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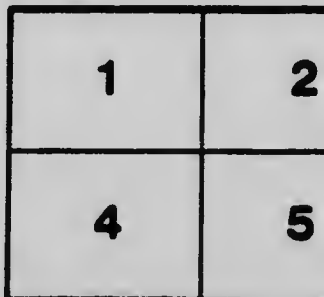
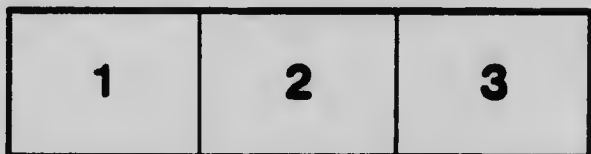
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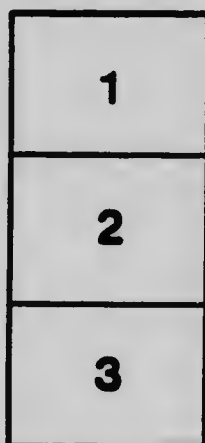
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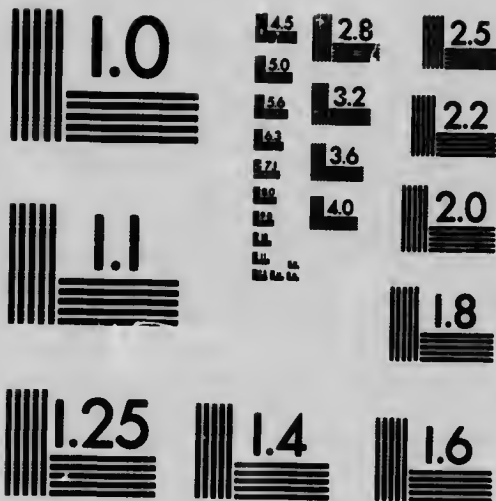
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Synopsis and Operation
OF THE
Workmen's Compensation Act
ONTARIO

THE WORKMEN'S
COMPENSATION BOARD
TORONTO



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SYNOPSIS AND OPERATION OF ACT

The Workmen's Compensation Act of Ontario was framed by Sir William Meredith, the present Chief Justice of the Province, after extensive investigation. It went into effect on 1st January, 1915, and embodies what was then a new system of law respecting compensation for accidents to workmen.

Laws more or less similar, some of them almost identical, have since been adopted in most of the other provinces.

A number of amendments have been made from time to time, the most important being the addition of medical aid in 1917, and the extension of the medical aid provisions and the increase of the widows' and children's compensation in 1919.

What Is Covered

The new system of law is administered by the Board instead of the courts. It does not apply to all industries but applies to the very large number of industries enumerated in Schedule 1 and Schedule 2.

The distinction between the two schedules is that in Schedule 1 industries the Board

collects assessments from the employers, forming an accident fund out of which the compensation to workmen is paid, the employers being collectively but not individually liable to pay the cost of accidents, while in the industries in Schedule 2 the employers are individually liable to pay compensation to their workmen for accidents as they occur.

Schedule 1 includes the businesses of manufacturing of all kinds, lumbering, mining, quarrying, stone crushing, stone cutting, milling, packing houses, canning factories, printing, warehousing, teaming, cartage, building in all its branches; gas works; light, power and waterworks systems; construction or repair of roads, streets, sewers, bridges, railways, canals, piers, and wharves; fishing, dredging, stevedoring; repair shops and butchering, with four or more usually employed; bakeries, dairies, power laundries, and dyeing and cleaning, with six or more usually employed; and some others.

In Schedule 2 are the businesses of railway, street railway, express, telegraph, and Dominion telephone companies; navigation, towing, and marine wrecking; and municipalities, commissions, and school boards, in respect of work of the kind listed in Schedule 1 or Schedule 2.

Other industries or employments may be added by the Board on the application of the employer, or transfer may be made from Schedule 2 to Schedule 1.

By an amendment in 1919 any industry excluded by number limit may be brought under by a workman notifying the Secretary of the Board, as could already be done by the employer.

An employer or a partner, or an executive officer of a limited company, if he desires, may, by carrying himself on the pay roll at a reasonable salary and including the amount in his estimate of pay roll and stating to the Board that he desires to be covered, put himself in the same position as a workman respecting compensation for accident.

A member of the family of an employer, to be entitled to compensation, must be included, and the amount of his wages must be shown, in the pay roll statement furnished to the Board.

By amendment in 1919 employees engaged in clerical work, who were before excluded unless exposed to the particular hazard of the industry, are, after 1st January, 1920, to be covered the same as other employees.

In industries not covered by the new system of law actions for negligence may still be brought in the courts and, except as to farming and domestic servants, some of the employer's old defences are taken away. This is provided for in what is known as Part II of the Act, the part administered by the Board being called Part I.

When Compensation Payable

The law applies to personal injury by accident and to the industrial diseases specified in Schedule 3.

Wherever the injury results from accident arising out of and in the course of the employment compensation is payable except only—

- (1) Where the disability lasts less than seven days;

- (2) Where the accident is attributable solely to the serious and wilful misconduct of the workman and does not result in death or serious disablement.

The question of negligence or absence of negligence does not affect the matter, and the old legal defences of common employment and voluntary assumption of risk are no longer applicable.

No agreement to forego the benefits of the Act is valid; no contribution toward the benefits provided is to be collected from the workmen; and the compensation cannot be assigned, charged, or attached except with the approval of the Board.

The benefits provided are in lieu of the right of action for damages at law and such actions cannot be prosecuted for matters covered by the Act.

Scale of Compensation

The scale of compensation is fixed by the Act.

The workman is entitled while temporarily totally disabled from work to 55 per cent. of his average earnings, payments being made bi-weekly.

Where he is only partially disabled he is entitled to 55 per cent. of the impairment of his earning capacity.

For Permanent Disability

Where the workman is permanently totally disabled he is entitled to 55 per cent. of his average earnings, payments being made bi-weekly while his wounds are healing and thereafter in the form of a monthly pension for life.

Where he is permanently partially disabled he is entitled to temporary total or temporary partial payments, as the case may be, while his wounds are healing, and thereafter to a monthly pension during life of 55 per cent. of his permanent impairment, or where the impairment does not exceed 10 per cent. of his earning capacity permanent partial compensation may be made in a lump sum.

The Board may in pension cases commute a small part of the pension to a lump sum and may make a limited lump sum advance for the purchase of an artificial limb or to meet other special needs of the workman.

All the provisions for compensation are subject to the limitation that they must not in any case be calculated on earnings higher than \$2,000 a year.

For Death

In accidents since 24th April, 1919, resulting in death, the compensation is as follows:

Where the workman leaves a widow but no children, the widow is entitled during life or widowhood to a payment of \$30 a month;

If he leaves a widow and children, the widow is to receive \$30 a month with \$7.50 a month, to be increased in case of the widow's death to \$10 a month, for each child under 16 years of age, but not exceeding \$60 in all;

If he leaves children only, each child under 16 is entitled to \$10 a month but not exceeding \$60 in all;

Where the dependants are persons other than those above mentioned, they are entitled to a sum reasonable and proportionate to the pecuniary loss occasioned to them by the workman's death but not exceeding \$20 a month to the parent or parents or \$30 a month in all.

But if the above amounts exceed 55 per cent. of the workman's average earnings, reduction must be made to such 55 per cent.; but the 55 per cent. limitation is not in any case to reduce the widow to less than \$20 a month, nor, so long as the total does not exceed \$40, is it to reduce a child to less than \$5 where there is a widow or \$10 where there is no widow.

In accidents prior to the amendment in 1919 the widow's allowance was \$20 and the child's, where the widow was living, \$5, and the maximum for all dependants \$40; and there was no compensation in excess of 55 per cent. of average earnings in any case.

The Act also provides for adopted children, and for invalid children over the age of 16.

Where the widow marries again the monthly payments cease upon her marriage, but she is entitled to a lump sum equal to two years' payments.

The necessary expenses of burial, not exceeding \$75, are also to be paid.

Medical Aid

In accidents since 24th April, 1919, workmen are entitled to medical and surgical aid and hospital and skilled nursing services (all referred to as medical aid) necessary as a result of the injury, the limitation of one month which formerly existed being removed by an amendment to the Act.

In Schedule 1 industries this is to be furnished or arranged for by the Board, or as it may direct or approve, and in Schedule 2 industries it is to be furnished and paid for by the employer individually. In all cases any questions arising concerning it are to be determined by the Board.

It is unlawful for any employer to collect or retain from his workmen any contribution toward medical aid, nor is a doctor entitled to collect from the workman for services covered by the Act.

A schedule of medical and surgical fees, which has the approval of the College of Physicians and Surgeons of Ontario, has been adopted by the Board to be used as a guide in fixing medical aid allowances.

First Aid and Ambulance

Where the number of workmen warrants it, employers are required by regulation under the authority of the Act to provide at their factory or plant suitable first aid or emergency equipment as prescribed.

Employers are also to furnish to injured workmen in need of it ambulance or transportation to doctor, hospital or home.

Settling Compensation

All questions as to right to compensation and the amount of it are determined by the Board and its officers, the procedure and methods adopted being as simple and speedy and inexpensive as possible.

The workman is required to notify his employer at once of the accident, and the employer, in all cases involving compensation or medical aid, must notify the Board within three days.

Blank forms giving particulars are required to be filled up by the workman, the employer, and the doctor. A supply of employer's forms is furnished to large employers upon request, and the workman's and doctor's forms are mailed to the workman immediately upon receipt by the Board of notice of accident, and a form for the doctor's account is mailed to the doctor.

If a workman entitled to compensation does not receive his forms promptly, he should write the Board.

The Board deals directly with the parties. Legal assistance is not necessary, and the workman is not to pay the doctor for services or reports under the Act.

If the information contained in the reports received from the workman, the employer, and the doctor, is satisfactory the first cheque will be issued within a few days after the last of these is received. If not satisfactory, further information is asked for, or, where it seems necessary, personal investigation is made by an officer of the Board and evidence is taken upon oath by such officer or before the Board.

Subsequent reports as to the workman's condition are required from time to time and if the information justifies it, the bi-weekly payments go to the workman upon the day they fall due.

Where there is permanent disability, special reports as to this are obtained from the workman, the employer, and the doctor.

Where it seems desirable in any case, examination of the workman is made by a medical referee or by the medical officers of the Board.

Notice of every payment or award (except pension payments after the pension award) is sent to the employer not later than the next day.

How New Law Differs from Old

Some respects in which the new law differs from the old may be mentioned.

(1) Under the old law an injured workman, or the dependants of a deceased workman, had no right to recover anything unless negligence or breach of duty of the employer could be proven; if he was himself guilty of negligence contributing to the accident he could not recover; if he was injured by the negligence of a fellow-workman, or if it was a case in which he was presumed to have voluntarily assumed the risks of the employment, he was also barred from recovery. Under the new law none of these things prevents compensation. It is recognized that the misfortune of a crippled workman or the needs of his widow or children are not any the less because the workman was at fault or because some one else was not at fault. Compensation is now the rule and not the exception.

(2) Under the old law the compensation was a lump sum fixed by the jury or by the judge, varying greatly in different cases. Under the new law there is a definite and more equitable rule as to the amount. Payments are made periodically, and in serious cases in the form of a pension for life. Often lump sums recovered in court, or the part that reached the workman or the widow, were not used to the best advantage, being perhaps unwisely handled or frittered away, and the claimant left in the end without anything. The policy of the new law is to provide continued support.

(3) Under the old law if the employer and employee did not agree upon a settlement the remedy was an action in court. This meant long delay, annoyance, and great expense to one or both of the parties, and, with the technicality and complication that prevailed, much uncertainty as to the result. The ordinary workman or his dependent widow shrunk from such a proceeding or feared the danger of an appeal, or perhaps had not the money with which to proceed. Upon the other hand employers often suffered from vexatious litigation by irresponsible claimants. Under the new law, with its simple provisions and methods of procedure, settlements are made expeditiously and without expense to either party, and payments go direct to the person entitled.

(4) Though an adverse judgment under the old law might ruin an employer, the amount actually reaching the claimant was often small. According to statistics less than 25 per cent. of what the employer paid for liability insurance under the old law actually reached the workman or his family. Even under the present

law of Great Britain, where litigation and its incidents still prevail, only 50 per cent. is said to reach the workman or his dependants. Ontario has not followed the formality of procedure or the technicality of decision prevailing in England.

Examples of Awards

S., a machinist, caught his hand between a tool bar and casting, severely lacerating it. During the 10½ weeks he was unable to work the Board paid him \$11.18 a week, in bi-weekly payments, and the doctor was paid \$2½ for attendance.

D., an engineer, while adjusting a belt caught his fingers between the belt and pulley and his arm was carried round the shaft, fracturing and permanently injuring the arm. He received \$13.75 a week for 17 weeks' temporary total disability, and was awarded for the permanent injury to his arm a lump sum of \$100 and a pension of \$21.50 a month during life. Medical aid was also paid.

S., a brakeman, jumped from his train, fearing a collision, and was drawn under the wheels of the car, losing both feet. He was paid \$14.42 a week while his wounds were healing, amounting to \$449.61, and was awarded a pension of \$62.49 a month for life. He also received medical aid.

D., an engineer, while cleaning an ice-cutting machine, caught his sleeve and was thrown against the saws, causing injuries from which he died. The widow was awarded a pension of \$40 a month for herself and four children, and \$75 was paid for burial expenses.

Year's Awards

During the year 1918 \$3,514,648.47 was awarded for compensation, or \$11,600 a day, and \$369,346.87 for medical aid, or \$1,219 a day, the number of cheques issued per day being 248 for compensation and 139 for medical aid.

Awards were made for 40,936 accidents, 382 being death cases, 2,549 involving permanent disability, 25,446 only temporary disability, and 12,553 medical aid only.

It is estimated that over 500,000 workmen are covered by the provisions of the Act.

Comparison of Benefits

The 55 per cent. allowance does not fully measure the benefits in Ontario as compared with other places. Compensation, when payable, dates from the accident, while most laws have an absolute waiting period of from one to two weeks; and Ontario's maximum allowances are higher than any other, being limited only by the life of the workman and a wage basis of \$2,000, while in most places there is a limit of time and of total payments. The maximum weekly allowances are Ontario \$21.15, New York (usually) \$15, Nova Scotia \$12.69, Ohio \$12, Michigan, Pennsylvania, and Alberta \$10. British Columbia's allowances to workmen are as large as Ontario's, but there the workmen contribute for medical aid.

Calculation of the comparative general benefits before the 1919 amendments are Ontario \$100, New York \$101.70, Ohio \$102.50, Michigan \$55.38, and Pennsylvania \$55.91.

With the increased allowances for widows and children and the extension of medical aid Ontario will now bear favorable comparison with any other place.

Collection of Accident Fund

Every employer carrying on an industry in Schedule 1 is required, without notice, to prepare and transmit to the Board, not later than 20th January each year, a statement of the amount of wages paid during the prior year and an estimate of the amount expected to be paid during the current year.

Assessments are made for what is needed to pay for accidents, each class of industry in the schedule being dealt with separately. Assessment is first made upon the estimate and later adjusted to the actual figure. Half the year's assessment is payable in one month after notice (usually in April) and the remainder in September.

Default or inaccuracy in furnishing pay roll statement renders the employer liable to penalty as provided in the Act, and such default, or failure to pay assessment when due, entails added percentage as well as liability to pay compensation for accidents. Payment may be enforced by execution or through the tax collector.

An employer commencing an industry during the year must, under the same liability for default, report to the Board forthwith.

If an employer is for any reason not assessed he is nevertheless liable to pay the amount for which he should have been assessed.

Though employers in Schedule 2 are not liable to ordinary assessment, those of them

that have accidents are required to contribute their proportionate share toward administration expenses.

Accounts and Audits

Employers are required to keep, within the province, a careful and accurate account of all expenditures for wages.

Audits and investigations as to the accuracy of pay roll statements are made from time to time by officers of the Board, who have authority to examine and investigate the employers' books and records.

Work Let by Contract

Under amendment made in 1919, a principal in Schedule 1 or Schedule 2 who lets work to a contractor must pay assessment or compensation for the contractor's or sub-contractor's workmen or see that the latter makes returns to the Board.

A principal, whether under the Act or not, who lets to a contractor work which is under Schedule 1 must see that the contractor or sub-contractor pays assessment, and in default is liable therefor.

The owner of any property against which there would be a mechanics' lien must also see that his contractor pays assessment, and in default is himself liable to pay it.

Rates of Assessment

Notwithstanding the increase in cost in almost every direction, and notwithstanding the addition to the Act of medical aid, the rates of assessment in Ontario are exceedingly low. The average rate fixed when the Act was going into effect was \$1.64; this was reduced at the end of the first year to \$1.27; the average rate for 1918 was \$1.09.

This favorable showing is due to the system of collective liability which eliminates profits, to the fact that the greater part of the cost of administration is borne by the province, and to the care used in administration and in avoiding improper payments, though giving the workman the full measure of compensation to which he is entitled.

It is calculated that from 40 to 60 per cent. of the premiums paid by employers in private insurance is absorbed in expenses and profits. Taking a few comparisons of rates: the rate for sawmills, for instance, under the collective or state system is in Ontario \$1.60, Nova Scotia \$3, and Ohio \$3.85, as compared with a rate under the private or mixed system of \$4.50 in Michigan and \$10.02 in New York; for steel works the rates are Ontario \$1.70, Nova Scotia \$1.90, Ohio \$1.75, Michigan \$3.74, New York \$5.02; and for mason work the rates are Ontario \$1.50, Nova Scotia \$2, Ohio \$2.35, Michigan \$5.41, New York \$8.74.

Properly administered, the collective liability system should be more satisfactory to both parties, the administrator only in such a system having no motive to charge the workman or his dependants less than they are entitled to, and no motive to charge the employer more than he should pay.

Accident Prevention

To assist in the very important work of accident prevention provision is made for the formation of employers' safety or accident prevention associations. Such associations are now in operation for 19 of the 34 classes of

industry in Schedule 1, ten inspectors or safety engineers being at work throughout the province. The whole cost is paid by the Board.

The Working of the Act

The Act has now passed the experimental stage. There is no longer controversy as to the soundness of the principles upon which it is based, and in its practical working out it has probably exceeded the expectations of its authors.

The features of first importance are general protection to workmen and employers for all accidents in the employment; limitation of payments by the employer as nearly as possible to what actually goes to the workmen; elimination of litigation with its annoyance and expense; and expeditious payment of benefits directly into the hands of the workman or his dependants. Thanks to the simplicity of the Act and the procedure followed in its administration, claims are disposed of with a speed and inexpensiveness which are not possible under other laws.



For further information, and for copies of the Act and Regulations, Annual Reports, Schedules of Industries Covered, Rate Book, Schedule of Medical and Surgical Fees, and First Aid Regulation, write The Workmen's Compensation Board, Normal School Buildings, Toronto, Ontario.



