing to the negligence of an employer or the workman of an employer in another class in Schedule 1, the Board may direct that the compensation awarded in any such case shall be charged against the class to which such last mentioned employer belongs. R.S.O. 1927, c. 179, s. 8.

9.—(1) The workmen of a contractor or subcontractor executing any work in or for the purposes of an industry under Part I of this Act, carried on by another person, in this subsection and in subsection 2 referred to as the principal, shall be deemed to be the workmen of the principal unless and until such contractor or subcontractor is, in respect of such work, assessed, or added and assessed, as the case may be, as an employer in Schedule 1, or, in cases where such contractor or subcontractor is, in respect of such work, individually liable for payment of compensation, unless and until the Board finds and declares that the responsibility of such contractor or subcontractor is sufficient protection to his workmen for the benefits provided for by this Act.

(2) Where a principal has made payment of assessment or compensation or furnished medical aid which but for subsection 1 he would not have been liable to pay or furnish, he shall be entitled to reimbursement from the contractor or subcontractor to such extent as the Board finds such contractor or subcontractor would have been liable.

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this subsection and in subsection 4 referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it shall be the duty of the principal to see that any sum which the contractor or any subcontractor is liable to contribute to the accident fund is paid, and if any such principal fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

(4) Where the principal is liable to make payment to the Board under subsection 3 he shall be entitled to be indemnified by any person who should have made such payment and
shall be entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board.

(5) Nothing in this section shall prevent a workman claiming compensation or the Board collecting contribution to the accident fund from the contractor or any subcontractor instead of the principal. R.S.O. 1927, c. 179, s. 9.

10. Where compensation is payable out of the accident fund, a member of the family of an employer or the dependants of such member shall not be entitled to compensation unless such member was at the time of the accident carried on the pay roll of the employer and his wages were included in the then last statement furnished to the Board under section 90 nor for the purpose of determining the compensation shall his earnings be taken to be more than the amount of his wages, as shown by such pay roll and statement. R.S.O. 1927, c. 179, s. 10.

11. Where compensation is payable out of the accident fund and an employer carries himself on his pay roll or an executive officer of a corporation is carried on the pay roll of the corporation at a salary or wage which the Board deems reasonable, but not exceeding the rate of $2,000 per annum, and it is stated in the pay roll statement furnished to the Board under section 90 that it is desired that such employer or executive officer shall be included as a workman, and the amount of his salary or wages is shown in the said statement and included in the estimate for the year, such employer or executive officer shall be deemed to be a workman within the meaning of this Act, and he or his dependants shall be 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 pay roll and statement. R.S.O. 1927, c. 179, s. 11.

12. No action shall lie for the recovery of the compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board. R.S.O. 1927, c. 179, s. 12.

13. If a workman receiving a weekly or other periodical payment ceases to reside in Ontario he shall not thereafter be entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature and if a medical referee
so certifies and the Board so directs the workman shall be entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the regulations his identity and the continuance of the disability in respect of which the same is payable. R.S.O. 1927, c. 179, s. 13.

14.—(1) The provisions of this Part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependants are or may be entitled against the employer of such workman for or by reason of any accident happening to him on or after the 1st day of January, 1915, while in the employment of such employer, and no action in respect thereof shall lie.

(2) Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff’s right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination shall be final and conclusive. R.S.O. 1927, c. 179, s. 14.

15. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end shall be absolutely void. R.S.O. 1927, c. 179, s. 15.

16.—(1) Where the compensation is payable by an employer individually no agreement between a workman or dependant and the employer for fixing the amount of the compensation or by which the workman or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it shall be binding on the workman or dependant unless it is approved by the Board.

(2) Subsection 1 shall not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just.

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependant has become entitled because of it. R.S.O. 1927, c. 179, s. 16.

17.—(1) It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum which the employer is or
may become liable to pay to the workman as compensation under this Part or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Part.

(2) Every person who contravenes any of the provisions of subsection 1 shall for every such contravention incur a penalty not exceeding $50 and shall also be liable to repay to the workman any sum which has been so deducted from his wages or which he has been required or permitted to pay in contravention of subsection 1. R.S.O. 1927, c. 179, s. 17.

18. Unless with the approval of the Board no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative nor shall any claim be set off against it. R.S.O. 1927, c. 179, s. 18.

19.—(1) Subject to subsection 5 compensation shall not be payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation is made within six months from the happening of the accident or in case of death within six months from the time of death.

(2) The notice shall give the name and address of the workman and shall be sufficient if it states in ordinary language the cause of the injury and where the accident happened.

(3) The notice may be served by delivering it at or sending it by registered post addressed to the place of business or the residence of the employer, or where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered post addressed to the employer at the office or if there are more offices than one at any of the offices of such body of persons.

(4) Where the compensation is payable out of the accident fund the notice shall also be given to the Board by delivering it to or at the office of the secretary or by sending it to him by registered post addressed to his office.

(5) Failure to give the prescribed notice or to make such claim or any defect or inaccuracy in a notice shall not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or where the compensation is payable out of the accident fund if the Board is of opinion that the claim for compensation is a just one and ought to be allowed. R.S.O. 1927, c. 179, s. 19.
20.—(1) A workman who claims compensation, or to whom compensation is payable under this Part shall if so required by his employer submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer and shall if so required by the Board submit himself for examination by a medical referee.

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the regulations. R.S.O. 1927, c. 179, s. 20.

21.—(1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a duly qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer the Board may, on the application of either of them or of its own motion, refer the matter to a medical referee. R.S.O. 1927, c. 179, s. 21 (1); 1937, c. 82, s. 2.

(2) The medical referee to whom a reference is made under subsection 1 or who has examined the workman by the direction of the Board under subsection 1 of section 20, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment and if unfit the cause of such unfitness, and his certificate unless the Board otherwise directs shall be conclusive as to the matters certified.

(3) If a workman does not submit himself for examination when required to do so as provided by subsection 1 of section 20, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection 1 of this section, or in any way obstructs any examination, his right to compensation or if he is in receipt of a weekly or other periodical payment his right to it shall be suspended until such examination has taken place. R.S.O. 1927, c. 179, s. 21 (2, 3).

22. Where in any case, in the opinion of the Board, it will be in the interest of the accident fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. R.S.O. 1927, c. 179, s. 22.
23. Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or of the workman, if the compensation is payable by the employer individually, or, if the compensation is payable out of the accident fund, of the Board’s own motion or at the request of the workman and on such review the Board may put an end to or diminish or may increase such payment to a sum not beyond the maximum hereinafter prescribed. R.S.O. 1927, c. 179, s. 23.

24. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what if he had not been injured he would probably have been earning at the date of the review. R.S.O. 1927, c. 179, s. 24.

25.—(1) Where the compensation is payable by an employer, individually, the employer may, with the consent of the workman or dependant to whom it is payable and with the approval of the Board, but not otherwise, and where it is payable out of the accident fund the Board may commute the weekly or other periodical payments payable to a workman or a dependant for a lump sum.

(2) Where the lump sum is payable by the employer individually it shall be paid to the Board.

(3) The lump sum may be,—

(a) applied in such manner as the workman or dependant may direct;

(b) paid to the workman or dependant;

(c) invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;

(d) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;

(e) applied partly in one and partly in another or others of the modes mentioned in clauses a, b, c and d, as the Board may determine.
(4) Where the compensation is payable out of the accident fund, the Board may in any case where in its opinion the interest or pressing need of the workman or dependant warrants it, advance or pay to or for the workman or dependant such lump sum as the circumstances warrant and as the Board may determine. R.S.O. 1927, c. 179, s. 25.

26.—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor, to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal to seventy-five per centum of the annual value of the weekly or other periodical payments, and in other cases of such an amount as the Board may deem reasonable.

(2) The sum for which a payment is commuted under subsection 1, shall be paid to the Board and shall be dealt with in the manner provided by section 25. R.S.O. 1927, c. 179, s. 26.

27.—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months the liability shall, if the Board so directs before the expiration of twelve months from the commencement or the disability of the workman or his death, if the accident resulted in death, be commuted by the payment of a lump sum in accordance with section 26, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 25.

(2) This section shall not apply to a contract of insurance entered into before the passing of this Act. R.S.O. 1927, c. 179, s. 27.

28. The Board may require an employer who is individually liable to pay the compensation to pay to the Board a sum sufficient to commute in accordance with section 26, any weekly or other periodical payments which are payable by the employer and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments the employer shall nevertheless be liable to make such of them as fall due after
the sum paid to the Board is exhausted, and if the sum paid is more than sufficient for that purpose the excess shall be returned to the employer when the right to compensation comes to an end unless otherwise ordered by the Board. R.S.O. 1927, c. 179, s. 28.

29. The Board may require an employer who is individually liable to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct and in default of his doing so the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. R.S.O. 1927, c. 179, s. 29.

30.—(1) Where an employer who is individually liable to pay the compensation is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum which under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes, or whose dependants become entitled to compensation under this Part, directly to the Board in discharge or in discharge pro lanto of the compensation to which such workman or his dependants are found to be entitled.

(2) In any case to which subsection 1 applies where a claim for compensation is made notice of the claim shall be given to the insurance company or other underwriter and to the employer and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection 1.

(3) Section 25 shall apply to the compensation payable to the Board under subsection 1. R.S.O. 1927, c. 179, s. 30.

31.—(1) Where the accident causes permanent disability, In case of permanent disability the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient with the interest thereon if invested so as to earn interest at the rate of five per centum per annum to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments.
(2) The Board, instead of requiring the employer to make the payment provided for by subsection 1, may require him to give such security as the Board may deem sufficient for the future payments. R.S.O. 1927, c. 179, s. 31.

32. The Board, where it deems it requisite for the prompt payment of claims, may require any employer in Schedule 2 to make deposits of money with the Board from time to time, out of which the Board may pay compensation for accidents to workmen of such employer as they occur. R.S.O. 1927, c. 179, s. 32.

33.—(1) The additional moneys necessary to provide for increases of compensation in respect to accidents previously happening may be levied and collected by the Board from the employers either now, previously or hereafter carrying on industries under Part I in such manner and at such time or times as the Board may deem most equitable and most in accordance with the general principles and provisions of this Act, and in the case of Schedule 1 employers, such levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assessments, and in the case of Schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases.

(2) Where by reason of limit of legal liability or for other cause, the Board deems it inequitable or inexpedient to apply the provisions of subsection 1 to any pension award the Board shall have power to exempt the same accordingly. R.S.O. 1927, c. 179, s. 33.

34. Where a right to compensation is suspended under the provisions of this Part no compensation shall be payable in respect of the period of suspension. R.S.O. 1927, c. 179, s. 34.

SCALE OF COMPENSATION.

35.—(1) Where death results from an injury the amount of the compensation shall be:

(a) The necessary expenses of the burial of the workman not exceeding $125;

(b) Where the widow or an invalid husband is the sole dependant a monthly payment of $40;

(c) Where the dependants are a widow or an invalid husband and one or more children, a monthly payment of $40, with an additional monthly pay-
ment of $10 to be increased upon the death of the widow or invalid husband to $15 for each child under the age of sixteen years;

(d) Where the dependants are children, a monthly payment of $15 to each child under the age of sixteen years;

(e) Where the dependants are persons other than those mentioned in clauses a to d, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board.

(2) Where the workman leaves no widow or the widow subsequently dies, and it seems desirable to continue the existing household, and an aunt, sister, or other suitable person acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner which the Board deems satisfactory, such foster-mother while so doing shall be entitled to receive the same monthly payments of compensation for herself and the children as if she were widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments which they would otherwise have been entitled to receive.

(3) In addition to any other compensation provided for the widow, or where the workman leaves no widow, the foster-mother, as in subsection 2 described, shall be entitled to a lump sum of $100.

(4) In the case provided for by clause e of subsection 1, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants, and in any case under the said clause compensation may be made wholly or partly in a lump sum or by such form of payment as the Board in the circumstances deems most suitable.

(5) A dependant to whom the workman stood in loco parentis or a dependant who stood in loco parentis to the workman shall be entitled, as the Board may determine, to share in or receive compensation under clause c, clause d or clause e of subsection 1.

(6) Compensation shall be payable to an invalid child without regard to the age of such child, and payments to such child shall continue so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of such child.
(7) Where there are both total and partial dependants the compensation may be allotted partly to the total and partly to the partial dependants.

(8) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board may deem most for the advantage of the child.

(9) Exclusive of the expenses of burial of the workman the compensation payable as provided by subsection 1, shall not in any case exceed sixty-six and two-thirds per centum of the average monthly earnings of the workman mentioned in section 38, and if the compensation payable under that subsection would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately, but this subsection shall not operate to reduce the total monthly compensation below the rate of $12.50 per week, where the dependants are a widow or an invalid husband and one or more children. R.S.O. 1927, c. 179, s. 35.

36.—(1) If a dependant widow marries, the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum equal to the monthly payments for two years and such lump sum shall be payable within one month after the day of her marriage.

(2) Subsection 1 shall not apply to payments to a widow in respect of a child. R.S.O. 1927, c. 179, s. 36.

37. Subject to the provisions of subsection 6 of section 35 a monthly payment in respect of a child shall cease when the child attains the age of sixteen years or dies. R.S.O. 1927, c. 179, s. 37.

38. Where permanent total disability results from the injury the amount of the compensation shall be a weekly payment during the life of the workman equal to sixty-six and two-thirds per centum of his average weekly earnings during the previous twelve months if he has been so long employed, but if not then for any less period during which he has been in the employment of his employer. R.S.O. 1927, c. 179, s. 38.

39.—(1) Where permanent partial disability results from the injury the compensation shall be a weekly payment of sixty-six and two-thirds per centum of the difference between the average weekly earnings of the workman before the acci-
dent and the average amount which he is earning or is able to earn in some suitable employment or business after the accident and the compensation shall be payable during the lifetime of the workman.

(2) Where the impairment of the earning capacity of the workman does not exceed ten per centum of his earning capacity instead of such weekly payment the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.

(3) Where deemed just, the impairment of earning capacity may be estimated from the nature of the injury, having always in view the workman's fitness to continue the employment in which he was injured or to adapt himself to some other suitable occupation. R.S.O. 1927, c. 179, s. 39.

40. Where temporary total disability results from the injury the compensation shall be the same as that prescribed by section 38, but shall be payable only so long as the disability lasts. R.S.O. 1927, c. 179, s. 40.

41. Where temporary partial disability results from the injury the compensation shall be the same as that prescribed by section 39, but shall be payable only so long as the disability lasts and subsection 2 of that section shall apply. R.S.O. 1927, c. 179, s. 41.

42. The amount of compensation to which an injured workman shall be entitled for temporary total or permanent total disability under the provisions of this Part shall not be less than $12.50 per week or, where his average earnings are less than $12.50 per week, the amount of such earnings, and for temporary partial or permanent partial disability a corresponding amount in proportion to the impairment of earning capacity. R.S.O. 1927, c. 179, s. 42.

43.—(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of $2,000 per annum.

(2) Where owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of it, it is impracticable to compute the rate of remuneration as of the date of the accident regard may be had to the average weekly or monthly amount which during the twelve months
previous to the accident was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed then by a person in the same grade employed in the same class of employment and in the same locality.

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them his average earnings shall be computed on the basis of what he would probably have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

(4) Employment by the same employer shall mean employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of his employment that sum shall not be reckoned as part of his earnings.

(6) Where in any case it seems more equitable, the Board may award compensation, having regard to the earnings of the workman at the time of the accident. R.S.O. 1927, c. 179, s. 43.

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44.—(1) In fixing the amount of a weekly or monthly payment regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

(2) Where the compensation is payable out of the accident fund any sum deducted from the compensation under subsection 1 may be paid to the employer out of the accident fund. R.S.O. 1927, c. 179, s. 44.

45. The Board may wherever it is deemed advisable provide that the payments of compensation may be fortnightly or monthly instead of weekly or where the workman or dependant is not a resident of Ontario or ceases to reside therein may otherwise fix the periods of payment or commute the compensation as the Board may deem proper. R.S.O. 1927, c. 179, s. 45.
46. The Board, for the purpose of enabling the workman to obtain an artificial limb, or in any other case where it deems it proper, may, at any time or times, make or direct partial commutation or lump sum payment of his compensation, or otherwise alter the form of payment, as in the circumstances seems most for his advantage. R.S.O. 1927, c. 179, s. 46.

47. Where it is found that the widow to whom compensa
tion has been awarded is a common prostitute or is openly living with any man in the relation of man and wife without being married to him, the Board may discontinue or suspend compensation to such widow or divert such compensation in whole or in part to or for the benefit of any other dependant or dependants of the deceased workman. R.S.O. 1927 c. 179, s. 47.

48. Where a workman is entitled to compensation and it is made to appear to the Board,—

(a) that such workman is no longer residing in Ontario but that his wife or child or children under sixteen years of age are still residing therein without adequate means of support and are, or are apt to become, a charge upon the municipality where they reside, or upon private charity; or

(b) that the workman although still residing in Ontario is not supporting his wife and children as aforesaid and an order has been made against such workman by a court of competent jurisdiction for the support or maintenance of such wife or family, or for alimony,

the Board may divert such compensation in whole or in part from such workman for the benefit of the wife or children of the said workman. 1928, c. 26, s. 2.

49. Where a workman or a dependant is an infant under the age of twenty-one years or under any other legal disability the compensation to which he is entitled may be paid to such person or be applied in such manner as the Board may deem most for his advantage. R.S.O. 1927, c. 179, s. 48.

MEDICAL AID.

50.—(1) Every workman entitled to compensation under this Part, or who would have been so entitled had he been dis
able for seven days, shall be entitled to such medical, surgical and dental aid, the aid of drugless practitioners registered under The Drugless Practitioners Act. and hospital c. 229.
and skilled nursing services as may be necessary as a result of the injury, and shall be entitled to such artificial member or members and apparatus and dental appliances and apparatus as may be necessary as a result of the injury, and to have the same kept in repair for a period of one year. R.S.O. 1927, c. 179, s. 49 (1); 1932, c. 21, s. 2 (1); 1937, c. 82, s. 3 (1).

(2) In this Act "medical aid" shall mean the medical, surgical and dental aid, the aid of drugless practitioners registered under The Drugless Practitioners Act, and hospital and skilled nursing services and the artificial member or members and apparatus and repair above mentioned. R.S.O. 1927, c. 179, s. 49 (2); 1932, c. 21, s. 2 (2); 1937, c. 82, s. 3 (2).

(3) In the industries in Schedule 1 such medical aid shall be furnished or arranged for by the Board or as it may direct or approve and shall be paid for by the Board out of the accident fund, and the necessary amount shall be included in the assessments levied upon the employers.

(4) In the industries in Schedule 2 such medical aid shall be furnished and paid for by the employers individually, but any employer failing to furnish satisfactory medical aid shall be liable, by the order of the Board, to pay for such medical aid as may be procured by the workman or by anyone for him or as may be provided by the Board.

(5) All questions as to the necessity, character, and sufficiency of any medical aid furnished or to be furnished shall be determined by the Board.

(6) The fees or charges for such medical aid shall not be more than would be properly and reasonably charged to the workman if himself paying the bill, and, except in the case of an employer individually liable and himself furnishing the medical aid, the amount thereof shall be fixed and determined by the Board, and no action for any amount larger than that fixed by the Board shall lie in respect of any medical aid herein provided for.

(7) It shall not be lawful for any employer, directly or indirectly, to collect or receive or retain from any workman any contribution toward the expense of medical aid, and every person contravening this provision shall for every such contravention be liable to a penalty not exceeding $50 and shall also be liable, upon the order of the Board, to reimburse the workman treble the amount of any sum so collected, received, or retained.

(8) Where any employer has now or hereafter establishes in connection with any industry carried on by him an arrangement for furnishing medical aid to his workmen which in
the opinion of the Board is at least as favourable to the workmen as that herein provided for, the Board, after investigating the facts and considering the wishes of both workmen and employer, may approve such arrangement, and as long as such approval remains unrevoked such arrangement may be continued in lieu of the medical aid herein provided for, and if the industry is in Schedule 1 the employer shall be entitled to such reimbursement out of the accident fund or to such reduction in his rate of assessment as the Board shall deem just.

(9) Nothing in this Act shall affect any obligation upon the employer under The Public Health Act or any regulation made thereunder, but notwithstanding anything herein contained the employer shall not be entitled, directly or indirectly, to collect, receive, or retain from any workman any contribution toward the expense of medical aid.

(10) Employers in any industries in which it is deemed proper may be required by the Board to maintain as may be directed by the Board such first aid appliances and service as the Board may direct, and the Board may make such order respecting the expense thereof as may be deemed just.

(11) Every employer shall at his own expense furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital, or to a physician, or to the workman’s home, and any employer failing so to do shall be liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the workman or by anyone for him, or as may be provided by the Board.

(12) Where in conjunction with or apart from the medical aid to which workmen are to be entitled free of charge further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is or would be one prohibited by this Act shall be determined by the Board. R.S.O. 1927, c. 179, s. 49 (3-12).

51. Every physician, surgeon and hospital official attending, consulted respecting, or having the care of any workman shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such workman. R.S.O. 1927, c. 179, s. 50.

REHABILITATION.

52. To aid in getting injured workmen back to work and to assist in lessening or removing any handicap resulting from their injuries, the Board may take such measures and
make such expenditures as it may deem necessary or expedient, and the expense thereof shall be borne, in Schedule 1 cases, out of the accident fund, and in Schedule 2 cases by the employer individually, and may be collected in the same manner as compensation or expenses of administration; provided that the total expenditure under the provisions of this section shall not exceed $100,000 in any calendar year. R.S.O. 1927, c. 179, s. 51.

THE WORKMEN'S COMPENSATION BOARD.

53. There is hereby constituted a commission for the administration of this Part to be called "The Workmen's Compensation Board," which shall consist of three members to be appointed by the Lieutenant-Governor in Council and shall be a body corporate. R.S.O. 1927, c. 179, s. 52.

54.—(1) One of the commissioners shall be appointed by the Lieutenant-Governor in Council to be the chairman of the Board and he shall hold that office while he remains a member of the Board and another of the commissioners shall be appointed by the Lieutenant-Governor in Council vice-chairman of the Board.

(2) In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and shall have all the powers of the chairman. R.S.O. 1927, c. 179, s. 53.

55.—(1) In the case of the death, illness or absence from Ontario of a commissioner or of his inability to act from any cause the Lieutenant-Governor in Council may appoint some person to act pro tempore in his stead and the person so appointed shall have all the powers and perform all the duties of a commissioner.

(2) Subsection 1 shall apply in the case of the chairman of the Board as well as in the case of any other member of it. R.S.O. 1927, c. 179, s. 54.

56. Where the vice-chairman appears to have acted for or instead of the chairman it shall be conclusively presumed that he so acted for one of the reasons mentioned in section 55. R.S.O. 1927, c. 179, s. 55.

57. Subject to section 58 each commissioner shall after the 15th day of October, 1934, hold office during the pleasure of the Lieutenant-Governor in Council. 1935, c. 75, s. 2.
58. Unless otherwise directed by the Lieutenant-Governor in Council a commissioner shall cease to hold office when he attains the age of seventy-five years. R.S.O. 1927, c. 179, s. 57.

59. Each of the commissioners shall devote the whole of his time to the performance of his duties under this Part. R.S.O. 1927, c. 179, s. 58.

60. The salaries of the commissioners shall be fixed by the Lieutenant-Governor in Council and shall be payable out of the accident fund as part of the administration expenses of the Board. 1928, c. 26, s. 3.

61. The presence of two commissioners shall be necessary to constitute a quorum of the Board. R.S.O. 1927, c. 179, s. 60.

62. A vacancy in the Board shall not if there remain two members of it impair the authority of such two members to act. R.S.O. 1927, c. 179, s. 61.

63. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things. R.S.O. 1927, c. 179, s. 62.

64.—(1) A commissioner shall not directly or indirectly,—

(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 which carries on the business of employers’ liability or accident insurance;

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

(2) If any such industry, or interest therein, or any such 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 shall cease to hold office. R.S.O. 1927, c. 179, s. 63.
65. The offices of the Board shall be situated in the City of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Ontario. R.S.O. 1927, c. 179, s. 64.

66. The commissioners shall sit at such times and conduct their proceedings in such manner as they may deem most convenient for the proper discharge and speedy despatch of business. R.S.O. 1927, c. 179, s. 65.

67.—(1) The Board shall appoint a secretary and a chief medical officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out the provisions of this Part and may prescribe their duties and, subject to the approval of the Lieutenant-Governor in Council, may fix their salaries.

(2) Every person so appointed shall hold office during the pleasure of the Board. R.S.O. 1927, c. 179, s. 66.

(3) The Board, with the approval of the Lieutenant-Governor in Council, may establish and maintain a fund, or enter into arrangements with a duly licensed insurance company or insurance companies for the payment of superannuation allowances or allowances upon the death or disability of its employees, and may make regulations providing for contributions to the fund by the Board and by its employees, and for the terms and conditions upon which any superannuation or other allowance shall be payable and the persons to whom the same may be paid and the costs of maintaining and administering the same shall be deemed part of the cost of the administration of the Board and shall be chargeable to the accident fund. 1932, c. 21, s. 3.

68.—(1) The Board shall have 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 to which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon shall be final and conclusive and shall not be 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 certiorari or otherwise into any court.

(2) Without thereby limiting the generality of the provisions of subsection 1, it is declared that such exclusive jurisdiction shall extend to 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 Part 1.

(3) Nothing in subsection 1 shall prevent the Board from reconsidering any matter which has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board shall have authority to do.

(4) The decisions of the Board shall be upon the real merits and justice of the case, and it shall not be bound to follow strict legal precedent. R.S.O. 1927, c. 179, s. 67.

69. Every copy of or extract from an entry in any book or record of the Board, and of any document filed with the Board, certified by the secretary of the Board to be a true copy or extract, shall be received in any court as prima facie evidence of the matter so certified without proof of the secretary’s appointment, authority, or signature. R.S.O. 1927, c. 179, s. 68.

70. The Board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest and an order of the Board for the payment by an employer of any sum so awarded when filed in the manner provided by section 72 shall become a judgment of the court in which it is filed and may be enforced accordingly. R.S.O. 1927, c. 179, s. 69.

71.—(1) The Board may act upon the report of any of its officers and any inquiry which it shall be deemed necessary to make may be made by any one of the commissioners or by an officer of the Board or some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry shall for the purposes of the inquiry have all the powers conferred upon the Board by section 63. R.S.O. 1927, c. 179, s. 70.
Enforcement of orders of Board.

72. An order of the Board for the payment of compensation by an employer who is individually liable to pay the compensation 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 shall become an order of that court and may be enforced as a judgment of the court. R.S.O. 1927, c. 179, s. 71.

73. For the duties performed by him in connection with the filing of an order or certificate of the Board pursuant to section 72 or section 108 such clerk shall be entitled to a fee of $1, and, notwithstanding any other provision or rule, any proceeding provided for by either of the said sections may be carried on by the Board by post without the necessity of personal attendance at any office. R.S.O. 1927, c. 179, s. 72.

Regulations.

74.—(1) The Board may make such regulations as may be deemed expedient for carrying out the provisions of this Part and to meet cases not specially provided for by this Part, and a certified copy of every regulation so made shall be transmitted forthwith to the Provincial Secretary and any regulation may within one month after it has been received by the Provincial Secretary be disallowed by the Lieutenant-Governor in Council.

(2) Every regulation which is approved by the Lieutenant-Governor in Council shall immediately after approval or on the day named by him for that purpose become effective, and after the period for disallowance has expired every other regulation which has not been disallowed shall become effective and every regulation which has become effective shall be forthwith published in the Ontario Gazette.

(3) Every person who contravenes any such regulation after it has become effective or any rule of an association formed as provided by section 116, which has been approved and ratified as provided by that section shall for every contravention incur a penalty not exceeding $50, but no prosecution for any such contravention shall be taken without leave of the Board. R.S.O. 1927, c. 179, s. 73.

Audit of accounts.

75. The accounts of the Board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant-Governor in Council for that purpose and the salary or remuneration of the last mentioned auditor shall be paid by the Board. R.S.O. 1927, c. 179, s. 74.
76.—(1) The Board shall on or before the 15th day of January in each year make a report to the Lieutenant-Governor of its transactions during the next preceding calendar year and such report shall contain such particulars as the Lieutenant-Governor in Council may prescribe.

(2) Every such report shall be forthwith laid before the Assembly if the Assembly is then in session and if it is not then in session within fifteen days after the opening of the next session. R.S.O. 1927, c. 179, s. 75.

77. The Superintendent of Insurance or an officer of his Department named by him for that purpose shall whenever required by the Lieutenant-Governor in Council 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. R.S.O. 1927, c. 179, s. 76; 1932, c. 21, s. 4.

CONTRIBUTION BY THE PROVINCE.

78. 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. R.S.O. 1927, c. 179, s. 77.

ACCIDENT FUND.

79.—(1) An accident fund shall be provided by contributions to be made in the manner hereinafter provided, by the employers in the classes or groups of industries, for the time being included in Schedule 1, and compensation payable in respect of accidents which happen in any industry, included in any of such classes or groups, shall be payable and shall be paid out of the accident fund.

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1 none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under the authority conferred by this Part. R.S.O. 1927, c. 179, s. 78.

80. Where at any time there is not money available for payment of the compensation which has become due, without resorting to the reserves the Board may pay such compensa- tion out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by
including it in a subsequent annual assessment, or where it is for any reason deemed inexpedient to withdraw the amount required from the reserves the Lieutenant-Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. R.S.O. 1927, c. 179, s. 79.

81. It shall be the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it shall be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have previously happened. R.S.O. 1927, c. 179, s. 80.

82.—(1) Subject to section 104 it shall not be obligatory upon the Board to provide and maintain a reserve fund which shall at all times be equal to the capitalized value of the payments of compensation which will become due in future years unless the Board shall be of opinion that it is necessary to do so in order to comply with the provisions of section 81.

(2) It shall not be necessary that the reserve fund shall be uniform as to all classes but subject to sections 81 and 104 it shall be discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them. R.S.O. 1927, c. 179, s. 81.

83. If any trade or business connected with the industries of:

lumbering, mining, quarrying, fishing, manufacturing, building, construction, engineering, transportation, operation of electric power lines, waterworks and other public utilities, navigation, operation of boats, ships, tugs and dredges, operation of grain elevators and warehouses, teaming, scavenging and street cleaning, painting, decorating and renovating, dyeing and cleaning,

or any occupation incidental thereto or immediately connected therewith, not included in Schedule 2, is not included in any of the classes mentioned in Schedule 1, the Board shall assign it to an appropriate class or form an additional class or classes embracing the trades or businesses not so
84.—(1) The Board shall have jurisdiction and authority to,—

(a) rearrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of Part I;

(b) establish other classes including any of the industries which are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;

(c) add to any of the classes for the time being included in Schedule 1, any industry which is not included in any of such classes.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may subdivide the class into sub-classes and if that is done the Board shall fix the percentages or proportions of the contributions to the accident fund which are to be payable by the employers in each sub-class.

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class and sub-class, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

(4) Where a greater number of accidents has happened in any industry than in the opinion of the Board ought to have happened if proper precautions had been taken for the prevention of accidents in it, or where in the opinion of the Board the ways, works, machinery or appliances in any industry are defective, inadequate or insufficient the Board may so long as such condition in its opinion continues to exist add to the amount of any contribution to the accident fund for which an employer is liable in respect of such industry such a percentage thereof as the Board may deem just and may assess and levy the same upon such employer, or the Board may exclude such industry from the class in which it
is included, and if it is so excluded the employer shall be individually liable to pay the compensation to which any of his workmen or their dependants may thereafter become entitled and such industry shall be included in Schedule 2.

(5) Any additional percentage levied and collected under subsection 4 shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or sub-class to which the employer from whom it is collected belongs as the Board may determine. R.S.O. 1927, c. 179, s. 83.

(6) Where in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the accident fund for which such employer is liable. 1933, c. 70, s. 2.

85. Where the Board finds that an employer has employed a minor in violation of the law and a claim for injury to such minor is made, such unlawful employment shall not affect or prejudice the right of the claimant but the Board may exclude the industry from the class in which it is included and if it is so excluded the employer shall be individually liable to pay the compensation to which the minor or any dependant of such minor is entitled. 1932, c. 21, s. 6.

86.—(1) The Board may in the exercise of the powers conferred by section 84 withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1, but no withdrawal or exclusion under the authority of this subsection shall have the effect of excluding any industry from Schedule 2.

(2) Where industries are withdrawn or excluded from a class under the authority of subsection 1, an employer in any of them may, nevertheless, elect to become a member of the class to which he would have belonged, and if he so elects he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1.
(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him.

(4) A workman in any industry excluded under the authority of subsection 1 may notify the secretary of the Board that he desires such industry to be included in Schedule 1, and such notice upon receipt thereof by the secretary shall have the same effect as a notice of election from the employer.

R.S.O. 1927, c. 179, s. 84.

87. The powers conferred by sections 84 to 86 may be exercised from time to time and as often as in the opinion of the Board occasion may require. R.S.O. 1927, c. 179, s. 85.

88.-(1) The Board may, upon the application of an employer, add to Schedule 1, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer.

(2) The Board may, upon the application of an employer, add to Schedule 2, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer not in Schedule 1. R.S.O. 1927, c. 179, s. 86.

89. A regulation or order made by the Board under the authority of clause a or clause b of subsection 1 of section 84 shall not have any force or effect unless approved by the Lieutenant-Governor in Council, and when so approved it shall be published in the *Ontario Gazette* and shall take effect on the expiration of one month from the first publication of it in the *Ontario Gazette*. R.S.O. 1927, c. 179, s. 87.

**STATEMENTS TO BE FURNISHED BY EMPLOYERS.**

90.-(1) Subject to the regulations every employer shall yearly on or before such date as shall be prescribed by the Board, and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past or any part thereof specified by the Board and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both verified by the statutory declaration of the employer or the manager of the business, or where the employer is a corporation by an officer of the corporation having a personal knowledge of the matters to which the declaration relates.
(2) Every employer shall keep in such form and with such
detail as may be required for the purposes of this Act a
careful and accurate account of all wages paid to his em-
ployees and such account shall be kept within the Province
and shall be produced to the Board and its officers when so
required.

(3) Where the business of the employer embraces more
than one branch of business or class of industry the Board
may require separate statements to be made as to each branch
or class of industry, and such statements shall be made,
verified, and transmitted as provided by subsection 1.

(4) If any employer does not make and transmit to the
Board the prescribed statement within the prescribed time
the Board may base any assessment or supplementary assess-
ment thereafter made upon him on such sum as in its opinion
is the probable amount of the payroll of the employer and the
employer shall be bound thereby, but if it is afterwards as-
certained that such amount is less than the actual amount of
the payroll the employer shall be liable to pay to the Board
the difference between the amount for which he was assessed
and the amount for which he would have been assessed on
the basis of his payroll.

(5) If an employer does not comply with the provisions of
subsection 1, subsection 2 or subsection 3, or if any statement
made in pursuance of their provisions is not a true and accur-
ate statement of any of the matters required to be set forth in
it the employer for every such non-compliance and for every
such statement shall incur a penalty not exceeding $500, and
default or delay in furnishing any such statement or insuf-
ficiency of estimate of expenditure for wages shall also
render the employer liable to pay an additional percentage
of assessment or to pay interest, as fixed by the Board.
R.S.O. 1927, c. 179, s. 88.

91.—(1) Every municipal assessor of a township, town
or village, shall yearly, on or before the last day for completing
his assessment roll make a return to the Board upon forms
provided by the Board for the purpose showing the names,
addresses, nature of business, and usual number of employees,
of all employers of labour carrying on in the municipality
any industry or business other than farming or mercantile
business.

(2) The Board may make remuneration for such return
out of the accident fund. R.S.O. 1927, c. 179, s. 89.
92.—(1) The Board and any member of it, and any officer or person authorized by it for that purpose shall have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under the provisions of section 90 is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the pay roll of any employer or of ascertaining whether any industry or person is under the operation of Part I and whether in Schedule 1 or Schedule 2 and for the purpose of any such examination and inquiry the Board and the person so appointed shall have all the powers which may be conferred on a commissioner appointed under The Public Inquiries Act.

(2) An employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection 1 or refuses to permit it to be made shall incur a penalty not exceeding $500.

(3) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and to take statutory declarations required under section 90 and in all such cases to administer oaths, affirmations and declarations and certify to the same having been made. R.S.O. 1927, c. 179, s. 90.

93.—(1) If a statement is found to be inaccurate the assessment shall be made on the true amount of the pay roll as ascertained by such examination and inquiry or if an assessment has been made against the employer on the basis of his pay roll being as shown by the statement the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the pay roll had been truly stated, and by way of penalty a sum equal to such difference.

(2) The Board if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the penalty provided for by subsection 1 or any part of it. R.S.O. 1927, c. 179, s. 91.

94.—(1) The Board and any member of it and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of
them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

(2) An employer and every other person who obstructs or hinders the making of any inspection made under the authority of subsection 1, or refuses to permit it to be made, shall incur a penalty not exceeding $500. R.S.O. 1927, c. 179, s. 92.

95.—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged except in the performance of his duties or under the authority of the Board any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

(2) Every person who contravenes any of the provisions of subsection 1 shall incur a penalty not exceeding $50. R.S.O. 1927, c. 179, s. 93.

96. The penalties imposed by or under the authority of this Part shall be recoverable under The Summary Convictions Act, and when collected shall be paid over to the Board and shall form part of the accident fund. R.S.O. 1927, c. 179, s. 94.

ASSESSMENTS.

97.—(1) The Board shall in every year assess and levy upon the employers in each of the classes such percentage of pay roll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it shall deem sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to maintain a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board may deem necessary to prevent the employers in future years from being unduly or unfairly burdened with payments which are to be made in those years in respect of accidents which have previously happened.
100. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up.

98.—(1) Where the assessment is based on the pay roll of the employer and there is included in it the wages or salary of a workman who has been paid more than at the rate of $2,000 per annum the excess shall be deducted from the amount of the pay roll and the assessment shall be based on the amount of it as so reduced.

(2) It shall not be necessary that the assessment upon the employers in a class or sub-class shall be uniform, but they may be fixed or graded in relation to the hazard of each or of any of the industries included in the class or sub-class. R.S.O. 1927, c. 179, s. 96 (1, 2).

(3) A system of merit rating may, if deemed proper, be adopted. 1933, c. 70, s. 3.

99.—(1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under the provisions of either of sections 97 and 98, or the provisional amount thereof, and such employer shall pay to the Board the amount or provisional amount of his assessment within one month or such other time as the Board may fix after notice of the assessment and of such amount has been given to him, or where payment is to be made by instalments he shall pay the first instalment within such time and the remaining instalment or instalments at the time or times specified in such notice.

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted.

(3) Wherever at any time it appears that a statement or estimate of pay roll upon which an assessment or provisional amount of assessment is based is too low the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as shall be sufficient to bring the payment of assessment up to the proper amount, and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. R.S.O. 1927, c. 179, s. 97.

100. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up.
the deficiency and section 99 shall apply to such assessments but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. R.S.O. 1927, c. 179, s. 98.

101.—(1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance which in the opinion of the Board would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and the provisions of section 99 shall apply to such assessments but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment.

(2) The Board where it deems proper may add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance which in the opinion of the Board would unfairly burden the employers in any class. R.S.O. 1927, c. 179, s. 99.

102.—(1) If and so far as any deficiency mentioned in sections 100 and 101 is afterwards made good wholly or partly by the defaulting employer the amount which shall have been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment.

(2) If for any reason an employer liable to assessment is not assessed in any year he shall nevertheless be liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

(3) Any sum collected from an employer under subsection 2 shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or sub-class to which such employer belonged. R.S.O. 1927, c. 179, s. 100.

103. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment a defaulting em-
employer shall continue liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid. R.S.O. 1927, c. 179, s. 101.

104. Whenever the Lieutenant-Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and when such a requirement is made the Board shall forthwith make such supplementary assessment and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments shall apply to it. R.S.O. 1927, c. 179, s. 102.

105. In order to maintain the accident fund as provided by section 81 the Board may from time to time and as often as may be deemed necessary include in any sum to be assessed upon the employers and may collect from them such sums as may be deemed necessary for that purpose and the sums so collected shall form a reserve fund and shall be invested in securities in which a trustee may by law invest trust moneys. R.S.O. 1927, c. 179, s. 103.

106. If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer shall be liable to pay and shall pay as a penalty for his default such a percentage upon the amount unpaid as may be prescribed by the regulations or may be determined by the Board. R.S.O. 1927, c. 179, s. 104.

107.—(1) Any employer who refuses or neglects to make or transmit any pay roll, return or other statement required to be furnished by him under the provisions of section 90 or 110, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation and medical aid payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be
enforced in the same manner as the payment of an assessment may be enforced. R.S.O. 1927, c. 179, s. 105 (1); 1932, c. 21, s. 8.

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. R.S.O. 1927, c. 179, s. 105 (2).

108. Where default is made in the payment of any assessment, or special assessment, or any part of it the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable and such certificate or a copy of it certified by the secretary to be a true copy may be filed with the clerk of any county or district court or where the amount remaining unpaid does not exceed $200, with the clerk of any division court, and when so filed shall become an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate. R.S.O. 1927, c. 179, s. 106.

109.—(1) If an assessment or a special assessment or any part of it remains unpaid for thirty days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by section 108, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment, the establishment in respect of which it is payable, and upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount when collected shall be paid over by the collector to the Board.

(2) The collector shall be entitled to add five per centum thereof to the amount to be collected and to retain such percentage for his services in making the collection. R.S.O. 1927, c. 179, s. 107.

110.—(1) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced after an assessment has been made it shall be the duty of the employer forthwith to notify the Board of the fact and to furnish to the Board an estimate of the probable amount of his pay roll for the remainder of the year, verified by a statutory declaration, and to pay to the Board a sum equal to that for which he would have been
liable if his industry had been established or commenced before such assessment was made or so much thereof as the Board may deem reasonable.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of the sum payable by the employer under subsection 1 as it possesses or is entitled to in respect of assessments.

(3) For default in complying with the provisions of subsection 1 the employer shall incur the like penalty and liability as are provided with respect to defaults by section 90. R.S.O. 1927, c. 179, s. 108.

111.—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments.

(3) An employer who makes default in complying with the provisions of subsection 1 shall incur a penalty not exceeding $200 and an additional penalty not exceeding $20 per day for every day on which the default continues. R.S.O. 1927, c. 179, s. 109.

112. In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under The Mechanics' Lien Act it shall be the duty of the owner as defined by that Act to see that any sum which the employer is liable to contribute to the accident fund is paid and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. R.S.O. 1927, c. 179, s. 110.

113.—(1) There shall be included among the debts which under The Assignments and Preferences Act, The Trustee Act, and The Companies Act, are, in the distribution of the property, in the case of an assignment or death or in the distribu-
tion of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability wherefor accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

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

(3) Priority in respect of any individual claim for compensation shall not exceed $500. R.S.O. 1927, c. 179, s. 111.

RETURNS OF ACCIDENTS.

114.—(1) Every employer shall within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages or which necessitates medical aid notify the Board in writing of the,—

(a) happening of the accident and nature of it;
(b) time of its occurrence;
(c) name and address of the workman;
(d) place where the accident happened;
(e) name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury;

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require.

(2) For every contravention of subsection 1 the employer shall incur a penalty not exceeding $50. R.S.O. 1927, c. 179, s. 112 (1, 2).

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall in addition to any other penalty or liability pay to the Board, if so ordered by the Board, the amount of compensation and medical aid awarded in respect of such accident or claim in accordance with the evidence or information otherwise obtained by the Board. R.S.O. 1927, c. 179, s. 112 (3); 1932, c. 21, s. 9.
115.—(1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed 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 at any time within twelve months previous to the date of his disablement, whether under one or more employments the workman or his dependants shall be entitled to compensation as if the disease were a personal injury by accident and the disablement were the happening of the accident, subject to the modifications hereinafter mentioned, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease.

(2) Where the compensation is payable by an employer individually it shall be payable by the employer who last employed the workman during such twelve months in the employment to the nature of which the disease was due.

(3) The workman or his dependants if so required shall furnish the employer mentioned in subsection 2 with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due during such twelve months as such workman or his dependants may possess, and if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4 that employer upon proving that the disease was not contracted while the workman was in his employment shall not be liable to pay compensation.

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer he may bring such employer before the Board and if the allegation is proved that other employer shall be the employer by whom the compensation shall be paid.

(5) If the disease is of such a nature as to be contracted by a gradual process any other employers who during such twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just.

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable and the notice provided for by section 19 shall be given to the employer who
last employed the workman during such twelve months in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the workman has voluntarily left the employment.

(7) Where the compensation is payable out of the accident fund the Board shall make such investigation as it deems necessary to ascertain the class or classes against which the compensation should be charged and shall charge or apportion the compensation accordingly.

(8) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved, but, except where the Board is satisfied that the disease is not due to any other cause than his employment within Ontario, no compensation shall be payable under this section unless the workman has been a resident of Ontario for the three years next preceding his first disablement. R.S.O. 1927, c. 179, s. 113 (1-8).

(9) For the purposes of this Act and notwithstanding anything to the contrary herein contained, —

(a) "Silicosis" shall mean a fibrotic condition of the lungs caused by the inhalation of silica dust sufficient to produce a lessened capacity for work;

(b) "Tuberculosis" shall mean tuberculosis of the lungs when on examination of any person

(i) tubercule bacilli are found in the sputum of such person, and

(ii) such person has active tuberculosis, shown by clinical and physical findings, to such a degree as to seriously impair his capacity for work. 1933, c. 70, s. 4 (1), part; 1937, c. 82, s. 4 (1).

(10) Any workman disabled from uncomplicated silicosis shall be compensated as for other industrial diseases under this Act, but where a workman is disabled from silicosis complicated with tuberculosis, he shall be entitled to be compensated for total or partial disability on a basis for total disability of fifty per centum of his average earnings, as fixed by this Act. 1933, c. 70, s. 4 (1), part.

(11) Any workman who has heretofore ceased or may hereafter cease to be usually and regularly employed in an industry under this Act in which he was exposed to silica dust,
shall make and establish his claim for disability therefrom within three years from the date of leaving such employment, or his claim shall be completely barred, but this provision shall not prevent allowance by the Board of any case due to uncomplicated silicosis which the Board consider should in justice be allowed. 1933, c. 70, s. 4 (1), part; 1937, c. 82, s. 4 (2).

(12) The Board is authorized to appoint such medical officers as may be required to carry out the provisions of "The Mining Act" and amendments thereto with regard to the examination of employees or applicants for employment and the remuneration and expenses of such officers shall be paid out of the rates imposed for payment of silicosis claims. 1928, c. 26, s. 5, part.

(13) Nothing in this Act shall entitle a workman or his dependants to compensation, medical aid, or payment of burial expenses for disability or death from silicosis unless the workman has been actually exposed to silica dust in his employment in Ontario for periods amounting in all to at least five years preceding his disablement.

(14) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part. R.S.O. 1927, c. 179, s. 113 (10, 11).

(15) The provisions of this section relating to silicosis shall apply also to pneumoconiosis and stone worker’s or grinder’s phthisis contracted during the course of employment in any of the processes in which pneumoconiosis and stone worker’s or grinder’s phthisis is compensable as set forth in Schedule 3. 1933, c. 70, s. 4 (3).

FORMATION OF ASSOCIATIONS AND COMMITTEES.

116.—(1) The employers in any of the classes for the time being included in Schedule I may form themselves into an association for accident prevention and may make rules for that purpose.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve such rules, and when approved by the Board and by the Lieutenant-Governor in Council they shall be binding on all the employers in industries included in the class.

(3) Where an association under the authority of its rules appoints an inspector or an expert for the purpose of accident
prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it which is at the credit of any one or more of the classes as the Board may deem just.

(4) The Board may in any case where it deems proper make a grant toward the expenses of any such association.

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class.

(6) The word “class” in this section shall include sub-class or such part of a class or such number or classes or parts of classes in Schedule 1 as may be approved by the Board. R.S.O. 1927, c. 179, s. 114.

Committee of employers.

117.-(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates.

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of the opinion that the committee sufficiently represents such employers, and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate.

(3) The committee may be the medium of communication on the part of the class with the Board. R.S.O. 1927, c. 179, s. 115.

CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2.

118. Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board may deem just and determine, and the sum payable by them shall be apportioned between such employers and assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments shall apply mutatis mutandis to assessments made under the authority of this section. R.S.O. 1927, c. 179, s. 116.
119. This Part shall apply only to the industries mentioned in Schedules 1 and 2 and to such industries as shall be added to them under the authority of this Part and to employments therein. R.S.O. 1927, c. 179, s. 117.

PART II.

120. Subject to section 124, sections 121 to 123 shall apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but outworkers and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under the operation of Part I but who are excluded from the benefit of the provisions of Part I, shall not by this section be excluded from the benefit of the provisions of sections 121 to 123. R.S.O. 1927, c. 179, s. 118.

121.—(1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment the workman or if the injury results in death the legal personal representatives of the workman and any person entitled in case of death shall have an action against the employer, and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under The Fatal Accidents Act they shall be entitled to recover such damages as they are entitled to under that Act.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any subcontractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of...
this Act, but any such contractor or subcontractor shall be liable to the action as if this subsection had not been enacted but not so that double damages shall be recoverable for the same injury.

(3) Nothing in subsection 2 shall affect any right or liability of the person for whom the work is done and the contractor or subcontractor as between themselves.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury be deemed to have voluntarily incurred the risk of the injury. R.S.O. 1927, c. 179, s. 119.

122. A workman shall hereafter be deemed not to have undertaken the risks due to the negligence of his fellow workmen and contributory negligence on the part of a workman shall not hereafter be a bar to recovery by him or by any person entitled to damages under The Fatal Accidents Act in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable. R.S.O. 1927, c. 179, s. 120.

123. Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action. R.S.O. 1927, c. 179, s. 121.

124. This Act shall not apply to the industry of farming or to domestic or menial servants or their employers. R.S.O. 1927, c. 179, s. 122.

SCHEDULE 1.

INDUSTRIES THE EMPLOYERS IN WHICH ARE LIABLE TO CONTRIBUTE TO THE ACCIDENT FUND.

Class 1.—Lumbering; logging, river-driving, rafting, booming; rossing, bark peeling; sawmills, shingle-mills, lath-mills; manufacture of veneer, excelsior, staves, spokes, or headings; lumber yards (including the delivery of lumber) carried on in connection with sawmills; the creosoting of timbers.

Class 2.—Pulp and paper mills.

Class 3.—Manufacture of furniture, fixtures, organs, pianos, piano actions, canoes, small boats, collins, wicker and rattan ware, mattresses, bed-springs, artificial limbs, cork articles, cork carpets or linoleum; upholstering, picture framing.

Class 4.—Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door
screens, window shades, brooms or brushes, carpet sweepers, wooden toys, articles and wares or baskets, matches or shade rollers; lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories; cooperage, not including the making of staves or headings; carpenter, joiner, or cabinet work in shop.

Class 5.—Mining; reduction of ores and smelting; preparation of metals or minerals; boring and drilling, including sinking of artesian wells (except when done by an employer coming under Class 12); manufacture of calcium carbide, carbonium or alumnum, abrasives or abrasive articles other than stone; manufacture of fireworks, gunpowder, ammunition, nitro-glycerin, dynamite, gun-cotton or other high explosives, torpedoes, fuses or cartridges; transportation of passengers or any matter or material by aeroplane, airship, or other flying machine.

Class 6.—Sand, shale, clay or gravel pits; marble works, stone cutting or dressing; manufacture of brick, tile, terra-cotta, fire-proofing, sewer pipe, roof tile, plaster blocks, plaster board, slate or artificial stone; manufacture of brick, stone or artificial stone paving blocks, or cement or concrete blocks; quarries, stone crushing, lime kilns; manufacture of cement, glass, glass products, glassware, porcelain or pottery.

Class 7.—Rolling mills; steel works; manufacture of heavy forgings including ship anchors.

Class 8.—Foundries; gas or electric welding; manufacture of stoves, furnaces, cast hot water boilers, radiators, or metal sanitary ware, water fixtures or bedsteads.

Class 9.—Fabrication of structural steel, iron or metal; ship building or ship repairing; manufacture of boilers, engines, locomotives; riveted pipes, tubing or tanks; safes, heavy machinery, cranes; or metal siding, ceiling; roofing, shingles, window frames or the like.

Class 10.—Machine shops, metal stamping works, or blacksmith shops; manufacture of light forgings, carriage mountings, wires, cables, bolts, nuts, nails, screws, tools, cutlery, hardware; tin, sheet metal or sheet metal enamelled wares or articles not otherwise specified; metal wares, instruments, utensils and articles; wire goods, screens, cold drawn shafting, cold drawn tubing, fire-arms, ammunition shells (without explosives), windmills, gas or electric light fixtures, light machinery, scales, cash registers, typewriters, adding machines, dry batteries, cameras, sporting goods, metal toys; buttons of metal, ivory, pearl or horn; ivory articles, rubber stamps, pads or stencils; manufacture of gold or silverware, plated ware, watches, watch-cases, clocks, jewellery or musical instruments.

Class 11.—Manufacture of agricultural implements, threshing machines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, motorcycles, bicycles, tricycles, toy wagons or sleighs, baby carriages, or aeroplanes; car shops.

Class 12.—Manufacture of paint, colour, varnish, oil, japans, turpentine, printing ink, printers' rollers; manufacture of salt; manufacture of chemicals, corrosive acids, or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, including the handling and delivery thereof; wood alcohol, celluloid articles; the manufacture, transmission and distribution of natural or artificial gas and operations connected therewith; the cutting, storing, handling and delivery of natural ice; manufacture of non-hazardous chemicals, drugs, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations; shoe-blacking or polish, yeast, baking powder or mucilage; tar, or tarred, pitch or asphalted paper.

Class 13.—Milling; manufacture of cereals or cattle foods; warehousing or handling of grain or operation of grain elevators, threshing machines, clover mills, or ensilage cutters.

Class 14.—Manufacture or preparation of meats or meat products or glue; packing houses, abattoirs; manufacture of fertilizers not incidental to any other industry.
Class 15.—Distilleries, breweries; manufacture of spirituous or malt liquors, malt, alcohol, wine, vinegar, cider, mineral water, soda waters, or methylated spirits; sugar refineries; manufacture of dairy products, butter, cheese, condensed milk or cream, biscuits, confectionery, chewing gum, spices, condiments, or any kind of starch; bakeries; canning or preparation of fruit, vegetables, fish or food stuffs; pickle factories; manufacture of tobacco, cigars, cigarettes or tobacco products.

Class 16.—Tanneries; manufacture of leather goods and products, belting, whips, saddlery, harness, trunks, valises, trusses, imitation leather, boots, shoes, gloves, rubber goods, rubber shoes, tubing, tires, or hose.

Class 17.—Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy, felt, felt hats, cordage, ropes, fibre, asbestos goods, hair cloth and other hair goods; work in manilla or hemp.

Class 18.—Manufacture of men's or women's clothing, whiteware, shirts, collars, corsets, hats other than felt, caps, furs, robes, feathers or artificial flowers, quilts, clothing pads, tents, awnings, gloves, mittens, neckties, or other articles not otherwise specified made from fabrics; the erection of awnings; covering of umbrellas; power laundries; dyeing, cleaning or bleaching.

Class 19.—Printing, photo-engraving, engraving, lithographing, book-binding, embossing; manufacture of stationery, paper, cardboard boxes, bags, wall-paper, or papier-mache.

Class 20.—Heavy teaming or cartage; safe-moving or moving of boilers, heavy machinery, building stone and the like; warehousing, storage; teaming and cartage, including the hauling for hire by means of any vehicle, however drawn or propelled, of any commodity or material; scavenging, street cleaning or removal of snow or ice; coal, wood, lumber yard, and builders' supply businesses.

Class 21.—Road or street making or repairing; bridge or culvert construction not otherwise classified; manufacture of asphalt material or paving material not otherwise classified; concrete or cement work not otherwise classified; sewer construction, tunneling, shaft sinking, well digging; construction or operation of a waterworks system; excavation work for foundations other than for or in connection with buildings; trenching, less than six feet deep, for gas pipes, water pipes or wire conduits; excavation work not otherwise classified where the depth is more than six feet and the width is less than half the depth.

Class 22.—Construction, installation or operation of electric power lines or appliances, and power transmission lines; construction or operation of an electric light system; construction and operation of power plants and electric light works, not included in Schedule 2; construction or operation of telegraph or telephone lines, construction or operation of telephone lines and works for the purposes of the business of a telephone company; or used or to be used in connection with its business when constructed or operated by the company, except where such telephone lines or works are within the legislative authority of the Parliament of Canada.

Class 23.—Steel building and bridge construction; installation of elevators, fire-escapes, boilers, engines or heavy machinery; the erection of windmills; construction or operation of railways or canals; construction or operation of drydocks; construction of piers, wharves, breakwaters or other harbour improvements; stevedoring; operation of and work upon wharves; dredging, subaqueous construction or pile driving; fishing; loading or unloading of cars; all industries, trades, businesses, and occupations mentioned in section 83 of the Act, not otherwise classified and not included in Schedule 2.

Class 24.—Bricklaying, mason work, stone setting; plastering; concrete or cement work in or connected with buildings; excavation work for or connected with buildings; structural carpentry; lathing; installation of
pipe organs; house wrecking or house moving; painting, decorating or renovating; glazing or installation of plate glass; the business of window-cleaning; sheet metal work; roofing; the erection of lightning rods; electric wiring of buildings or installation of lighting fixtures; plumbing, heating or sanitary engineering; gas or steamfitting; operation of theatres licensed under The Theatres and Cinematographs Act and operation of places for exhibitions by moving picture machines licensed under The Theatres and Cinematographs Act.

R.S.O. 1927, c. 179, Sched. 1; Reg. 100, 20th November, 1935.

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SCHEDULE 2.

INDUSTRIES THE EMPLOYERS IN WHICH ARE INDIVIDUALLY LIABLE TO PAY THE COMPENSATION

1. The trade or business, as defined by subsection 2 of section 1, of a municipal corporation, a public utilities commission, any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation, a board of trustees of a police village and a school board.

2. The construction or operation of railways operated by steam, electric or other motive power, street railways and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway.

3. The construction or operation of car shops, machine shops, steam and power plants and other works for the purposes of any such railway or used or to be used in connection with it when constructed or operated by the company which owns or operates the railway.

4. The construction or operation of telephone lines and works within the legislative authority of the Parliament of Canada, for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company.

5. The construction or operation of telegraph lines and works for the purposes of the business of a telegraph company or used or to be used in connection with its business when constructed or operated by the company.

6. The construction or operation of steam vessels and works for the purposes of the business of a navigation company or used or to be used in connection with its business when constructed or operated by the company, and all other navigation, towing, operation of vessels, and marine wrecking.

7. The operation of the business of an express company which operates on or in conjunction with a railway, or of sleeping, parlor or dining cars, whether operated by the railway company, or by an express, sleeping, parlor or dining car company.

8. The construction or operation of a bridge connecting the Province with an adjacent province or state, but not its construction when constructed by any person or company other than the person or company owning or operating the bridge.

R.S.O. 1927, c. 179, Sched. 2.
### SCHEDULE 3.

<table>
<thead>
<tr>
<th>Description of Disease</th>
<th>Description of Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anthrax.</td>
<td>Handling of wool, hair, bristles, hides, and skins.</td>
</tr>
<tr>
<td>Lead poisoning or its sequelae.</td>
<td>Any process involving the use of lead or its preparations or compounds.</td>
</tr>
<tr>
<td>Mercury poisoning or its sequelae.</td>
<td>Any process involving the use of mercury or its preparations or compounds.</td>
</tr>
<tr>
<td>Phosphorus poisoning or its sequelae.</td>
<td>Any process involving the use of phosphorus or its preparations or compounds.</td>
</tr>
<tr>
<td>Arsenic poisoning or its sequelae.</td>
<td>Any process involving the use of arsenic or its preparations or compounds.</td>
</tr>
<tr>
<td>Ankylostomiasis.</td>
<td>Mining.</td>
</tr>
<tr>
<td>Benzol poisoning.</td>
<td>Any process involving the use of benzol.</td>
</tr>
<tr>
<td>Stone workers' or grinders' phthisis.</td>
<td>Quarrying, cutting, crushing, grinding, or polishing of stone, or grinding or polishing of metal.</td>
</tr>
<tr>
<td>Silicosis.</td>
<td>Mining.</td>
</tr>
<tr>
<td>Pneumoconiosis.</td>
<td>Quarrying, cutting, crushing, grinding, or polishing of stone, or grinding or polishing of metal.</td>
</tr>
<tr>
<td>Compressed air illness or caisson disease.</td>
<td>Any process carried on in compressed air.</td>
</tr>
<tr>
<td>Chrome poisoning.</td>
<td>Any process involving the use of chromium or its compound.</td>
</tr>
<tr>
<td>Bursitis.</td>
<td>Any process involving continuous rubbing, pressure or vibration of the parts affected.</td>
</tr>
<tr>
<td>Cancer.</td>
<td>Arising from the manufacture of pitch and tar.</td>
</tr>
<tr>
<td>Dermatitis (venenata).</td>
<td>Any process involving the use or direct contact with acids and alkalies or acids and oils capable of causing dermatitis (venenata).</td>
</tr>
<tr>
<td>Infected blisters.</td>
<td>Any process involving continuous friction, rubbing or vibration causing blisters or abrasions.</td>
</tr>
<tr>
<td>Retinitis due to electro-welding or acetylene welding.</td>
<td>Any process involving the use of carbon bisulphide or its preparations or compounds.</td>
</tr>
<tr>
<td>Poisoning by carbon bisulphide or its sequelae.</td>
<td>Any process involving the evolution of carbon bisulphide.</td>
</tr>
<tr>
<td>Carbon dioxide poisoning or its sequelae.</td>
<td>Any process involving the evolution of carbon dioxide.</td>
</tr>
<tr>
<td>Carbon monoxide poisoning or its sequelae.</td>
<td>Any process involving the use of nickel or brass or melting or smelting of zinc.</td>
</tr>
<tr>
<td>Brass or zinc or nickel poisoning or its sequelae.</td>
<td>Any process in which nitrous fumes are evolved.</td>
</tr>
<tr>
<td>Poisoning by nitrous fumes or its sequelae.</td>
<td></td>
</tr>
<tr>
<td>Inflammation of the synovial lining of the wrist joint and tendon sheaths.</td>
<td></td>
</tr>
</tbody>
</table>

R.S.O. 1927, c. 179, Sched. 3; Reg. 99, 20th June, 1929; 1931, c. 37, s. 2; 1932, c. 21, s. 10; 1937, c. 82, s. 5.