

## ONTARIO WORKMEN'S COMPENSATION\*

### Operations of Act Described with Special Reference to the Relations of the Board to Municipalities

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I have been requested to give an explanation of the Workmen's Compensation Act in its relation to municipalities. I will try to outline the matter briefly, leaving further detail for any discussion or questions that may follow.

The present act came into effect in 1915. It made a radical change in the rights of workmen and the liability of employers in respect to accidents. In the industries to which it applies, the right of the workman is no longer founded upon negligence or breach of duty of the employer; it is enough if the accident arises out of and in the course of the employment. The injured workman is entitled to 55 per cent. of the amount of earnings he loses, or of the amount it is estimated he is likely to lose, by reason of the injury, or in fatal cases his widow and children or other dependants are entitled as provided in the act. The award is made by the Workmen's Compensation Board, and no action lies in the ordinary courts.

#### Application of Act.

This new system of law applies to the industries enumerated in schedule 1 and schedule 2 of the act. The employers coming under schedule 1 are required to contribute to an accident fund out of which the compensation is paid; the employers coming under schedule 2 are individually liable to pay the compensation as accidents occur. (Sections 4 and 5.)

The new law applies to municipal corporations, public utility commissions, other commissions managing or conducting any work or service owned by or operated for a municipal corporation, boards of trustees of police villages, and school boards. I will use the word "municipality" hereafter as including all these bodies.

Municipalities are in schedule 2 unless, upon application, the board places them in schedule 1. The law covers, however, only such activities of a municipality as would be covered if carried on by a company or individual—namely, the activities or operations enumerated in schedule 1 and schedule 2 of the act. (Section 2 (2).)

Road and street making and electric power systems, for instance, if the workmen are in the employ of the municipality, are covered, because these operations are included in the schedules of the act; but a fire department or police force is not covered, because they are not included in the schedules of the act.

Among the activities of a municipality which are covered are road, street and sidewalk making and repairing; gravel pits, quarries and stone crushing; bridge building; construction and operation of electric power or light systems, gas systems and street railways; sewer construction; building of all kinds, including repairing; construction and operation of waterworks and municipal abattoirs, where not less than four workmen are usually employed; and street cleaning, scavenging, removal of snow or ice and construction or operation of telephone lines, where not less than six workmen are usually employed.

Among the things not covered are hospitals, police forces, fire departments, markets, public health departments, parks departments, municipal coal and wood yards or stores, jails, poor houses and cemeteries.

It is remembered also that even in the departments of work covered persons engaged merely in clerical work and not exposed to the hazards incident to the nature of the work carried on in that department are not covered; thus, a bookkeeper or office hand in the waterworks or street railway department, whose duties do not take him through or around the plant or railway, would not be covered. This is because office help not exposed to the hazard of the industry is not included in the definition of "workman." (Section 2 (1) (p).) The board has held that a meter reader of a gas or electric department is covered, because he is to some extent exposed to the hazard of the gas or electricity.

Mayors, Reeves, members of council and municipal clerks and treasurers are not covered. They are not within the

definition of workman. Municipal tax collectors, assessors and solicitors are not considered to be covered. A caretaker or a scrub woman looking after the city hospital or looking after the town hall would not be covered, but a caretaker or other help employed around the electric plant or gas works would be covered.

#### Bringing Other Work Under.

Under an amendment passed in 1916 (section 76a), the municipality may apply to the board to have any department of work or service not covered brought under the act and put either under schedule 2 or schedule 1. Under this amendment also the municipality may apply to the board to transfer any department of work or service from schedule 2 to schedule 1, thus converting the individual or direct liability of the municipality to pay for accidents as they occur into a liability to pay an annual assessment to the board and have the board pay for any accidents that may happen. This, in other words, is insuring with the board, and is really better than ordinary insurance, because the municipality is freed from even primary liability for accidents. The board, however, has never accepted applications to place policemen or members of a fire department in schedule 1. This is, because it was felt that the nature of these employments was such that the hazard should not be added to any of the classes of industry in schedule 1. A municipality in schedule 2 may, of course, like any other employer individually liable, insure with an insurance company to indemnify it against any compensation which it may be liable to pay under the act.

#### Contract Work.

It is to be remembered always that it is only workmen in the employ of the municipality that the municipality is liable to pay or provide compensation for. If the municipality lets the work to a contractor, it is the contractor that is primarily liable, but in such case it is the duty of the municipality to see that the contractor pays his assessment to the Workmen's Compensation Board, otherwise the municipality is itself liable to pay it. (Sections 10 (3) and 98.)

#### Medical Aid.

In addition to paying compensation to injured workmen, the act also requires the employer in schedule 2 cases, and the board in schedule 1 cases, to provide all injured workmen with necessary medical and surgical aid and hospital and skilled nursing services for a period not exceeding one month from the date of disability. If the municipality fails to furnish this where under obligation to do so, it will be liable to pay for necessary medical aid services procured by the workman or anyone in his behalf. (Section 44a.)

#### Administration Expenses.

Municipalities under schedule 2 that have accidents are also liable to pay to the board their proportionate contribution toward the small balance of administration expenses not provided for by the government. Last year this amounted to the rate of \$1.40 for each ordinary accident, a death claim, however, being reckoned as equivalent to five, and a permanent disability case to three ordinary accidents. The board notifies the municipality of the amount. (Section 103.)

It may be of interest to mention that during 1917 there were 38 municipalities in the province that had accidents for which compensation was awarded. The total number of municipal accidents compensated during 1917 was 173, of which 157 involved only temporary disability, 2 permanent disability and 11 were death cases. The compensation during the year amounted to about \$40,000. The amount of compensation awarded by the board in all industries under its jurisdiction during 1917 was \$2,913,085.81.

#### Procedure in Case of Accident.

When an accident occurs, the municipality is required by the act to notify the board of it within three days. (Section 99.) Upon receiving notice of the accident blank forms for the necessary information are sent by the board to the employer and the workman, to be filled out and returned. A form is also sent for a report from the attending surgeon. Further information is asked for where deemed necessary, or investigation by an officer of the board is made where the circumstances appear to require it. Award is made by the board and notice of it sent to the municipality and to the workman. The municipality may pay the workman the amount direct and forward the board the workman's receipt, or may remit it to the board, making the cheque payable to the workman. If it is a schedule 1 case, the board, of course, itself

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