

2017 Bill 30

Third Session, 29th Legislature, 66 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

**AN ACT TO PROTECT THE
HEALTH AND WELL-BEING
OF WORKING ALBERTANS**

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 30

2017

AN ACT TO PROTECT THE HEALTH AND WELL-BEING OF WORKING ALBERTANS

(Assented to , 2017)

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

1 The *Occupational Health and Safety Act* as set out in Schedule
1 is enacted and may be cited as Chapter O-2.1 of the Statutes of
Alberta, 2017.

2 The *Workers' Compensation Act* is amended as set out in
Schedule 2.

Explanatory Notes

- 1** Enacts the Occupational Health and Safety Act.
- 2** Amends the Workers Compensation Act.

Schedule 1
**OCCUPATIONAL HEALTH
AND SAFETY ACT**

Chapter O-2.1

Table of Contents

- 1 Definitions
- 2 Purposes of this Act

Part 1
Obligations of Work Site Parties

- 3 Obligations of employers
- 4 Obligations of supervisors
- 5 Obligations of workers
- 6 Obligations of suppliers
- 7 Obligations of service providers
- 8 Obligations of owners
- 9 Obligations of contractors
- 10 Obligations of prime contractors
- 11 Obligations of self-employed persons
- 12 Obligations of temporary staffing agencies
- 13 Multiple obligations

Part 2
Availability of Information

- 14 Duty to provide information
- 15 Posting orders and notices

Part 3
**Joint Work Site Health and Safety Committees
and Health and Safety Representatives**

- 16 Establishment of joint work site health and safety committee
- 17 Designation of health and safety representative
- 18 Determination of number of workers

- 19 Duties of a joint work site health and safety committee
- 20 Duties of a health and safety representative
- 21 Employer and prime contractor to work
with committee or representative
- 22 Membership of joint work site health and safety committee
- 23 Posting names of committee members and representative
- 24 Term of office
- 25 Inspection of work site with officer
- 26 Quorum
- 27 Meetings of joint work site health and safety committee
- 28 Meetings of employer and health and safety representative
- 29 Training of committee members and representatives
- 30 Time away for committee or representative work and entitlement to
pay

Part 4

Dangerous Work and Discriminatory Action

- 31 Right to refuse dangerous work
- 32 Report of dangerous condition to an officer
- 33 Worker entitled to be paid despite refusal
- 34 Employer not to make worker work in dangerous conditions
- 35 Prohibition of discriminatory action
- 36 Discriminatory action complaint

Part 5

Program and Practice

- 37 Health and safety program
- 38 Occupational Health and Safety Advisory Council
- 39 Duties of Council
- 40 Serious injuries and incidents

Part 6

Minister and Staff

- 41 Duties of the Minister
- 42 Staff
- 43 Powers of a Director
- 44 Duties of officers
- 45 Confidential information

Part 7 Medical Assessments

- 46** Medical examination
- 47** Notice of findings
- 48** Medical reports used for enforcement
- 49** Occupational health surveillance
- 50** Examination of workers exposed to hazards

Part 8 Compliance and Enforcement

- 51** Inspection
- 52** Identification
- 53** Investigation of injury or incident
- 54** Prohibition from interference
- 55** Acceptances
- 56** Approvals
- 57** Interjurisdictional recognition
- 58** Licence
- 59** Order to ensure compliance
- 60** Stop work orders
- 61** Stop use orders
- 62** Code of practice
- 63** Order to establish a health and safety program
- 64** Regular inspection of work sites
- 65** Protection of workers on a new project
- 66** Report on compliance
- 67** Enforcement of compliance with order
- 68** Administrative penalties
- 69** Awarding of costs

Part 9 Review and Appeals

- 70** Director review
- 71** Appeal
- 72** Hearing of appeal

Part 10 Offences and Penalties

- 73 Offences
- 74 Penalties
- 75 Additional powers of court to make directions
- 76 Effect of non-payment

Part 11 Information Collection and Exchange

- 77 Agreements re research and educational programs
- 78 Consultants
- 79 Exchange of information
- 80 Publication of information about employers
- 81 Board of inquiry
- 82 Funded organizations
- 83 Designated organizations
- 84 Furthering occupational health and safety

Part 12 Regulations and Administration

- 85 Lieutenant Governor in Council regulations
- 86 Ministerial orders and codes
- 87 Provisions affecting the regulations and OHS codes
- 88 Notice to a Director
- 89 Service of documents
- 90 Administration costs
- 91 Liability of officials
- 92 Act binds Crown

Part 13 Related and Transitional Provisions, Consequential Amendments, Repeal and Coming Into Force

- 93 Dissolution of Occupational Health and Safety Council
- 94, 95 Consequential amendments
- 96 Transitional — appeals and reviews
- 97 Transitional — regulations
- 98 Transitional — regulations, OHS code and adopted codes
- 99, 100 Consequential amendments

- 101 Repeal
102 Coming into force

Definitions

1 In this Act,

- (a) “administrative penalty” means an administrative penalty required to be paid under section 68(1);
- (b) “appeal body” means the appeal body referred to in section 71(1);
- (c) “code of practice” means a code of practice described in section 62;
- (d) “competent” in relation to a person, means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;
- (e) “consult” or any similar term or word means
 - (i) the sharing of relevant information with or seeking information or advice from affected persons,
 - (ii) giving affected persons a reasonable opportunity to express their views, and
 - (iii) taking those views and that information and advice into account;
- (f) “contractor” means a person, partnership or group of persons who, through a contract, an agreement or ownership, directs the activities of one or more employers or self-employed persons involved in work at a work site;
- (g) “Council” means the Occupational Health and Safety Advisory Council appointed under section 38;
- (h) “custodian” means a person defined as a custodian under the *Health Information Act*;
- (i) “Director” means a Director of Inspection, a Director of Medical Services or a Director of Occupational Hygiene;

- (j) “Director of Inspection” means a person appointed under section 42 as a Director of Inspection;
- (k) “Director of Medical Services” means a physician appointed under section 42 as a Director of Medical Services;
- (l) “Director of Occupational Hygiene” means a person appointed under section 42 as a Director of Occupational Hygiene;
- (m) “discriminatory action” means any action or threat of action by a person that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty;
- (n) “employer” means
 - (i) a person who employs or engages one or more workers, including a person who employs or engages workers from a temporary staffing agency,
 - (ii) a person designated by an employer as the employer’s representative, or
 - (iii) a director or officer of a corporation or a person employed by the employer who oversees the occupational health and safety of the workers employed by the corporation or employer;
- (o) “equipment” means any mechanical or non-mechanical article or device, and includes any machine, tool, appliance, apparatus, implement or other thing used in the carrying out of work, but does not include the personal property owned by an individual unless that property is used in the carrying out of work;
- (p) “family member”, in relation to a shareholder, sole proprietor or partner, means

- (i) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
- (ii) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder's, sole proprietor's or partner's spouse or adult interdependent partner,

and includes any other person prescribed by the regulations to be a family member;

- (q) "harassment" means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety, and includes
 - (i) conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and
 - (ii) a sexual solicitation or advance,

but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site;

- (r) "harmful substance" means a substance that, because of its properties, application or presence, creates or could create a danger, including a chemical, biological or radiological hazard, to the health and safety of a worker exposed to it;
- (s) "hazard" means a situation, condition or thing that may be dangerous to health and safety;
- (t) "hazardous occupation" means an occupation designated in the regulations or the OHS code as a hazardous occupation;

- (u) “hazardous work site” means a work site designated in the regulations or the OHS code as a hazardous work site;
- (v) “health and safety” includes physical, psychological and social well-being;
- (w) “health and safety program” means a co-ordinated system of procedures, processes and other measures that is designed to be implemented by organizations in order to promote continuous improvement in occupational health and safety;
- (x) “health and safety representative” means a worker representative designated under section 17;
- (y) “health services provider” means
 - (i) a health services provider under the *Health Information Act*, or
 - (ii) an individual or organization that reviews, interprets or assesses in an occupational setting
 - (A) results from a drug or alcohol test performed on a bodily substance from an individual worker or group of workers,
 - (B) results from medical, health or biological monitoring of an individual worker or group of workers, or
 - (C) results from medical or health surveillance of an individual worker or group of workers;
- (z) “joint work site health and safety committee” means a committee established pursuant to section 16;
- (aa) “licence” means a licence, certificate or permit issued under this Act, the regulations or the OHS code;
- (bb) “manufacturer’s specifications” means the written specifications, instructions or recommendations, if any, of the manufacturer of equipment or supplies that describes how the equipment or supplies are to be used, erected, installed, assembled, started, operated, handled, stored, stopped, calibrated, adjusted, maintained, repaired, dismantled or disposed of, including a manufacturer’s

instructions, operating or maintenance manual or drawings for the equipment or supplies;

- (cc) “mine” means a working, other than a drill hole made while exploring for a mineral, from which coal, precious or semi-precious minerals, industrial minerals, oil sands or any other material is being extracted;
- (dd) “mine site” means a location at which a facility for extracting a mineral by underground, strip, open pit or quarry operations exists or is to be developed, and includes
 - (i) a mineral processing plant, storage facility or discard disposal facility that exists or is to be developed in connection with a mine, and
 - (ii) all connected access roads;
- (ee) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (ff) “notice of administrative penalty” means a notice given under section 68(1);
- (gg) “notifiable disease” means a disease or a state of ill health designated in the regulations or the OHS code as a notifiable disease;
- (hh) “occupation” means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except
 - (i) farming and ranching operations that are specified in the regulations and in respect of which
 - (A) no wages, as defined in the *Employment Standards Code*, are paid to persons for the performance of farming or ranching work, or
 - (B) wages, as defined in the *Employment Standards Code*, are paid only to the following persons for the performance of farming or ranching work:
 - (I) shareholders of a corporation engaged in a farming or ranching operation of which all

shareholders are family members of the same family;

- (II) family members of a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
- (III) family members of a sole proprietor engaged in a farming or ranching operation;
- (IV) family members of a partner in a partnership engaged in a farming or ranching operation where all partners are family members of the same family,

and

- (ii) work in, to or around a private dwelling or any land used in connection with the dwelling that is performed by an occupant or owner who lives in the private dwelling;
- (ii) “occupational disease” means a disease or state of ill health arising out of or related to an occupation;
- (jj) “officer” means a Director or a person appointed under section 42 as an occupational health and safety officer;
- (kk) “OHS code” means the OHS code made by the Minister under section 86(1), including any secondary code adopted or incorporated as referred to in section 86(2) that is relevant to the circumstances in question;
- (ll) “owner” means the person who is registered under the *Land Titles Act* as the owner of the land on which work is being carried out or may be carried out, or the person who enters into an agreement with the owner to be responsible for meeting the owner’s obligations under this Act, the regulations and the OHS code, but does not include a person who occupies land or premises used as a private residence unless a business, trade or profession is carried on in that premises;

- (mm) “police officer” means a member of the Royal Canadian Mounted Police or a member of a municipal police service;
- (nn) “previous Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it read immediately before the coming into force of this clause;
- (oo) “prime contractor” means the prime contractor for a work site referred to in section 10;
- (pp) “project” means
 - (i) the construction, demolition, repair, alteration or removal of a structure, building, complex, street, road or highway, pipeline, sewage system or electric, telecommunication or transmission line,
 - (ii) the digging of, working in or filling of a trench, excavation, shaft or tunnel,
 - (iii) the installation, modification, repair or removal of any equipment, machinery or plant,
 - (iv) the operation of a manufacturing, industrial or other process, or
 - (v) any work designated by a Director of Inspection or a Director of Occupational Hygiene as a project;
- (qq) “self-employed person” means a person who is engaged in an occupation but is not in the service of an employer for that occupation;
- (rr) “service provider” means a person who provides training, consulting, testing, program development or other services in respect of any occupation, project or work site;
- (ss) “specifications”, other than manufacturer’s specifications, includes the written instructions, procedures, drawings or other documents of a professional engineer or other person designated in the regulations or the OHS code relating to equipment, supplies and a work process or operation;
- (tt) “supervisor” means a person who has charge of a work site or authority over a worker;

- (uu) “supplier” means a person who sells, rents, leases, erects, installs or provides any equipment or who sells or otherwise provides any harmful substance or explosive to be used by a worker in respect of any occupation, project or work site;
- (vv) “temporary staffing agency” means a person who retains workers and deploys or facilitates the placement of those workers with other employers;
- (ww) “the regulations” means the regulations under section 85;
- (xx) “train” or any similar term or word means to give information and explanation to a worker with respect to a particular subject-matter and to require a practical demonstration that the worker has acquired knowledge or skill related to the subject-matter;
- (yy) “violence”, whether at a work site or work-related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence;
- (zz) “welfare” means the conditions or facilities, in or near a work site, provided for the feeding, rest, hygiene or sanitary requirements of a worker;
- (aaa) “worker” means a person engaged in an occupation, including a person who performs or supplies services for no monetary compensation for an organization or employer and, for greater certainty, includes a self-employed person, but does not include
 - (i) a student in learning activities conducted by or within an educational institution for which no compensation is paid to the student, or
 - (ii) except for the purpose of section 5(a) and (b), the following persons engaged in a farming and ranching operation specified in the regulations or the OHS code:
 - (A) a person to whom no wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;

- (B) a person referred to in clause (hh)(i)(B)(I) to (IV) to whom wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;
- (bbb) “work site” means a location where a worker is, or is likely to be, engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation.

Purposes of this Act

2 The purposes of this Act are

- (a) the promotion and maintenance of the highest degree of physical, psychological and social well-being of workers,
- (b) to prevent work site incidents, injuries, illnesses and diseases,
- (c) the protection of workers from factors and conditions adverse to their health and safety,
- (d) to ensure that all workers have
 - (i) the right to be informed of work site hazards and the means to eliminate or control those hazards,
 - (ii) the right to meaningful participation in health and safety activities pertaining to their work and work site, including the ability to express health and safety concerns,
 - (iii) the right to refuse dangerous work, and
 - (iv) the ability to work without being subject to discriminatory action for exercising a right or fulfilling a duty imposed by this Act, the regulations or the OHS code.

Part 1

Obligations of Work Site Parties

Obligations of employers

3(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

- (a) the health and safety and welfare of
 - (i) workers engaged in the work of that employer,
 - (ii) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and
 - (iii) other persons at or in the vicinity of the work site who may be affected by hazards originating from the work site,
- (b) that the employer's workers are aware of their rights and duties under this Act, the regulations and the OHS code and of any health and safety issues arising from the work being conducted at the work site,
- (c) that none of the employer's workers are subjected to or participate in harassment or violence at the work site,
- (d) that the employer's workers are supervised by a person who
 - (i) is competent, and
 - (ii) is familiar with this Act, the regulations and the OHS code that apply to the work performed at the work site,
- (e) that the employer consults and cooperates with the joint work site health and safety committee or the health and safety representative, as applicable, to exchange information on health and safety matters and to resolve health and safety concerns,
- (f) that health and safety concerns raised by workers, supervisors, self-employed persons and the joint work site

health and safety committee or health and safety representative are resolved in a timely manner, and

- (g) that on a work site where a prime contractor is required, the prime contractor is advised of the names of all of the supervisors of the workers.

(2) Every employer shall ensure that workers are adequately trained in all matters necessary to protect their health and safety, including before the worker

- (a) begins performing a work activity,
- (b) performs a new work activity, uses new equipment or performs new processes, or
- (c) is moved to another area or work site.

(3) Every employer shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code.

(4) Every employer shall comply with this Act, the regulations and the OHS code.

Obligations of supervisors

4 Every supervisor shall

- (a) as far as it is reasonably practicable for the supervisor to do so,
 - (i) ensure that the supervisor is competent to supervise every worker under their supervision,
 - (ii) take all precautions necessary to protect the health and safety of every worker under the supervisor's supervision,
 - (iii) ensure that a worker under the supervisor's supervision works in the manner and in accordance with the procedures and measures required by this Act, the regulations and the OHS code,
 - (iv) ensure that every worker under the supervisor's supervision uses all hazard controls, and properly uses or wears personal protective equipment designated or provided by the employer or required

to be used or worn by this Act, the regulations or the OHS code, and

- (v) ensure that none of the workers under the supervisor's supervision are subjected to or participate in harassment or violence at the work site,
- (b) advise every worker under the supervisor's supervision of all known or reasonably foreseeable hazards to health and safety in the area where the worker is performing work,
- (c) report to the employer a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (e) comply with this Act, the regulations and the OHS code.

Obligations of workers

5 Every worker shall, while engaged in an occupation,

- (a) take reasonable care to protect the health and safety of the worker and of other persons at or in the vicinity of the work site while the worker is working,
- (b) cooperate with the worker's supervisor or employer or any other person for the purposes of protecting the health and safety of
 - (i) the worker,
 - (ii) other workers engaged in the work of the employer, and
 - (iii) other workers not engaged in the work of that employer but present at the work site at which that work is being carried out,
- (c) at all times, when the nature of the work requires, use all devices and wear all personal protective equipment designated and provided for the worker's protection by the worker's employer or required to be used when worn

by the worker by this Act, the regulations or the OHS code,

- (d) refrain from causing or participating in harassment or violence,
- (e) report to the employer or supervisor a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (f) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (g) comply with this Act, the regulations and the OHS code.

Obligations of suppliers

6(1) Every supplier shall

- (a) as far as it is reasonably practicable for the supplier to do so, ensure that any equipment that the supplier supplies is in safe operating condition,
- (b) as far as it is reasonably practicable for the supplier to do so, ensure that any harmful substance the supplier supplies is safe to use, when used in accordance with the manufacturer's specifications,
- (c) as far as it is reasonably practicable for the supplier to do so, if the supplier has responsibility under an agreement to maintain equipment, ensure that the equipment is maintained in a safe condition, in accordance with the manufacturer's specifications, if any, and in compliance with this Act, the regulations and the OHS code,
- (d) as far as it is reasonably practicable for the supplier to do so, provide a notice to all of the employers supplied by the supplier with equipment, or to the purchasers or lessees of the equipment, when the supplier becomes aware or ought reasonably to be aware that the equipment that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS code,

- (e) as far as it is reasonably practicable for the supplier to do so, provide a notice to all of the employers supplied by the supplier with a harmful substance when the supplier becomes aware or ought reasonably to be aware that the harmful substance that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS code,
 - (f) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
 - (g) comply with this Act, the regulations and the OHS code.
- (2)** Subject to subsection (1)(d) and (e), every supplier shall ensure that any equipment or harmful substance that the supplier supplies complies with this Act, the regulations and the OHS code.

Obligations of service providers

7(1) Every service provider shall ensure, as far as it is reasonably practicable for the service provider to do so, that any service provided to a person to meet an obligation in the Act, the regulations or the OHS code will enable the person to comply with this Act, the regulations and the OHS code.

(2) Every service provider shall

- (a) ensure that all services provided in respect of a work site comply with the Act, the regulations and the OHS code,
- (b) ensure that services provided to a person to meet an obligation in the Act, the regulations or the OHS code are completed by workers who are competent to provide those services,
- (c) ensure that, as far as it is reasonably practicable for the service provider to do so, no person at or near a work site is endangered as a result of the service provider's activity,
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (e) comply with this Act, the regulations and the OHS code.

Obligations of owners**8** Every owner shall

- (a) ensure, as far as it is reasonably practicable to do so, that the land, infrastructure and any building or premises on the land that is under the owner's control is provided and maintained in a manner that does not endanger the health and safety of workers or any other person,
- (b) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (c) comply with this Act, the regulations and the OHS code.

Obligations of contractors**9(1)** Every contractor shall ensure, as far as it is reasonably practicable to do so, that

- (a) every work site where an employer, employer's worker or self-employed person works pursuant to a contract with the contractor, and
- (b) every work process or procedure performed at a work site by an employer, employer's worker or self-employed person pursuant to a contract with the contractor

that is under the control of the contractor does not create a risk to the health and safety of any person.

(2) Every contractor shall

- (a) if the contractor is on a work site that has a prime contractor, advise the prime contractor of the name of every employer or self-employed person with whom the contractor directs the work activities,
- (b) cooperate with a person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (c) comply with this Act, the regulations and the OHS code.

Obligations of prime contractors**10(1)** Every construction and oil and gas work site or a work site designated by a Director must have a prime contractor if there are 2

or more employers or self-employed persons, or one or more employers and one or more self-employed persons involved in work at the work site.

(2) The person in control of the work site shall designate in writing a person as the prime contractor of the work site.

(3) The name of the prime contractor must be posted in a conspicuous place at the work site.

(4) If the person in control of the work site fails to designate a person as the prime contractor as required in subsection (2), the person in control of the work site is deemed to be the prime contractor.

(5) The prime contractor shall

- (a) establish, as far as it is reasonably practicable to do so, a system or process that will ensure compliance with this Act, the regulations and the OHS code in respect of the work site,
- (b) coordinate, organize and oversee the performance of all work at the work site to ensure, as far as it is reasonably practicable to do so, that no person is exposed to hazards arising out of, or in connection with, activities at the work site,
- (c) conduct the prime contractor's own activities in such a way as to ensure, as far as it is reasonably practicable to do so, that no person is exposed to hazards arising out of, or in connection with, activities at the work site,
- (d) consult and cooperate with the joint work site health and safety committee or health and safety representative, as applicable, to attempt to resolve any health and safety issues,
- (e) coordinate the health and safety programs of employers and self-employed persons on the work site, if 2 or more employers or self-employed persons or one or more employers and one or more self-employed persons on the work site have a health and safety program,

- (f) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (g) comply with this Act, the regulations and the OHS code.

(6) If a requirement in this Act, the regulations or the OHS code imposes a duty on an employer or a self-employed person with respect to equipment, work site infrastructure or an excavation and the equipment or infrastructure is designed, constructed, erected or installed, or the excavation is conducted by or on behalf of a prime contractor, the prime contractor shall comply with the requirement as if the requirement were directly imposed on the prime contractor.

(7) Subsection (6) does not relieve the employer, self-employed person or prime contractor from fulfilling other responsibilities under this Act, the regulations and the OHS code.

Obligations of self-employed persons

11 Every self-employed person shall

- (a) conduct the self-employed person's work so as to ensure that the self-employed person or any other person is not exposed to hazards from activities at the work site,
- (b) when working on a project that has a prime contractor, advise the prime contractor that the self-employed person is working on the project,
- (c) if a requirement of this Act, the regulations or the OHS code imposes a duty on an employer or a worker, comply with the requirement as if the requirement were directly imposed on the self-employed person, with any necessary modifications,
- (d) report, to the extent that it is reasonably practicable to do so, to all affected employers and self-employed persons at the work site a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (e) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and

- (f) comply with this Act, the regulations and the OHS code.

Obligations of temporary staffing agencies

12 Every temporary staffing agency shall

- (a) ensure, as far as it is reasonably practicable for the temporary staffing agency to do so,
 - (i) that the worker to be assigned to another employer is suitable to perform the task for which the worker is to be assigned,
 - (ii) that the worker is equipped with any necessary personal protective equipment prior to deployment to the other employer, or will be so equipped prior to commencing work activities with the other employer, and
 - (iii) that the other employer is capable of ensuring the health and safety of the worker,
- (b) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (c) comply with this Act, the regulations and the OHS code.

Multiple obligations

13(1) In this section, “function” means the function of prime contractor, owner, contractor, employer, supervisor, service provider, supplier, worker, self-employed person or temporary staffing agency.

(2) If a person has 2 or more functions under this Act in respect of one work site, the person shall meet the obligations of each function.

(3) If one or more provisions in this Act, the regulations or the OHS code imposes the same duty on more than one person and one of the persons subject to that duty complies with the applicable provision, the other persons subject to that duty are relieved of their duty only during the time when

- (a) simultaneous compliance of that duty by more than one person would result in unnecessary duplication of effort and expense, and
- (b) the health and safety of any person at the work site is not put at risk by compliance with that duty by only one person.

Part 2

Availability of Information

Duty to provide information

14(1) In this section, “health and safety information” means information that may affect the health and safety of a person at a work site and includes information about hazards at the work site, hazard controls and work practices and procedures, but does not include personal information about an identifiable individual, confidential proprietary information or trade secrets.

(2) Every employer shall keep readily available all health and safety information and provide that information to

- (a) the joint work site health and safety committee or health and safety representative at the work site,
- (b) the workers, if there is no joint work site health and safety committee and no health and safety representative, and
- (c) the prime contractor, if there is one.

(3) Every employer shall ensure that current paper or downloaded or stored electronic copies of this Act, the regulations and the OHS code are readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if one exists.

(4) Every prime contractor or contractor shall ensure that the owner and any employer, supplier, service provider or self-employed person on a work site is informed of any existing or potential work site hazards that may affect workers, self-employed persons or other persons at the work site.

(5) Every owner shall ensure that any hazard identified by the owner is communicated to all workers, employers, self-employed persons, contractors, prime contractors, suppliers and service providers that are conducting work activities, or may be reasonably

anticipated to conduct work activities, in relation to the land, infrastructure and any building or premises on the land.

(6) Every supplier shall, as far as it is reasonably practicable for the supplier to do so,

- (a) ensure that any equipment is supplied with a written copy of the manufacturer's specifications and any other instructions for safe use, as applicable, if such specifications and instructions exist, and
- (b) ensure that any harmful substance the supplier supplies is supplied with a written copy of the manufacturer's specifications and instructions for safe use, as applicable, if such specifications and instructions exist.

(7) If a person is required to make a report or plan under this Act, the regulations or the OHS code, the person shall ensure that the report or plan is in writing and a paper or downloaded or stored electronic copy of the report or plan is readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if there is one, at the work site affected by the report or plan.

(8) If a person is required to develop procedures or to put procedures in place under this Act, the regulations or the OHS code, the person shall ensure that they are in writing and a paper or downloaded or stored electronic copy of the current procedures is readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if there is one, at the work site affected by the procedures.

Posting orders and notices

15(1) An employer, self-employed person, owner or prime contractor shall post a copy of the following at a work site:

- (a) an order made under this Act to that employer, self-employed person, owner or prime contractor that is relevant to the work site;
- (b) a health and safety notice prepared by or for a Director concerning conditions or procedures at the work site.

(2) The employer, self-employed person, owner, or prime contractor referred to in subsection (1) shall post the copy in a conspicuous place at the work site as soon as the employer, self-employed person, owner or prime contractor receives it.

(3) The employer, self-employed person, owner or prime contractor referred to in subsection (1) shall keep an order or notice issued under this Act posted until the conditions specified in the order or notice are met.

(4) Despite subsections (1) to (3), the employer, self-employed person, owner or prime contractor referred to in subsection (1) may provide the orders and notices in electronic format providing workers, the joint work site health and safety committee or health and safety representative, if there is one, are informed of the orders and notices and have ready access to them.

(5) Despite subsections (1) to (3), if the work site is mobile and posting is impracticable, the employer, self-employed person, owner or prime contractor referred to in subsection (1) shall ensure that the information in the order or the notice is brought to the attention of all affected workers at the work site.

Part 3

Joint Work Site Health and Safety Committees and Health and Safety Representatives

Establishment of joint work site health and safety committee

16(1) An employer shall establish a joint work site health and safety committee

- (a) if the employer employs 20 or more workers and work is expected to last 90 days or more, or
- (b) at any other work site designated by a Director.

(2) If there are 20 or more workers in total from 2 or more employers or employers and self-employed persons or one or more employers and one or more self-employed persons at a work site and the work is expected to last 90 days or more, the prime contractor or, if there is no prime contractor, all employers and self-employed persons shall coordinate the establishment of a joint work site health and safety committee for that work site.

(3) The joint work site health and safety committee shall establish rules of procedure for fulfilling its duties under section 19.

(4) The Director may issue an approval to an employer or a prime contractor to establish a joint work site health and safety committee otherwise required by subsections (1) and (2) with variations regarding the practice and procedures of a committee from the provisions otherwise applicable under this Act, the regulations and the OHS code.

(5) In considering whether to issue the approval under subsection (4), the Director shall take into account

- (a) the nature of the work performed at the work site,
- (b) the level of support of the variations by workers or unions representing workers at the work site,
- (c) the frequency of injury or illness at the work site or in the industry in question, and
- (d) any additional criteria set out in the regulations or the OHS code.

Designation of health and safety representative

17(1) Unless a Director approves an alternative measure to ensure the health and safety of workers, an employer shall designate a worker appointed or selected under subsection (2) as a health and safety representative

- (a) if the employer employs 5 to 19 workers and work is expected to last 90 days or more, or
- (b) at any other work site designated by a Director.

(2) A health and safety representative shall be appointed in accordance with the constitution of the union that is the certified bargaining agent or has acquired bargaining rights on behalf of those workers or, if no such union exists, be selected by the workers the representative represents.

(3) If there are 5 to 19 workers in total from 2 or more employers or employers and self-employed persons or one or more employers and one or more self-employed persons at a work site and the work is expected to last 90 days or more, the prime contractor or, if there

is no prime contractor, all employers and self-employed persons shall coordinate the designation of a health and safety representative for that work site.

Determination of number of workers

18 For the purpose of calculating the number of workers in sections 16 and 17, the number of workers must be determined by the average number of full-time and part-time workers employed by the employer and self-employed persons at the work site on a daily basis on each working day

- (a) over the previous 12 months if operations began at least 12 months prior to the calculation,
- (b) since operations began if operations began less than 12 months prior to the calculation, or
- (c) expected to be present over the duration for a new operation lasting 90 days or more but less than 12 months.

Duties of a joint work site health and safety committee

19 The duties of a joint work site health and safety committee include the following:

- (a) the receipt, consideration and disposition of concerns and complaints respecting the health and safety of workers;
- (b) participation in the identification of hazards to workers or other persons arising out of or in connection with activities at the work site;
- (c) the development and promotion of measures to protect the health and safety of persons at the work site and checking the effectiveness of such measures;
- (d) cooperation with an officer exercising duties under this Act, the regulations and the OHS code;
- (e) the development and promotion of programs for education and information concerning health and safety;
- (f) the making of recommendations to the employer, prime contractor or owner respecting the health and safety of workers;

- (g) the inspection of the work site at regular intervals;
- (h) the participation in investigations of serious injuries and incidents at the work site in accordance with section 40;
- (i) the maintenance of records in connection with the receipt and disposition of concerns and complaints and the attendance to other matters relating to the duties of the committee;
- (j) such other duties as may be specified in this Act, the regulations and the OHS code.

Duties of a health and safety representative

20 The health and safety representative shall, in cooperation with a representative of the employer, perform the same duties, with any necessary modifications, as set out for the joint work site health and safety committees in section 19.

Employer and prime contractor to work with committee or representative

21(1) If the joint work site health and safety committee or health and safety representative brings a health and safety matter to the attention of the employer, self-employed person or prime contractor, and makes recommendations to remedy the matter,

- (a) if the matter can be resolved by the employer, self-employed person or prime contractor within 30 days, the employer, self-employed person or prime contractor shall do so and inform the committee or representative,
- (b) if the matter cannot be resolved by the employer, self-employed person or prime contractor within 30 days, the employer, self-employed person or prime contractor shall respond in writing, stating how the concern will be addressed and when the concern will be addressed, including
 - (i) a timetable for implementing changes to address the matter, and
 - (ii) any interim control measures that the employer, self-employed person or prime contractor will implement to address the matter,

or

- (c) if the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns, the employer, self-employed person or prime contractor shall give reasons why the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns.

(2) Where the parties cannot resolve a problem or address a concern after the provision of written reasons by the employer, self-employed person or prime contractor under subsection (1), the employer, self-employed person, prime contractor, joint work site health and safety committee, a member of the joint work site health and safety committee or the health and safety representative may refer the matter to an officer.

(3) Nothing in this section limits the right of a worker to refer a health and safety concern directly to an officer.

Membership of joint work site health and safety committee

22(1) A joint work site health and safety committee shall consist of at least 4 persons, of whom at least half represent workers who are not associated with the management of the work site, and

- (a) are appointed
 - (i) in accordance with the constitution of the union that is the certified bargaining agent or that has acquired bargaining rights on behalf of those workers, or
 - (ii) if more than one union represents the workers, in accordance with an agreement among all of those unions,

or

- (b) where no union exists, are persons selected by the workers they represent.

(2) A joint work site health and safety committee shall have 2 co-chairs, one chosen by the employer members on the committee and the other chosen by the worker members on the committee.

(3) The co-chairs required by subsection (2) shall alternate in serving as chair at meetings of the joint work site health and safety committee and shall participate in all decisions of the committee.

(4) To be eligible to be appointed or selected as a worker member, a person must work at the work site where the joint work site health and safety committee is established, or in the case of an employer who operates at multiple work sites, be a worker directly employed by the employer.

(5) Employer members of a joint work site health and safety committee must be appointed to the committee by the employer or prime contractor, as applicable.

(6) To be eligible to be appointed as an employer member, a person must be employed at the work site where the joint work site health and safety committee is established or in the case of an employer who operates at multiple work sites, be a person directly employed by the employer.

Posting names of committee members and representative

23(1) The employer or, if there is a prime contractor, the prime contractor shall ensure that the names and contact information of the joint work site health and safety committee members are posted conspicuously at every work site where workers are represented by the committee.

(2) The employer or, if there is a prime contractor, the prime contractor shall ensure that the name and contact information of the health and safety representative is posted conspicuously at every work site where workers are represented by the representative.

Term of office

24(1) Members of a joint work site health and safety committee or a health and safety representative hold office for a term of not less than one year and may continue to hold office until their successors are selected or appointed.

(2) Despite subsection (1), if a union exists and the union's constitution specifies a term of office for worker members of the joint work site health and safety committee or the health and safety representative, the term of office of the worker member or the health and safety representative is the term specified in the union's

constitution, or if more than one union represents the workers, in accordance with an agreement among all of those unions.

Inspection of work site with officer

25 When an officer inspects a work site, the officer may request the joint work site health and safety committee co-chairs or their designates or a health and safety representative to be present at that inspection.

Quorum

26(1) A quorum of a joint work site health and safety committee is one-half of the members if

- (a) both worker and employer members are present, and
- (b) at least one-half of those present are worker members.

(2) Any business of a joint work site health and safety committee that is transacted where a quorum is not present is not validly transacted, and any meeting of a committee that is held where a quorum is not present is not a valid meeting of the committee.

Meetings of joint work site health and safety committee

27(1) The joint work site health and safety committee shall meet within 10 days of its establishment and thereafter at least quarterly.

(2) A joint work site health and safety committee shall hold its meetings and carry out its duties and functions during normal working hours.

(3) Either co-chair of a joint work site health and safety committee may call a special meeting of the committee to deal with urgent concerns at the work site.

(4) A joint work site health and safety committee must convene a special meeting if requested to do so by an officer.

(5) The co-chairs of a joint work site health and safety committee must ensure that

- (a) minutes of each meeting of the committee are recorded,

- (b) copies of the minutes approved by the committee are given to the employer within 7 days after the day the meeting was held, and
- (c) copies of the minutes approved by the committee are posted or provided by electronic means at the work site within 7 days after the day the meeting was held.

(6) The employer or, if there is a prime contractor, the prime contractor shall maintain a copy of the minutes for 2 years and have them readily available for inspection by a joint work site health and safety committee member or an officer.

(7) The employer or, if there is a prime contractor, the prime contractor shall maintain a copy of any other relevant health and safety documents produced by the joint work site health and safety committee and have them readily available for inspection by a committee member or an officer.

Meetings of employer and health and safety representative

28(1) At a work site where a health and safety representative is designated, an employer, or a prime contractor if there is a prime contractor, shall meet with the representative regularly to discuss health and safety matters.

(2) A health and safety representative may call a special meeting with an employer or a prime contractor to deal with urgent concerns at the work site.

Training of committee members and representatives

29(1) Where a joint work site health and safety committee is established, an employer or prime contractor, as applicable, shall ensure that the co-chairs of the committee receive training respecting the duties and functions of a committee.

(2) Where a health and safety representative is designated, an employer shall ensure that the representative receives training respecting the duties and functions of a representative.

(3) Where a member of a joint work site health and safety committee or a health and safety representative gives reasonable notice, an employer shall permit the member or representative to take time away from the member's or the representative's regular

duties to attend health and safety training programs, seminars or courses of instruction.

(4) The amount of time allowed annually for training under subsections (1), (2) and (3) is the greater of

- (a) 16 hours, or
- (b) the number of hours the worker normally works during 2 shifts.

Time away for committee or representative work and entitlement to pay

30(1) A member of a joint work site health and safety committee or a health and safety representative is entitled to take the following time away from the member's or the representative's regular duties:

- (a) the period of time that the committee or representative determines is necessary to prepare for each committee meeting or meeting with the employer or prime contractor as applicable;
- (b) the time required to attend each meeting of the committee, or with the employer or prime contractor, as applicable;
- (c) the time required to attend health and safety training, as approved by the committee and the employer, or by the representative's employer;
- (d) such time as the committee or representative determines is necessary to carry out the member's or the representative's duties as a committee member or representative under this Act, the regulations and the OHS code.

(2) A member of a joint work site health and safety committee or a health and safety representative is deemed to be at work during the times described in subsection (1) and is entitled to be paid for those times by the member's or the representative's employer at the member's or representative's applicable rate of pay.

Part 4

Dangerous Work and Discriminatory Action

Right to refuse dangerous work

31(1) Subject to this section and section 5, a worker may refuse to work or to do particular work at a work site if the worker believes on reasonable grounds that there is a dangerous condition at the work site or that the work constitutes a danger to the worker's health and safety or to the health and safety of another worker or another person.

(2) A worker who refuses to work or to do particular work under subsection (1) shall promptly report the refusal and the reasons for it to the worker's employer or supervisor or to another person designated by the employer or supervisor.

(3) If the employer does not remedy the dangerous condition immediately, the employer shall immediately inspect the dangerous condition in the presence of the worker, when it is reasonably practicable to do so and when the presence of the worker does not create a danger to the health and safety of that worker or of any other person, and one of the following persons, when it is reasonably practicable to do so and when the presence of that person does not create a danger to the health and safety of that person or of any other person:

- (a) if there is a joint work site health and safety committee established under section 16, the co-chair or a committee member who represents workers;
- (b) if there is a health and safety representative designated under section 17, that representative;
- (c) if there is no committee or representative, or where no committee member or representative is available, another worker selected by the worker refusing to do the work.

(4) The employer required to inspect under subsection (3) shall take any action necessary to remedy any dangerous condition, or ensure that such action is taken.

(5) Until the dangerous condition is remedied, the worker who reported it may continue to refuse to work or to do particular work to which the dangerous condition may relate.

(6) When a worker has refused to work or to do particular work under subsection (1), the employer shall not request or assign another worker to do the work until the employer has determined that the work does not constitute a danger to the health and safety of any person or that a dangerous condition does not exist.

(7) Where the employer assigns another worker to do the work, the employer shall advise that worker, in writing, of

- (a) the first worker's refusal,
- (b) the reasons for the refusal,
- (c) the reason why, in the opinion of the employer, the work does not constitute a danger to the health and safety of any person or that a dangerous condition is not present, and
- (d) that worker's right to refuse to do dangerous work under this section.

(8) On completing an inspection under subsection (3), the employer shall prepare a written report of the refusal to work, the inspection and action taken, if any, under subsection (4).

(9) The employer shall give a copy of the report completed under subsection (8) to

- (a) the worker who refused work under subsection (1),
- (b) the joint work site health and safety committee, if one exists, and
- (c) the health and safety representative, if one exists.

(10) The employer shall ensure that a report given under subsection (9) does not contain any personal information related to the worker who refused to work under subsection (1).

Report of dangerous condition to an officer

32(1) If the dangerous condition or the danger to the worker's health and safety or to the health and safety of another worker or another person is not remedied after an inspection under section 31(3), the worker who refused to perform the work under section 31(1) or any person present during the inspection may file a complaint with an officer.

(2) On receiving a complaint under subsection (1), the officer shall investigate the matter and decide whether there is a dangerous condition or whether the work the worker has refused to do constitutes a danger to the health and safety of the worker or of any other worker or person at the work site.

(3) If the officer decides that there is a dangerous condition or a danger to the worker's health and safety or to the health and safety of any other worker or person at the work site, the officer shall

- (a) make a written report stating the officer's decision,
- (b) make any order under this Act that the officer considers necessary, and
- (c) give a copy of the report and any order to
 - (i) the worker who refused to do the work,
 - (ii) the employer,
 - (iii) the joint work site health and safety committee, if one exists,
 - (iv) the health and safety representative, if one exists, and
 - (v) any other person who filed a complaint.

(4) If the officer decides that a dangerous condition is not present, the officer shall, in writing,

- (a) inform the employer and the worker of that decision,
- (b) inform the joint work site health and safety committee, if one exists, or the health and safety representative, if one exists, of that decision, and
- (c) inform the worker that the worker is no longer entitled to refuse to do the work.

Worker entitled to be paid despite refusal

33(1) If a worker has refused to work or to do particular work under section 31(1),

- (a) the worker is entitled to the same wages and benefits that the worker would have received had the worker continued to work, and
- (b) the employer may reassign the worker temporarily to alternate work.

(2) A work reassignment under subsection (1)(b) is not considered discriminatory action for the purposes of section 35.

Employer not to make worker work in dangerous conditions

34(1) When the employer or supervisor at a work site knows or ought to know of a condition at the work site that is or is likely to be dangerous to the health and safety of a worker, the employer or supervisor shall not require or permit any worker to do that work until the dangerous condition is remedied.

(2) Subject to section 31, nothing in subsection (1) prevents the doing of any work or thing at a work site that may be necessary to remedy a condition that is or is likely to be dangerous to the health and safety of a worker.

Prohibition of discriminatory action

35 No person shall take any discriminatory action against a worker, by reason of that worker

- (a) acting in compliance with this Act, the regulations, the OHS code or an order given under this Act, the regulations or the OHS code or the terms, conditions or requirements on an acceptance under section 55 or on an approval under section 56,
- (b) being called to testify, intending to testify or testifying in a proceeding under this Act,
- (c) giving relevant information about work site conditions affecting the health and safety of any worker engaged in work or any other person present at the work site to any of the following:
 - (i) an employer or a person acting on behalf of an employer;

- (ii) an officer or another person concerned with the administration of this Act, the regulations or the OHS code;
- (iii) a joint work site health and safety committee or a health and safety representative,
- (d) performing duties or exercising rights as a member of a joint work site health and safety committee or as a health and safety representative,
- (e) assisting or having assisted with the activities of a joint work site health and safety committee or health and safety representative,
- (f) refusing to do work under section 31(1),
- (g) seeking to establish a joint work site health and safety committee or have a health and safety representative designated,
- (h) being prevented from working because of an order under this Act, the regulations or the OHS code, and
- (i) taking reasonable action to protect the health and safety of that worker or any other person.

Discriminatory action complaint

36(1) A worker who has reasonable cause to believe that the worker has been subjected to discriminatory action in respect of an alleged contravention of section 35 may file a complaint with an officer.

(2) An officer who receives a complaint under subsection (1) shall investigate, make a decision and prepare a written report of the worker's complaint, the investigation and the decision of the officer and shall give the worker and the employer a copy of the report.

(3) If, in the opinion of the officer, discriminatory action has occurred, the officer shall in writing order an employer to do one or more of the following:

- (a) cease the discriminatory action;

- (b) reinstate the worker to the worker's former employment under the same terms and conditions under which the worker was formerly employed;
- (c) pay the worker not more than the equivalent of wages and benefits that the worker would have earned if the worker had not been subjected to discriminatory action;
- (d) remove any reprimand or other reference to the matter from the worker's employment records;
- (e) other measures to prevent recurrence.

(4) A worker or an employer who receives a report under subsection (2) may appeal the matter to the appeal body under section 71 by serving a notice of appeal on the appeal body within 30 days from the receipt of the report.

(5) If an officer determines that discriminatory action has been taken against a worker who has acted or participated in an activity described in section 35,

- (a) there is a presumption in favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 35, and
- (b) the onus is on the employer to establish that the discriminatory action was taken against the worker for a reason other than acting or participating in an activity described in section 35.

Part 5

Program and Practice

Health and safety program

37(1) An employer who employs 20 or more workers shall establish, in consultation with the joint work site health and safety committee, a health and safety program that includes, at a minimum, the following elements:

- (a) a health and safety policy that states the policy for the protection and maintenance of the health and safety of workers at the work site;

- (b) identification of existing and potential hazards to workers at the work site, including harassment, violence, physical, biological, chemical or radiological hazards and measures that will be taken to eliminate, reduce or control those hazards;
- (c) an emergency response plan;
- (d) a statement of the responsibilities of the employer, supervisors and workers at the work site;
- (e) a schedule and procedures for regular inspection of the work site;
- (f) procedures to be followed to protect health and safety when another employer or self-employed person is involved in work at the work site, including criteria for evaluating and selecting and for regularly monitoring those employers and self-employed persons;
- (g) worker and supervisor health and safety orientation and training;
- (h) procedures for investigating incidents, injuries and refusals to work;
- (i) procedures for worker participation in work site health and safety, including inspections and the investigation of incidents, injuries and refusals to work;
- (j) procedures for reviewing and revising the health and safety program if circumstances at a work site change in a way that creates or could create a hazard to workers;
- (k) any elements set out in the regulations.

(2) The employer shall implement the health and safety program referred to in subsection (1).

(3) For the purposes of calculating the number of workers in subsection (1), the number of workers must be determined by the average number of full-time and part-time workers employed by the employer at the work site on a daily basis on each working day

- (a) over the previous 12 months if operations began at least 12 months prior to the calculation,

- (b) since the operations began if operations began less than 12 months prior to the calculation, or
 - (c) expected to be present over the duration of a new operation lasting 90 days or more but less than 12 months.
- (4) A health and safety program must be reviewed every 3 years or more often if there is a change in circumstances at the work site that creates or could create a hazard to workers, and revised as appropriate.
- (5) Despite subsection (1), an employer with fewer than 20 workers shall involve affected workers and the health and safety representative, if one exists, in hazard assessment and control or elimination of the hazards identified in accordance with the regulations and the OHS code.

Occupational Health and Safety Advisory Council

- 38(1)** The Minister shall establish and appoint a council called the “Occupational Health and Safety Advisory Council” that shall consist of not more than 12 persons.
- (2) The Minister may designate one of the members of the Council as chair and one or more of the members of the Council as vice-chairs.
- (3) Of the members appointed under subsection (1),
- (a) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers,
 - (b) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers, and
 - (c) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by technical and professional bodies whose members are concerned with the general purposes of this Act.
- (4) The members of the Council shall be appointed for terms not exceeding 3 years.

(5) On the expiration of a member's term of office, that member of the Council may, subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, be reappointed from the lists referred to in subsection (3).

(6) The Council shall meet at the call of the Minister or the chair, but in any case at least quarterly.

(7) A majority of the members of the Council, which shall include 2 persons representing the views of workers, 2 persons representing the views of employers and one person representing the views of technical or professional bodies, constitute a quorum of the Council.

(8) The members of the Council shall be paid

- (a) any remuneration that the Lieutenant Governor in Council may prescribe in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, and
- (b) their reasonable travelling and living expenses in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, if incurred while absent from their ordinary places of residence and in the course of their duties as members of the Council.

(9) If regulations under the *Alberta Public Agencies Governance Act* apply in respect of remuneration for the members of the Council, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing remuneration under subsection (8)(a).

Duties of Council

39(1) The Council may advise or make recommendations to the Minister on any one or more of the following matters:

- (a) occupational health and safety generally;
- (b) the protection of workers in specific work site situations;
- (c) the appointment of consultants and advisors by the Minister;

- (d) any matter relating to occupational health and safety on which the Minister seeks the Council's opinion.

(2) The Council shall review any matter relating to this Act and its administration when requested to do so by the Minister and report its findings and recommendations, if any, to the Minister.

Serious injuries and incidents

40(1) When an injury or incident described in subsection (2) occurs at a work site, the prime contractor or, if there is no prime contractor, the employer shall report the time, place and nature of the injury or incident to a Director of Inspection as soon as possible.

(2) The injuries and incidents to be reported under subsection (1) are

- (a) an injury or incident that results in the death of a worker,
- (b) an injury or incident that results in a worker being admitted to a hospital, and for the purposes of this clause, "admitted to a hospital" means when a physician writes admitting orders to cause a worker to be an inpatient of a hospital, but excludes a worker being assessed in an emergency room or urgent care centre without being admitted,
- (c) an unplanned or uncontrolled explosion, fire or flood that causes a serious injury or that has the potential of causing a serious injury,
- (d) the collapse or upset of a crane, derrick or hoist,
- (e) the collapse or failure of any component of a building or structure necessary for the structural integrity of the building or structure, or
- (f) any injury or incident or a class of injuries or incidents specified in the regulations.

(3) If an incident described in subsection (4) occurs at a mine or mine site, the prime contractor or, if there is no prime contractor, the employer shall make a report to a Director of Inspection of the time, place and nature of the incident as soon as possible.

- (4) The incidents that must be reported under subsection (3) are
- (a) an unexpected major ground fall or subsidence that endangers or may endanger workers, equipment or facilities,
 - (b) an unplanned stoppage of the main underground ventilation system, if it lasts more than 30 minutes, or occurs repeatedly,
 - (c) a vehicle that goes out of control,
 - (d) an ignition of flammable gas, combustible dust or other material underground,
 - (e) workers being withdrawn from a hazardous location under emergency conditions,
 - (f) electrical equipment failures or incidents that cause, or threaten to cause, injury to workers or damage to equipment or facilities,
 - (g) outbursts and inrushes,
 - (h) an incident involving a hoist, sheave, hoisting rope, shaft conveyance, shaft, shaft timbering or head frame structure,
 - (i) any other unusual incident or unexpected event that could have caused serious injury to a worker,
 - (j) the following incidents where the integrity of a dam or dike is affected at a mine or mine site:
 - (i) cracking or evidence of weakening or subsidence of a dam or impoundment dike;
 - (ii) unexpected seepage or the appearance of springs on the outer face of a dam or dike;
 - (iii) the freeboard of a dam or dike being less than adequate;
 - (iv) a washout or significant erosion to a dam or dike,
- and

- (k) any injury or incident or a class of injuries or incidents specified in the regulations.

(5) If an injury or incident referred to in subsection (2) or (4) occurs at a work site or if any other injury or any other incident that has the potential of causing serious injury to a person occurs at a work site, the prime contractor or, if there is no prime contractor, the employer shall

- (a) report the time, place and nature of the incident to a Director of Inspection,
- (b) carry out an investigation into the circumstances surrounding the injury or incident,
- (c) prepare a report outlining the circumstances of the injury or incident and the corrective action, if any, undertaken to prevent a recurrence of the injury or incident,
- (d) ensure that a copy of the report is readily available and provided to an officer on demand, and
- (e) provide a copy of the report to a Director of Inspection, the joint work site health and safety committee or health and safety representative, if applicable, or, if there is no committee or representative, make it available to workers once the investigation is complete.

(6) The investigation referred to in subsection (5)(b) must be conducted with the participation of the joint work site health and safety committee or health and safety representative, if there is one at the work site.

(7) The prime contractor or employer who prepared the report referred to in subsection (5)(c) shall retain the report for at least 2 years after the serious injury or incident at the work site.

(8) A report prepared under this section is not admissible as evidence for any purpose in a trial arising out of the injury or incident, an investigation or public inquiry under the *Fatality Inquiries Act* or any other action as defined in the *Alberta Evidence Act*, except in a prosecution for perjury or for the giving of contradictory evidence.

(9) Except as otherwise directed by a Director of Inspection, an occupational health and safety officer or a police officer, a person

shall not disturb or conduct work at the scene of an injury or incident required to be reported under subsection (1) or (3), including the immediate area where the incident occurred, or alter, move or remove equipment, documents or other information that may be related to the incident, except insofar as is necessary in

- (a) attending to persons injured or killed,
- (b) preventing further injuries or incidents, and
- (c) protecting property that is endangered as a result of the injury or incident.

Part 6

Minister and Staff

Duties of the Minister

41 The Minister shall, in accordance with the purposes of this Act,

- (a) be concerned with occupational health and safety, generally, and with the maintenance of reasonable standards for the protection of the health and safety of workers and self-employed persons in Alberta,
- (b) be responsible for the administration of this Act, the regulations and the OHS code,
- (c) review this Act and its administration or designate a body to do so every 5 years and publish a report,
- (d) publish each year a 3-year plan for the review of the regulations and the OHS code,
- (e) after consulting with such representatives of employers and of workers in the industries that will be affected, as the Minister considers appropriate, submit from time to time to the Government such recommendations as the Minister considers appropriate for the making of regulations or the OHS code,
- (f) ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the health and safety of workers generally,

- (g) prepare and maintain, or cause to be prepared and maintained, illness, death and incident statistics relating to workers and self-employed persons, and do so either alone or in conjunction with The Workers' Compensation Board, other government ministries or any other agency, commission or organization, and
- (h) do such other things in connection with health and safety for the purposes of carrying out the provisions of this Act, the regulations and the OHS code and the provisions of any other Act or regulations the administration for which the Minister has responsibility.

Staff

42(1) In accordance with the *Public Service Act*, there may be appointed one or more Directors of Inspection, Directors of Medical Services, Directors of Occupational Hygiene, occupational health and safety officers and any other employees necessary for the administration of this Act.

(2) The Minister may, in writing, designate

- (a) any employee of the Government as a person who may perform all or part of the duties and responsibilities of a Director of Inspection, a Director of Occupational Hygiene or an officer, or
- (b) any physician employed by the Government or any other physician as a person who may perform all or part of the duties and responsibilities of a Director of Medical Services.

(3) The Minister may consent to have an officer carry out health and safety inspections or other work on behalf of another province or the Government of Canada on such terms and conditions as is deemed advisable.

(4) The Minister shall provide each officer with written credentials of the officer's appointment which the officer shall produce on request when exercising or seeking to exercise any of the powers conferred on the officer under this Act.

Powers of a Director

43 A Director

- (a) may issue and grant acceptances and approvals, in accordance with sections 55 and 56,
- (b) may issue orders under sections 62, 63, 64 and 65,
- (c) subject to section 48(6), may require a person to provide any information in the form and manner acceptable to the Director that the Director needs to perform duties or exercise powers under this Act, the regulations and the OHS code,
- (d) has all the powers of an officer as set out in this Act, and
- (e) may perform such other functions as the Minister may direct for the proper administration of this Act, the regulations and the OHS code.

Duties of officers

44 An officer shall

- (a) make such inspections, investigations and inquiries and carry out such tests, as are deemed necessary to ascertain whether compliance is being made with the provisions of this Act, the regulations and the OHS code, and
- (b) carry out such other duties as may be assigned to officers under this Act, the regulations and the OHS code.

Confidential information

45 No person shall disclose any information with respect to any confidential proprietary information or trade secrets obtained by virtue of the exercise of any power conferred by this Act, except for the purpose of administering this Act, the regulations and the OHS code, or as required by law.

Part 7 Medical Assessments

Medical examination

46(1) A Director of Medical Services may, for the purposes of determining

- (a) the extent of any injury suffered by a worker injured in an incident that occurred in respect of that worker's occupation, or
- (b) whether a worker is suffering from an occupational disease that is related to that worker's occupation,

require that worker to be medically examined by a Director of Medical Services, a physician chosen by a Director of Medical Services or by the worker's physician.

(2) A Director of Medical Services may order the employer to pay for a medical examination of a worker under subsection (1).

(3) A Director of Medical Services may order the employer to pay any wages and benefits that the worker would have received for working during those normal hours of employment that were spent by that worker in being examined or going to or returning from that examination.

(4) The medical examination must only occur with the consent of the worker.

Notice of findings

47 When a physician or other health care professional, in the course of professional practice, finds that a person is affected with or is suffering from a notifiable disease, the physician or other health care professional shall, within 7 days after the diagnosis of that disease or becoming aware of the diagnosis, notify a Director of Medical Services in writing of the name, address, employer and place of employment of that person and the name of the notifiable disease.

Medical reports used for enforcement

48(1) A physician or other health care professional who performs or supervises an examination of a worker as required under sections 46 and 50, the regulations or the OHS code shall, on the request of a Director of Medical Services, disclose any medical reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS code.

(2) A physician, nurse or first aid attendant who attends a worker who became ill or was injured while engaged in an occupation

shall, on the request of a Director of Medical Services, disclose any reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS code.

(3) On the request of a Director of Medical Services, any employer or service provider who has reports containing health information related to a worker who became ill or was injured while engaged in an occupation shall provide such reports to the Director of Medical Services for the purpose of enforcement of this Act, the regulations and the OHS code.

(4) A custodian shall on the request of a Director of Medical Services disclose any reports in the custodian's custody or under the custodian's control, including individually identifying health information or personal information contained in such a report, regarding the medical care of a worker in relation to a work site illness or injury for the purpose of enforcement of this Act, the regulations and the OHS code.

(5) For the purpose of enforcement of this Act, the regulations and the OHS code, a Director of Medical Services may request from a health service provider, laboratory or custodian and a health services provider, laboratory or custodian shall disclose results

- (a) from the medical, health or biological monitoring of a worker or a group of workers as required or performed under this Act, the regulations or the OHS code, or
- (b) from medical or health surveillance of a worker or a group of workers as required or performed under this Act, the regulations or the OHS code.

(6) Only a Director of Medical Services or a person authorized in writing by the Director of Medical Services may require the production of, or examine and make copies of, or remove temporarily for the purpose of making copies of, the following records:

- (a) medical reports, records or results;
- (b) results from the medical, health or biological monitoring of a worker or a group of workers;
- (c) results from medical or health surveillance of a worker or a group of workers;

- (d) notification of a diagnosis of a notifiable disease;
- (e) any other record set out in the regulations.

Occupational health surveillance

49 The Minister may establish, in accordance with the regulations, a program for the purposes of occupational health and safety surveillance, which includes

- (a) monitoring trends in occupational diseases, injuries, exposures, fatalities and incidents, and
- (b) any other elements specified in the regulations as being part of occupational health and safety surveillance.

Examination of workers exposed to hazards

50(1) If a worker is employed in a hazardous occupation or at a hazardous work site, a Director of Medical Services may

- (a) require the worker's employer, within 30 days after the commencement of the worker's employment, to register with a Director the worker's name and the location of the work site where the worker is employed,
- (b) require the worker's employer to send the worker for regular medical examinations by a physician with knowledge and expertise in occupational medicine, or as acceptable to the Director of Medical Services,
- (c) prescribe the type and frequency of the medical examinations,
- (d) prescribe the form and content of medical records to be compiled with respect to that worker, and
- (e) prescribe the period of time for which those medical records must be maintained.

(2) When the employment of a person registered under subsection (1)(a) ends, the employer shall notify a Director of Medical Services of that termination within 30 days after that termination.

(3) The employer shall pay for medical examinations of a worker under subsection (1).

(4) Despite subsections (1) and (2), the worker may refuse to undergo part or all of a medical examination by giving the employer a written statement refusing it.

(5) An employer shall not coerce, threaten or force a worker into refusing part or all of a medical examination.

(6) The employer shall ensure that, if it is reasonably practicable to do so, a medical examination is performed during normal hours of work.

(7) If the medical examination cannot be performed during normal hours of work, the employer must pay the worker the worker's applicable rate of pay for the time of the examination.

Part 8 Compliance and Enforcement

Inspection

51(1) For the purposes of this Act, an officer may

- (a) at any reasonable hour and without warrant, enter into or on any work site and inspect that work site except for a premises used as a private dwelling,
- (b) subject to section 48(6), require the production of any records, books, plans or other documents, including electronic documents, that relate to the health and safety of workers and may examine them, make copies of them or remove them temporarily for the purpose of making copies,
- (c) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents,
- (d) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information,
- (e) inspect, seize or take samples of any material, product, equipment or other thing being produced, used or found in or on the work site that is being inspected,

- (f) cause any article, substance or sample taken pursuant to clause (e) to be dismantled or subjected to any process or test, but not in such manner as to damage or destroy it, unless under the circumstances damage or destruction thereto is unavoidable or necessary,
- (g) bring along equipment or materials needed and be accompanied and assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection,
- (h) make tests and take photographs, measurements or recordings in respect of any work site,
- (i) require the employer or a person designated by the employer to demonstrate the use of any machinery, equipment, appliance or thing at a work site, and
- (j) interview and obtain statements from persons at the work site or persons not located at the work site who have information related to the health and safety of workers at the work site.

(2) Notwithstanding subsection (1)(a), an officer may enter and examine a room or place used as a private dwelling that is a work site only if

- (a) the owner or person in possession of it consents to the entry and examination, or
- (b) the entry and examination is authorized by a judge under subsection (3).

(3) Where a judge of the Provincial Court is satisfied on an officer's evidence under oath that there are reasonable grounds for an officer to exercise a power under this section and that

- (a) in the case of a room or place actually used as a private dwelling, the officer cannot obtain consent under subsection (2)(a), or
- (b) having obtained consent under subsection (2)(a), the officer has been obstructed or interfered with,

the judge may make any order the judge considers necessary to enable the officer to exercise the powers under this section.

(4) When an officer

- (a) removes any records, books, plans or other documents under subsection (1)(b), the officer shall
 - (i) give to the person from whom those items were taken a receipt for them, and
 - (ii) forthwith make copies of, take photographs of or otherwise record those items and forthwith return them to the person to whom the receipt was given,

or

- (b) seizes or takes samples of any material, product, equipment or other thing under subsection (1)(e), the officer shall
 - (i) give to the person from whom those items were seized or taken a receipt for them, and
 - (ii) on that person's request, return those items to that person when they have served the purposes for which they were seized or taken.

(5) If a person refuses to allow an officer to exercise any powers under subsection (1) or interferes or attempts to interfere with the officer in the exercise of those powers, a Director of Inspection may apply to the Court of Queen's Bench for an order restraining that person from hindering or interfering in any manner with the officer in the exercise of those powers.

(6) A statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
- (b) to prove the commission of an offence under section 74(3) in an action or proceeding under this Act,
- (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
- (d) as evidence in

- (i) a review under section 70(1),
- (ii) an appeal to the appeal body through a referral of a matter under section 70(5)(c) to the appeal body, or
- (iii) an appeal under section 71(2)(a), (c), (d) or (e).

Identification

52(1) Every person at a work site shall, on request by an officer, provide proof of identity satisfactory to the officer, including the name of the person's employer and the person's role at the work site.

(2) Every employer involved in work at a work site shall, on request by an officer, identify to the officer the workers and supervisors employed by that employer at the work site.

Investigation of injury or incident

53(1) If an injury or incident occurs at a work site, an officer may, subject to section 51(2),

- (a) initiate an investigation of the injury or incident,
- (b) attend at the scene of the injury or incident and make any inquiries that the officer considers necessary to determine the cause of the injury or incident and the circumstances related to the injury or incident,
- (c) enter any place or area at a work site that the injury or incident occurred where the officer believes information relating to the injury or incident exists,
- (d) require the production of any records, books, plans or other documents, including electronic documents, and examine them, make copies of them or seize them, and
- (e) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents.

(2) Every person present when an injury or incident occurred or who has information relating to the injury or incident shall, on the request of an officer, provide to the officer any information respecting the injury or incident that the officer requests.

(3) An officer may, for the purposes of determining the cause of the injury or incident, seize or take samples of any substance, material, product, equipment or other thing that was present at, involved in or related to the injury or incident.

(4) If an officer seizes or takes samples of any substance, material, product or equipment under subsection (3), the officer shall

- (a) give to the person from whom those items were seized or taken a receipt for those items,
- (b) on that person's request, return those items to that person when those items have served the purposes for which they were seized or taken, and
- (c) dispose of or destroy the seized items if the person from whom the items were seized cannot be located or declines to take receipt of the items.

(5) Notwithstanding subsections (1)(b) and (c), an officer may enter and examine a room or place used as a private dwelling only if

- (a) the owner or person in possession of it consents to the entry and examination, or
- (b) the entry and examination is authorized by a judge under subsection (6).

(6) Where a judge of the Provincial Court is satisfied on an officer's evidence under oath that there are reasonable grounds for an officer to exercise a power under this section and that

- (a) in the case of a room or place actually used as a private dwelling, the officer cannot obtain consent under subsection (5)(a), or
- (b) having obtained consent under subsection (5)(a), the officer has been obstructed or interfered with,

the judge may make any order the judge considers necessary to enable the officer to exercise the powers under this section.

(7) A statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
- (b) to prove the commission of an offence under section 74(3) in an action or proceeding under this Act,
- (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
- (d) as evidence in
 - (i) a review under section 70(1),
 - (ii) an appeal to the appeal body through a referral of a matter under section 70(5)(c) to the appeal body, or
 - (iii) an appeal under section 71(2)(a), (c), (d) or (e).

(8) A police officer may assist an officer in carrying out the officer's duties under this section if the officer so requests.

Prohibition from interference

54 No person shall interfere with or in any manner hinder an occupational health and safety officer or a police officer who is exercising powers or performing duties or functions under this Act.

Acceptances

55(1) A Director may, in accordance with the regulations or the OHS code, issue in writing an acceptance to a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties if, in the Director's opinion, an alternative piece of equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment at a work site provides equal or greater protection than that provided for by the regulations or the OHS code to persons affected by the equipment, work process, standard, substance, requirement, service, first aid service or first aid supplies or equipment.

(2) A Director may impose any terms, conditions or requirements on the acceptance the Director considers necessary to maintain the health and safety of a worker and those terms, conditions and requirements are part of the acceptance.

(3) The period during which an acceptance will be in effect must not exceed 5 years from the date of issuance.

(4) An acceptance is in effect only during the period prescribed in it and, notwithstanding anything in this Act, the regulations or the OHS code, during that period, the terms, conditions or requirements set out in it apply with respect to the equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment at the work site to which the acceptance applies.

(5) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who is issued an acceptance shall ensure that the acceptance, including any terms, conditions or requirements on the acceptance, or the original legislative requirement is complied with.

(6) The *Regulations Act* does not apply to an acceptance issued by a Director.

(7) An application for an acceptance must

- (a) be in writing,
- (b) include a statement of why the acceptance is requested, and
- (c) provide the specific details about the alternative equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment that a Director needs to determine whether the alternative gives workers equal or greater protection than the original legislative requirement.

(8) The applicant shall

- (a) post a copy of the application at the work site and keep it posted there until the decision on the requested acceptance is received by the applicant, and
- (b) provide a copy to the joint work site health and safety committee or health and safety representative, if one exists.

(9) Subsection (8) does not apply if the acceptance relates to the demolition of a structure or equipment.

(10) After receiving an application for an acceptance, the Director may give notice of the application and shall conduct consultation or direct the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties to conduct consultation with the joint work site health and safety committee or health and safety representative, and with individual workers, if applicable, or other persons respecting that application as the Director considers advisable.

(11) The Director shall give written reasons for a decision on an application for an acceptance.

(12) The Director shall give notice of the Director's decision, including the written reasons and any acceptance issued, to the applicant and to any persons who were consulted under subsection (10).

(13) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who receives an acceptance shall ensure that a copy or a record of an acceptance that applies at a work site is

- (a) posted in a conspicuous place at the work site,
- (b) if applicable, secured to or kept with the equipment to which the acceptance applies, or
- (c) otherwise communicated to the workers who may be affected by the acceptance.

(14) If the variation of an acceptance does not substantively change the acceptance based on what was consulted on under subsection (10), a Director may vary an acceptance on receipt of a written request from the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties.

(15) A Director may suspend, amend or revoke an acceptance for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

Approvals

56(1) Where this Act, the regulations or the OHS code authorize a Director to issue an approval, a Director may, in accordance with this Act, the regulations or the OHS code issue an approval to a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties provided the prime contractor, contractor, employer, supplier, service provider, owner or a group of one or more of these parties meets any terms or conditions that the Director considers necessary.

(2) After receiving an application for an approval, the Director shall, as appropriate, consult or direct the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties to conduct consultation with the joint work site health and safety committee or health and safety representative, and with individual workers, if applicable, or other persons respecting that application, as the Director considers advisable.

(3) An application for an approval must

- (a) be in writing,
- (b) include a statement of why the approval is requested, and
- (c) provide the specific details about the circumstances and work site a Director needs to determine whether the approval should be granted.

(4) A Director may impose any terms, conditions and requirements on the approval the Director considers necessary to maintain the health and safety of a worker and those terms, conditions and requirements are part of the approval.

(5) The period during which an approval will be in effect must not exceed 5 years from the date of issuance.

(6) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who is issued an approval shall ensure that the approval, including any terms, conditions or requirements on the approval, or the original legislative requirement is complied with.

(7) If the variation of an approval does not substantively change the approval based on what was consulted on under subsection (2), a Director may vary an approval on receipt of a written request from the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties.

(8) A Director may suspend, amend or revoke the Director's approval for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

Interjurisdictional recognition

57(1) Notwithstanding the standards required to be followed and equipment required at a work site as specified by this Act, the regulations or the OHS code and on the application of a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties, a Director may approve an alternate standard or equipment that complies with the requirements in another Canadian jurisdiction if, in the Director's opinion, the standard or equipment is equal to or better than the standards required to be followed and equipment required at a work site as specified by this Act, the regulations and the OHS code.

(2) The approval may be subject to such terms, conditions and requirements as the Director considers appropriate.

(3) The period during which an approval will be in effect must not exceed 5 years from the date of issuance.

(4) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who received an approval shall comply with the terms, conditions and requirements on the approval.

(5) A Director may suspend, amend or revoke an approval for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

Licence

58(1) A licence may be issued in accordance with the regulations or the OHS code.

(2) A Director may, in accordance with the regulations or the OHS code, cancel or suspend a licence.

Order to ensure compliance

59(1) When an officer is of the opinion through an inspection under section 51 or an investigation under section 53 that a person is not complying with this Act, the regulations or the OHS code, the officer shall take steps to ensure compliance, including, where appropriate, writing an order to the person to take such measures specified in the order, within the time limits specified in the order, as the officer considers necessary to ensure such compliance.

(2) An order must

- (a) cite the contravened provision of this Act, the regulations or the OHS code,
- (b) state the reasons for the officer's opinion,
- (c) require the person to take the measures within a period specified by the officer in the order, and
- (d) state any other terms and conditions the officer determines are appropriate.

(3) The period of compliance in an order

- (a) may end at any time before the end of the specified period if the officer determines that compliance has been achieved in relation to the measures ordered, or
- (b) may be extended by the officer, unless a Director has made an order under section 70(7) or the chair or a vice-chair of the appeal body has so directed under section 71(6).

(4) An order remains in effect until

- (a) an officer determines that the measures required under the order have been complied with or performed,
- (b) an officer determines that the measures are no longer applicable,
- (c) it is revoked or varied by a Director under section 70(5), or

- (d) it is revoked or varied by the appeal body under section 71(4)(a).

Stop work orders

60(1) When an officer is of the opinion, through an inspection under section 51 or an investigation under section 53, that a danger to the health and safety of a worker exists in respect of that worker's employment, the officer shall do one or more of the following:

- (a) order the work or any part of it that is taking place to be stopped forthwith;
- (b) order any worker or other person present to leave the work site forthwith;
- (c) in writing, order the prime contractor, contractor, supervisor, employer, supplier, service provider or self-employed person to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

(2) When an officer is of the opinion that activities that involve, or are likely to involve, a danger to the health and safety of workers are being carried on, or are about to be carried on, by workers of the same employer or by a self-employed person at more than one work site, the officer may order one or more of the following:

- (a) the cessation of those activities;
- (b) that all or part of any of the employer's or self-employed person's work sites be vacated;
- (c) that no resumption of those activities be permitted by the employer or self-employed person at any of the employer's or self-employed person's work sites while the order is in effect;
- (d) that the employer or self-employed person take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

(3) While a stop work order issued under subsection (1)(a) or (2) is in effect,

(a) any worker who is directly affected by the order is entitled to the same wages and benefits that the worker would have received had the stop work order not been issued, and

(b) the employer may reassign the worker to alternate work.

(4) When requested to do so by an officer, a police officer shall assist the officer in carrying out the officer's duties under this section.

Stop use orders

61(1) When an officer is of the opinion, through an inspection under section 51 or an investigation under section 53, that equipment being used or that may be used at a work site

(a) is not in safe operating condition, or

(b) does not comply with the regulations or the OHS code,

the officer shall in writing order the prime contractor, contractor, owner, employer, supervisor, self-employed person or worker to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

(2) No person shall sell, rent, lease or otherwise transfer equipment that is subject to an order under subsection (1).

(3) When an officer is of the opinion that a supplier is supplying equipment that

(a) is not in safe operating condition, or

(b) does not comply with the regulations or the OHS code,

the officer may in writing order the supplier to stop supplying that equipment for use by any worker.

(4) When an officer is of the opinion that a supplier is supplying any substance or material that does not comply with the OHS code, the officer may in writing order the supplier to stop supplying that substance or material or take measures specified by the officer that

the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

(5) While a stop use order issued under subsection (1) that is in effect results in a worker not being able to work

- (a) the worker who is directly affected by the order is entitled to the same wages and benefits that the worker would have received had the order not been issued, and
- (b) the employer may reassign the worker to alternate work.

Code of practice

62(1) A prime contractor, a contractor, an employer or a self-employed person involved in work at a work site may be required

- (a) by a written order of a Director, or
- (b) by the regulations or the OHS code

to establish a code of practice and to supply copies of it to a Director.

(2) A code of practice must include practical guidance on the requirements of the regulations or the OHS code applicable to the work site, safe working procedures in respect of the work site and other matters as required by a Director, the regulations or the OHS code.

(3) A prime contractor, a contractor, an employer or a self-employed person who establishes a code of practice pursuant to subsection (1) shall ensure that

- (a) a copy of the code of practice is readily available to the workers and other persons at the work site, and
- (b) all workers to whom the code of practice applies receive appropriate training with respect to the code so that they are able to comply with its requirements.

(4) A Director may from time to time require that the code of practice be revised.

Order to establish a health and safety program

63 If ordered to do so by a Director, an employer shall establish a health and safety program and include such terms and conditions imposed as the Director considers appropriate.

Regular inspection of work sites

64 A Director may, by written order,

- (a) require a prime contractor, a contractor, an owner, an employer, a supervisor or a self-employed person involved in work at a work site to regularly inspect the work site for occupational hazards, and
- (b) prescribe the manner, methods and procedures or any of them to be used for carrying out those inspections.

Protection of workers on a new project

65(1) A person who intends to begin a new project may be required to file a notice in accordance with the regulations or the OHS code.

(2) When a person has begun or is about to begin a project and a Director is of the opinion that the health and safety of any worker who is or will be present at the project is not being or will not be protected, a Director may in writing order that person to stop that project or to refrain from beginning that project, as the case may be.

(3) An order made under subsection (2) shall remain in effect until the Director is satisfied that the person to whom the order was made has taken the measures that, in the opinion of a Director, will protect the health and safety of the workers concerned.

(4) A Director may require any person who has begun or is about to begin a project to furnish to a Director, within the time specified by the Director, the plans, drawings and specifications that are reasonably necessary for determining whether the health and safety of the workers concerned is being or will be protected.

Report on compliance

66(1) The person against whom an order is issued under section 59, 60 or 61 shall

- (a) within 7 days after the expiry of the date specified within which compliance is ordered to be achieved, or any extension thereof, prepare a written report on the measures taken to remedy the contravention,
- (b) send or provide a copy of the report referred to in clause (a) to the officer who made the order,
- (c) provide a copy of the report referred to in clause (a) to the joint work site health and safety committee or to the health and safety representative, if one exists, and
- (d) post in a conspicuous place at or near the work site a copy of the report referred to in clause (a) if there is no joint work site health and safety committee or health and safety representative for the work site.

(2) A person preparing a report made under subsection (1) shall ensure that no personal information related to a worker is contained in the report.

Enforcement of compliance with order

67 When

- (a) an order has been made under this Act, the regulations or the OHS code by a Director or an officer, and
- (b) the person to whom that order has been made is carrying on the work without complying with that order,

a Director of Inspection may, notwithstanding that the person to whom the order was made may or may not have been prosecuted under this Act for not complying with that order, apply to the Court of Queen's Bench for an order of the Court requiring that person to comply with the order made by a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene or an officer, as the case may be.

Administrative penalties

68(1) If an officer is of the opinion that a person

- (a) has contravened a provision of this Act, the regulations or the OHS code,

- (b) has failed to comply with an order made under this Act, the regulations or the OHS code,
- (c) has failed to comply with a term, condition or requirement of an acceptance issued under this Act, the regulations or the OHS code,
- (d) has failed to comply with a term, condition or requirement of an approval issued under this Act, the regulations or the OHS code, or
- (e) makes a false statement or gives false or misleading information to an officer,

the officer may, by notice in writing given to the person, require the person to pay to the Crown an administrative penalty in the amount set out in the notice.

(2) The amount of the administrative penalty must not exceed

- (a) \$10 000 per incident listed in subsection (1)(a) to (e),
- (b) for a contravention or a failure to comply with subsection (1)(a) to (d) that continues for more than one day, \$10 000 for each day or part of a day on which the contravention or failure to comply occurs or continues.

(3) A person who pays an administrative penalty in respect of a contravention or a failure to comply shall not be charged under this Act with an offence in respect of the same contravention or failure to comply that is described in the notice of administrative penalty.

(4) A notice of administrative penalty may be given within 2 years after the alleged contravention or non-compliance occurs, but not afterwards.

(5) Subject to the right to appeal, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and this Act, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court of Queen's Bench.

Awarding of costs

69 On an application under section 51(5), 67, 71(9) or 89(6)(a)(v), (b)(v) or (c)(v), the Court of Queen's Bench may make any award as to costs that it considers proper.

Part 9 Review and Appeals

Director review

70(1) A person to whom an order is issued under section 59, 60 or 61 or who has received a decision in a report under section 32(3)(c)(i) or (ii) or a written decision under section 32(4)(a) may request a review of the order or the decision by a Director of Inspection.

(2) The person requesting a review under subsection (1) shall send a written notice to a Director of Inspection within 30 days of receiving the order or the report that states the reason for the request for review and lists the persons directly affected by the order or decision.

(3) The Director of Inspection shall give the affected persons listed in the notice and any other person the Director of Inspection considers has an interest in the matter an opportunity to provide submissions about the matter.

(4) The Director of Inspection is not required to hold a hearing before making a decision.

(5) The Director of Inspection may decide to

- (a) confirm, vary or revoke the order or the decision,
- (b) make any other order the Director of Inspection considers reasonable, or
- (c) refer the matter to the appeal body.

(6) The Director of Inspection shall give written reasons within a reasonable time after receiving the notice in subsection (2).

(7) When a review is commenced under subsection (1), the commencement of that review does not operate as a stay of the order or decision being reviewed except as the Director of Inspection so directs.

(8) On referring a matter to the appeal body under subsection (5)(c), the Director of Inspection shall

- (a) inform the affected persons listed in the notice and any other person the Director of Inspection considers has an interest in the matter that the matter has been referred to the appeal body, and
- (b) give the appeal body
 - (i) the notice under subsection (2),
 - (ii) any written information the Director of Inspection has that is relevant,
 - (iii) any written reasons provided under subsection (6), and
 - (iv) a list of persons who the Director of Inspection considers have an interest in the matter.

(9) Referrals of matters to the appeal body under subsection (5)(c) and the conduct of appeals respecting those matters must be dealt with in accordance with the regulations.

Appeal

71(1) The Labour Relations Board under the *Labour Relations Code* is the appeal body for the purpose of this Act.

(2) A person

- (a) to whom an order is issued under section 36, 62, 63, 64 or 65,
- (b) who is given a notice of administrative penalty,
- (c) whose licence is cancelled or suspended,
- (d) who has received a report under section 36(2), or
- (e) who has received written reasons under section 70(6), other than written reasons for a referral of a matter to the appeal body under section 70(5)(c)

may appeal the order, administrative penalty, cancellation or suspension, the decision in the report referred to in clause (d) or the

decision to which the written reasons in clause (e) relate to the appeal body.

(3) Unless the matter is referred to the appeal body by the Director of Inspection under section 70(5)(c), an appeal under subsection (2) must be commenced by serving a notice of the appeal on the appeal body within 30 days of being served or given notice of the order, administrative penalty, cancellation or suspension, report or written reasons.

(4) After considering the matter being appealed, the appeal body may by order

- (a) in the case of an appeal from an order referred to in subsection (2)(a), confirm, revoke or vary the order,
- (b) in the case of an appeal from an administrative penalty, confirm, revoke or vary the administrative penalty,
- (c) in the case of an appeal from the cancellation or suspension of a licence,
 - (i) confirm the cancellation or suspension,
 - (ii) reinstate the cancelled licence,
 - (iii) substitute a suspension for the cancellation,
 - (iv) remove or vary the suspension, or
 - (v) add conditions to the licence,
- (d) in the case of an appeal of a decision in a report under section 36(2), confirm, revoke or vary the officer's decision,
- (e) in the case of a person who has received written reasons under section 70(6), confirm, revoke or vary the decision to which the reasons relate, or
- (f) reject the matter summarily where the appeal body is of the opinion that the matter is without merit, or is frivolous, trivial, vexatious, filed with improper motives or otherwise an abuse of process.

(5) When an appeal is commenced under subsection (2), the appeal body shall hear the appeal and make an order as soon as practicable.

(6) When an appeal is commenced under subsection (2)(a), (c), (d) or (e), the commencement of that appeal does not operate as a stay of the order, cancellation or suspension, or decision being appealed from except insofar as the chair or a vice-chair of the appeal body so directs.

(7) When an appeal from an administrative penalty is commenced under subsection (2)(b), the commencement of that appeal operates to stay the administrative penalty until the appeal body renders its decision on the appeal or the appeal is withdrawn.

(8) If any order made by the appeal body is not complied with, the appeal body may file a copy of the order with the clerk of the Court of Queen's Bench and, on being filed, the order is enforceable as a judgment or order of the Court.

(9) If any person conducts himself or herself in a manner that may be in contempt of the appeal body or its proceedings, the appeal body may apply to the Court of Queen's Bench for an order directing compliance with the appeal body's order or restraining any conduct found by the Court to be in contempt of the appeal body or its proceedings.

(10) The appeal body shall publish information about proceedings and orders of the appeal body issued under this Act.

Hearing of appeal

72(1) The Lieutenant Governor in Council may, in accordance with section 8(5) of the *Labour Relations Code*, establish a Division for the purpose of hearing appeals under this Act.

(2) The chair of the appeal body may establish from the members of the Division, or where there is no Division, from the members of the appeal body, a panel of 3 or more members to hear an appeal under this Act and that panel may exercise the powers, duties and functions of the appeal body.

(3) A quorum of the panel is the chair or a vice-chair presiding over the appeal and 2 other members.

(4) Notwithstanding subsections (2) and (3), the chair may authorize the chair or a vice-chair to sit alone to hear an appeal under this Act and the chair or vice-chair may exercise the powers, duties and functions of the appeal body.

(5) A panel of the appeal body or the chair or vice-chair where the chair or vice-chair is sitting alone under subsection (4) is deemed to be the appeal body for the purposes of this Act.

(6) Where a panel of the appeal body is hearing an appeal and one or more members of the panel do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum under this section, exercise the powers and functions of the appeal body with respect to that hearing.

(7) Notwithstanding subsection (3), in the event of the death or incapacity of the person who is presiding over an appeal in which the evidence and argument have been heard,

- (a) the remaining members may decide the matter, if at least one of the remaining members is the chair or the vice-chair and there are at least 2 other members hearing the appeal, or
- (b) if clause (a) does not apply, the remaining members, if unanimous in their decision, may decide the matter.

(8) An order of a majority of the members of a panel of the appeal body present and constituting a quorum is the order of the appeal body and in the event that there is a tie vote, the chair or the presiding member, as the case may be, may cast a 2nd vote.

(9) The appeal body may establish rules of procedure respecting the hearing of appeals under this Act.

(10) For the purpose of hearing appeals under this Act, the appeal body has the same power as is vested in the Court of Queen's Bench for the trial of civil actions

- (a) to summon and enforce the attendance of witnesses,
- (b) to compel witnesses to give evidence under oath or otherwise,
- (c) to compel witnesses to give evidence in person or otherwise, and

- (d) to compel witnesses to produce any record, object or thing that relates to the matter being heard.

(11) The appeal body has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or order of the appeal body on them is final and conclusive for all purposes, but the appeal body may, at any time, reconsider any order made by it and vary, revoke or affirm the order.

(12) Subject to subsection (13), no order of the appeal body shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the appeal body or any of its proceedings.

(13) An order of the appeal body may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the appeal body no later than 30 days after the date of the order.

Part 10

Offences and Penalties

Offences

73 Every person who

- (a) fails to comply with an order or decision pursuant to this Act, the regulations or the OHS code,
- (b) intentionally obstructs a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (c) fails to reasonably cooperate with a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (d) makes or causes to be made a false entry in any register, book, notice or other document required to be kept by the person pursuant to this Act, the regulations or the OHS code, or deletes or destroys any true or proper entry in any of those documents,

- (e) fails to report an injury or incident under section 40, or
- (f) fails to comply with any provision in this Act, the regulations or the OHS code

is guilty of an offence.

Penalties

74(1) A person who is guilty of an offence under section 73 is liable

- (a) for a first offence,
 - (i) to a fine of not more than \$500 000 and, in the case of a continuing offence, to a further fine of not more than \$30 000 for each day during which the offence continues after the first day or part of a day, or
 - (ii) to imprisonment for a term not exceeding 6 months, or to both fines and imprisonment,
- and
- (b) for a 2nd or subsequent offence,
 - (i) to a fine of not more than \$1 000 000 and, in the case of a continuing offence, to a further fine of not more than \$60 000 for each day or part of a day during which the offence continues after the first day, or
 - (ii) to imprisonment for a term not exceeding 12 months, or to both fines and imprisonment.

(2) Notwithstanding subsection (1), a person who fails to comply with an order made under section 60 or as varied under section 71 is guilty of an offence and liable to a fine of not more than \$1 000 000 or imprisonment for a term not exceeding 12 months or to both a fine and imprisonment.

(3) A person who knowingly makes any false statement or knowingly gives false information to an officer or a police officer engaged in an inspection under section 51 or an investigation under section 53 is guilty of an offence and liable to a fine of not more

than \$1000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

(4) A prosecution under this Act may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

Additional powers of court to make directions

75(1) Where a person is convicted of an offence against this Act, the regulations or the OHS code, in addition or as an alternative to taking any other action provided for in this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the person

- (a) to pay, in the manner and the amount prescribed by the court, a sum of money to a party named by the court to be the recipient of such funds, for any of the following purposes:
 - (i) training or educational programs regarding the health and safety of workers;
 - (ii) research programs into the diagnostic, preventative or remedial aspects of worker health and safety;
 - (iii) any worker health and safety initiative by a non-profit organization;
 - (iv) the establishment and maintenance of scholarships for educational institutions offering studies in occupational health and safety and related disciplines;
 - (v) any other purpose that furthers the goal of achieving healthy and safe work sites,

or

- (b) to take any other action the court considers proper.

(2) The order referred to in subsection (1) may contain any substance or conditions that the court considers appropriate.

(3) The order referred to in subsection (1) may impose terms and conditions on the recipient of any funds paid in accordance with an order made under subsection (1)(a).

Effect of non-payment

76(1) If a person is ordered under section 75 to pay money to any other person and fails to pay

- (a) the entire amount before the expiry of the time period within which the order requires the entire amount to be paid, or
- (b) an instalment toward the entire amount before the expiry of the time period within which the order requires the instalment to be paid,

then, on the expiry of that time period, the entire amount, or that portion that then remains unpaid, is deemed to be a fine imposed on the person and is enforceable by the Crown in right of Alberta in the same manner as any other fine may be enforced under the *Provincial Offences Procedure Act*.

(2) Subsection (1) does not apply where the order requiring the payment of money was made before the coming into force of this section.

Part 11 Information Collection and Exchange

Agreements re research and educational programs

77 The Minister may enter into an agreement with any person, government, agency or organization for the purpose of

- (a) carrying out research respecting the health and safety of workers,
- (b) establishing and operating training programs respecting the health and safety of workers,
- (c) establishing and operating programs to train persons in first aid and emergency medical services, and

- (d) establishing and operating educational programs respecting the health and safety of workers.

Consultants

78(1) The Minister may engage the services of experts or persons having special technical or other knowledge to

- (a) advise the Minister,
- (b) inquire into and report to the Minister on matters respecting the health and safety of workers, or
- (c) provide services in respect of a work site inspection or investigation.

(2) A person whose services are engaged under subsection (1) shall

- (a) be paid any remuneration that the Minister prescribes, and
- (b) be paid the person's reasonable travelling and living expenses while absent from the person's ordinary place of residence and in the course of providing the person's services to the Minister.

Exchange of information

79 The Minister may enter into agreements with The Workers' Compensation Board, a government ministry, agency, board or commission or an organization governing the exchange between the Minister and the other party of

- (a) any information or reports respecting any or all of the following:
 - (i) any injuries or incidents that occur at work sites;
 - (ii) any occupational illnesses or diseases;
 - (iii) any measures taken by prime contractors, contractors or employers to protect the health and safety of workers;
 - (iv) any matter concerning the operations of prime contractors, contractors or employers,

- (b) any statistical information respecting any or all of the following:
 - (i) injuries or incidents occurring at work sites;
 - (ii) occupational diseases;
 - (iii) assessments made by the Board under the *Workers' Compensation Act* and the cost of claims made under that Act,
- and
- (c) any information specified by the regulations.

Publication of information about employers

80 The Minister shall, subject to the regulations, publish at regular intervals documents and information arising from the administration of this Act, the regulations and the OHS code, including

- (a) any available data on disabling injury claims, disabling injury rates, person years of work, lost time claims, lost time claims rates, motor vehicle fatalities, work site incident fatalities and occupational disease fatalities of employers and self-employed persons,
- (b) any orders issued to prime contractors, contractors, suppliers, service providers, employers and self-employed persons,
- (c) administrative penalties issued to any person,
- (d) tickets issued to employers, but not those issued to workers,
- (e) subject to the *Freedom of Information and Protection of Privacy Act*, investigation reports completed by an officer,
- (f) acceptances issued to any person, and
- (g) approvals issued to any person.

Board of inquiry

81(1) The Minister may, when the Minister considers it in the public interest to do so, by order appoint a board of inquiry of one or more persons to inquire into

- (a) any matter concerning the health and safety of workers employed
 - (i) at a particular work site or at several work sites,
 - (ii) by a particular employer or by a group of employers, or
 - (iii) in an industry,
- or
- (b) the circumstances surrounding and the causes of an injury or incident.

(2) A person appointed to a board of inquiry under this section has all the powers of a commissioner appointed under the *Public Inquiries Act*.

Funded organizations

82(1) Organizations funded by grants issued under section 136 of the *Workers' Compensation Act* shall, in accordance with the regulations, submit to the Minister a report in the form and containing the information required by the Minister.

(2) The Minister shall review the report submitted under subsection (1) and make recommendations to The Workers' Compensation Board respecting the effectiveness of the grant in fulfilling its purpose under section 136(3) of the *Workers' Compensation Act*.

(3) The Minister may establish criteria for the purposes of the evaluation of applications for grants issued under section 136(2) of the *Workers' Compensation Act*.

Designated organizations

83 The Minister may, subject to the regulations, designate an organization to further occupational health and safety.

Furthering occupational health and safety

84 The Minister may, subject to the regulations, establish and carry out programs to further occupational health and safety.

**Part 12
Regulations and
Administration**

Lieutenant Governor in Council regulations

85(1) The Lieutenant Governor in Council may make regulations

- (a) establishing general health and safety rules for or in connection with occupations and work sites, including
 - (i) reporting, medical and health requirements, and
 - (ii) the making available of notices issued by a Director and of orders made under, and other information and documents required by this Act, the regulations or the OHS code;
- (b) providing for any matter or thing which by this Act may or is to be provided for by the regulations;
- (c) respecting the establishment, composition and operation of a board dealing with first aid training;
- (d) respecting licences and licensing, including qualifications to obtain and hold licences and the maintenance of a registry of licensees;
- (e) specifying which work sites are mines or quarries for the purposes of this Act;
- (f) respecting fees
 - (i) to be paid by the Government to physicians for services performed, and
 - (ii) for licences and for services and materials provided under this Act, the regulations and the OHS code;
- (g) respecting criteria for approvals under section 16(4);
- (h) respecting the collection, use and disclosure of information, including individually identifying health

information or personal information, for the purposes of section 48;

- (i) respecting the establishment of an occupational health and safety surveillance program under section 49, including, without limitation, regulations
 - (i) respecting the collection, use and disclosure of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* and the disclosure by a custodian of health information as defined in the *Health Information Act*, without the consent of the individual who is the subject of the information;
 - (ii) respecting requirements for information-handling procedures and controls;
 - (iii) respecting security arrangements against risks such as unauthorized access, collection, use and destruction of the information;
 - (iv) specifying other purposes for occupational health and safety surveillance;
- (j) respecting acceptances referred to in section 55;
- (k) respecting approvals referred to in section 56;
- (l) establishing and otherwise respecting a system of fixed fines or penalties for contraventions of this Act, the regulations and the OHS code, including mechanisms for administering and enforcing that system and the disposition of the fines or penalties collected under the system;
- (m) respecting the protection of workers on new projects for the purposes of section 65(1);
- (n) respecting matters referred under section 70(5)(c) to the appeal body including the conduct of appeals by the appeal body respecting those matters;
- (o) respecting criteria for the purposes of section 82(3);

- (p) authorizing the making of orders relating to any matters falling within the scope of clauses (a), (d), (j) or (k);
- (q) respecting administrative penalties, including regulations
 - (i) respecting notices of administrative penalty, their form and contents and the manner in which they are required to be given;
 - (ii) respecting the amounts of the administrative penalties that may, subject to section 68(2), be imposed under section 68(1) and respecting factors to be taken into account in setting the amount of an administrative penalty;
 - (iii) respecting appeals from administrative penalties, including regulations authorizing the charging of fees in respect of appeals from administrative penalties and regulations respecting the fees, the amounts of the fees and their disposition;
 - (iv) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of the system of administrative penalties;
- (r) respecting elements to be included in a health and safety program under section 37;
- (s) respecting reports by organizations under section 82;
- (t) respecting the designation of organizations under section 83;
- (u) respecting programs under section 84;
- (v) respecting injuries or incidents or a class of injuries or incidents for the purposes of section 40(2)(f) or (4)(k);
- (w) respecting service of documents under section 89(6)(a)(i), (ii), (iii) and (iv), (b)(i), (ii), (iii) and (iv) and (c)(i), (ii), (iii), (iv) and (vi), including regulations respecting the electronic methods by which service may be effected, regulations respecting service by recorded mail and regulations respecting when service by recorded mail or an electronic method is deemed to be effective;

- (x) enabling any particular subject-matter covered by clause (a) to be dealt with by the OHS code;
- (y) authorizing a research and education program related to prevention of work site injuries and illnesses, including but not limited to
 - (i) authorizing the collection of information from The Workers' Compensation Board,
 - (ii) the use of information collected under subclause (i) in research and educational programming related to prevention of work site injuries and illnesses, and
 - (iii) authorizing the collection and use of information, if the information is related to research and educational programming related to prevention of work site injuries and illnesses;
- (z) respecting information for the purposes of section 79;
- (aa) respecting the publication of documents and information for the purposes of section 80;
- (bb) defining terms used but not defined in this Act;
- (cc) respecting any matter concerning the transition from the previous Act to this Act;
- (dd) respecting any matter the Lieutenant Governor in Council considers necessary and advisable for carrying out the intent and purposes of this Act.

(2) If regulations are made under subsection (1)(1), those regulations operate notwithstanding anything in the *Financial Administration Act*.

Ministerial orders and codes

86(1) The Minister may make an OHS code

- (a) respecting specific health and safety matters for or in connection with occupations and work sites, including
 - (i) reporting requirements and the maintenance and preservation of documents reported,

- (ii) medical and health requirements,
 - (iii) joint work site health and safety committees and health and safety representatives,
 - (iv) the making available of codes of practice and other information and documents required by the OHS code, and
 - (v) the instruction, supervision and qualifications of specified persons,
- (b) providing for the prevalence of specified provisions of the OHS code over other specified provisions of the OHS code, and
 - (c) providing for any matter or thing which by this Act or the regulations may or is to be provided for by the OHS code.

(2) The OHS code may itself adopt or incorporate another specific code (in this section referred to as a “secondary code”) or part of a secondary code, as that secondary code or part exists as at a particular time, dealing with health and safety matters under subsection (1).

(3) Except to the extent that the OHS code provides otherwise, where there is any conflict between any provisions in the OHS code and any provisions in a secondary code, the former prevail against the latter.

(4) The Minister shall ensure that the OHS code is adequately published in such form as the Minister considers will make it reasonably available, which may include publication on the Minister’s website, at no expense or at reasonable expense, to all those likely to be affected by it.

(5) An OHS code that is not published in accordance with subsection (4) is not valid against a person who has not had actual notice of the OHS code.

(6) Section 3 of the *Regulations Act* does not apply to an OHS code made under this section.

Provisions affecting the regulations and OHS codes

87(1) Any provision of the regulations or the OHS code may be made to apply generally or to a particular occupation, a work site, a prime contractor, an owner, an employer, a contractor, a service provider, a supplier, a supervisor, a worker, a self-employed person or any class of any such category.

(2) Except to the extent that the regulations provide otherwise, where there is any conflict between any provisions in the regulations and any provisions in the OHS code, the former prevail against the latter.

Notice to a Director

88 If a regulation or the OHS code requires a person to give notice to a Director, the person shall use the quickest practical means of communication available.

Service of documents

89(1) In this section,

- (a) “addressee” means the person referred to in subsection (2);
- (b) “document” means the notice or order referred to in subsection (2);
- (c) “receipt” means the standard instrument or electronic signature pad device that is in normal use in the service deliverer’s business, a signature on which indicates a person’s acceptance of recorded mail handled by that service deliverer;
- (d) “recorded mail” means any form of delivery of notices or other documents by mail or courier in which receipt of the notice or other document must be acknowledged in writing by the addressee or another individual present at the addressee’s address;
- (e) “service deliverer” means the entity that provides the mail or courier service referred to in clause (c).

(2) For the purposes of subsection (1), the written acknowledgment of the document must include the signature on the

applicable receipt of the addressee or another individual present at the addressee's address.

(3) The electronic method referred to in this section consists of transmission by facsimile machine to the addressee's facsimile number or by e-mail to the addressee's e-mail address.

(4) For the purposes of this section, service of a document is presumed to be effected,

- (a) if the document is sent by recorded mail, on the date the receipt is signed in accordance with this section, unless the contrary is proved, or
- (b) if the document is transmitted by facsimile machine or e-mail, when it is transmitted, unless it is proved that the facsimile or e-mail containing the document was not received at the addressee's facsimile number or e-mail address, as the case may be.

(5) This section does not apply to documents served in court proceedings.

(6) A notice or other document that is required to be served under this Act may, in addition to any other method provided by law, be served

- (a) in the case of an individual,
 - (i) personally or by being left for the individual
 - (A) at an address provided by the individual to an officer with an individual present at that address,
 - (B) at the individual's residence or last known residence with an individual present at that address, or
 - (C) at the individual's workplace or last known workplace with an individual who represents himself or herself as being in charge of that workplace,
 - (ii) by ordinary mail or recorded mail sent to the individual

- (A) at an address provided by the individual to an officer,
 - (B) at the individual's residence or last known residence, or
 - (C) at the individual's workplace or last known workplace,
- (iii) by facsimile or e-mail sent to the individual at a facsimile number or e-mail address provided by the individual to an officer for the purposes of service on that individual,
- (iv) by being sent to a lawyer or agent who is representing the individual on the matter to which the document being served relates, or
- (v) as directed by the Court of Queen's Bench on application,
- (b) in the case of a corporation,
 - (i) by being left
 - (A) with a director or officer of the corporation,
 - (B) with an individual who represents himself or herself as being in charge of a place where the corporation carries on business, or
 - (C) with an individual at the registered office of the corporation or, for an extra-provincial corporation, at the office of the attorney of the corporation,
 - (ii) by being sent by ordinary mail or recorded mail
 - (A) to a place of business of the corporation,
 - (B) to the registered office of the corporation,
 - (C) to a director of the corporation at the director's residence or last known residence, or

- (D) to an address designated by the corporation as its address for service under an enactment of Alberta,
 - (iii) by facsimile or e-mail sent to a facsimile number or e-mail address provided by a representative of the corporation to an officer for service on that corporation,
 - (iv) by being sent to a lawyer or agent representing the corporation on the matter to which the document being served relates, or
 - (v) as directed by the Court of Queen's Bench on application,
- (c) in the case of a partnership
- (i) by being left with any partner of the partnership or an individual who represents himself or herself as being in charge of a place where the partnership carries on business,
 - (ii) by being sent by ordinary mail or recorded mail
 - (A) to a place of business of the partnership,
 - (B) to a partner of the partnership at the partner's residence or last known residence, or
 - (C) to an address designated by a partnership as its address for service under an enactment of Alberta,
 - (iii) by facsimile or e-mail sent to a facsimile number or e-mail address provided by a representative of the corporation to an officer for service on that corporation,
 - (iv) by being sent to a lawyer or agent representing the corporation on the matter to which the document being served relates,
 - (v) as directed by the Court of Queen's Bench on application, or

- (vi) by service on a partner in accordance with clause (b), in the case of a partner that is a corporation.

(7) Where it is necessary to prove service of any notice or other document in the course of any proceeding or prosecution under this Act, the regulations or the OHS code, service is effected

- (a) if the notice or other document is served personally or left in accordance with subsection (6)(a)(i), (b)(i) or (c)(i), on the date it is served or left,
- (b) if the document or notice is sent by recorded mail, on the date acknowledgment of receipt is signed,
- (c) if the notice or other document is sent by facsimile, on the date the person sending the notice or other document receives a confirmation of the successfully completed transmission,
- (d) if the notice or other document is sent by e-mail, on the date the e-mail was sent, or
- (e) if the notice or other document is sent by ordinary mail,
 - (i) 7 days from the date of mailing if the notice or other document is mailed in Alberta to an address in Alberta, or
 - (ii) subject to subclause (i), 14 days from the date of mailing if the notice or other document is mailed in Canada to an address in Canada.

Administration costs

90(1) For the purpose of defraying part of the costs of administering this Act,

- (a) the Minister shall, if authorized by the regulations or the OHS code, make assessments on employers, or
- (b) The Workers' Compensation Board shall, if an agreement is entered into under subsection (2)(b), pay to the Crown amounts that may be prescribed by the Lieutenant Governor in Council.

(2) The Minister and The Workers' Compensation Board may enter into an agreement under which the Board is required to either

- (a) collect on behalf of the Crown in right of Alberta assessments made on employers by the Minister, or
- (b) pay to the Crown amounts that may be prescribed by the Lieutenant Governor in Council.

Liability of officials

91 No action or proceeding lies or shall be commenced against the Crown, the Minister, a Director, an officer, the appeal body, an appeal body member or a staff member of the appeal body for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the OHS code or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act, the regulations or the OHS code.

Act binds Crown

92 The Crown is bound by this Act.

Part 13
Related and Transitional
Provisions, Consequential
Amendments, Repeal and
Coming into Force

Dissolution of Occupational Health and Safety Council

93 The Occupational Health and Safety Council referred to in section 6 of the *Occupational Health and Safety Act*, RSA 2000 cO-2, is dissolved and the appointments of members of the council are terminated.

Amends RSA 2000 cO-2

94(1) The *Occupational Health and Safety Act*, RSA 2000 cO-2, is amended by this section.

(2) Section 1(d) is repealed.

94(1) Amends chapter O-2 of the Revised Statutes of Alberta 2000.

(2) Section 1(d) presently reads:

1 In this Act,

(3) Sections 6 and 7 are repealed.

- (d) *“Council” means the Occupational Health and Safety Council appointed under section 6;*

(3) Sections 6 and 7 presently read:

6(1) There is to be a council called the “Occupational Health and Safety Council” that shall consist of not more than 12 persons appointed by the Lieutenant Governor in Council.

(2) The Minister may designate one of the members of the Council as chair and one or more of the members of the Council as vice-chairs.

(3) The members of the Council shall be appointed for terms not exceeding 3 years.

(4) On the expiration of a member’s term of office, that member of the Council may, subject to the Alberta Public Agencies Governance Act and any applicable regulations under that Act, be reappointed.

(5) The members of the Council shall be paid

(a) remuneration prescribed by the Lieutenant Governor in Council in accordance with any applicable regulations under the Alberta Public Agencies Governance Act, and

(b) their reasonable travelling and living expenses, in accordance with any applicable regulations under the Alberta Public Agencies Governance Act, if incurred while absent from their ordinary places of residence and in the course of their duties as members of the Council.

(6) If regulations under the Alberta Public Agencies Governance Act apply in respect of remuneration for the members of the Council, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing remuneration under subsection (5)(a).

7 The Council shall

(a) advise the Minister on matters concerning this Act, the regulations and the adopted codes and potential changes to them, and the regulations and on matters concerning the health and safety of workers;

(b) hear appeals in accordance with this Act and the regulations;

(4) Section 40.1 is amended

- (a) in subsection (1) by striking out “The Council may” and substituting “The Minister may”;**
- (b) by repealing subsection (2);**
- (c) in subsection (3) by striking out “the Council’s” and substituting “the Minister’s”;**
- (d) by adding the following after subsection (3):**

(3.1) In this Act, a reference to an adopted code is deemed to include a reference to

- (a) an OHS code made under subsection (1) and adopted under subsection (2) as those subsections read immediately before the coming into force of this subsection that is amended by the Minister under subsection (1) as it reads on and after the coming into force of this subsection, and
- (b) an OHS code made by the Minister under subsection (1) as it reads on and after the coming into force of this subsection.

- (c) *perform any duties and functions assigned to it by the Minister with respect to the administration of this Act, the regulations and the adopted codes.*

(4) Section 40.1 presently reads in part:

40.1(1) The Council may make a code of rules (in this section referred to as an “OHS code”)

- (a) *respecting specific health and safety matters for or in connection with occupations and work sites, including*
 - (i) *reporting requirements and the maintenance and preservation of documents reported,*
 - (ii) *medical and health requirements,*
 - (iii) *joint work site health and safety committees,*
 - (iv) *the making available of codes of practice and other information and documents required by an adopted code, and*
 - (v) *the instruction, supervision and qualifications of specified persons,*
- (b) *providing for the prevalence of specified provisions of an adopted code over other specified provisions of an adopted code, and*
- (c) *providing for any matter or thing which by this Act or the regulations may or is to be provided for by an adopted code.*

(2) The Minister may, after consulting with such representatives of employers and of workers in the industries that will be affected by the code as the Minister considers appropriate, make an order adopting any code that is lawfully made by the Council under subsection (1).

(3) An OHS code may itself adopt or incorporate another specific code (in this section referred to as a “secondary code”) or part of a secondary code, as that secondary code or part exists as at a particular time, dealing with health and safety matters that are within the Council’s jurisdiction under subsection (1).

**Amends Occupational Health and
Safety Code 2009**

95(1) The *Occupational Health and Safety Code 2009* as adopted by the *Occupational Health and Safety Code 2009 Order* (AR 87/2009) is amended by this section.

(2) The following is added after section 1.1:

Domestic workers

1.2(1) In this section,

- (a) “domestic work” means the normal household work, tasks or chores that are the type routinely performed by members of a household;
- (b) “domestic worker” means a person directly employed to perform domestic work within a private dwelling by an occupant or owner who lives in the private dwelling.

(2) Except as expressly provided in this Code, this Code does not apply to domestic workers.

Transitional — appeals and reviews

96(1) In this section,

- (a) “amended Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it reads immediately on and after the coming into force of sections 93 and 94 of this Act;
- (b) “appeal” means an appeal under section 16 of the current Act or the amended Act;
- (c) “appeal body” means the Labour Relations Board under the *Labour Relations Code*;
- (d) “Council” means the Occupational Health and Safety Council under the current Act;
- (e) “current Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it read immediately before the coming into force of sections 93 and 94 of this Act;

95 Amends Occupational Health and Safety Code 2009.

96 Transitional — appeals and reviews.

- (f) “new Act” means the *Occupational Health and Safety Act* as enacted by section 1 of *An Act to Protect the Health and Well-being of Working Albertans*;
- (g) “review” means a review under section 35 or 37 of the current Act.

(2) If an appeal or a review has commenced under the current Act but is not concluded before the coming into force of the new Act,

- (a) the appeal or review is to be continued under and in conformity with the current Act, including any right of any further appeal, and
- (b) the members of the Council, despite section 93 of this Act, may continue to hear the appeal or conduct the review, as the case may be.

(3) If the members of the Council are unable to hear the appeal or conduct the review or to continue to hear the appeal or conduct the review, the appeal body shall hear the appeal or conduct the review, as the case may be.

(4) Where

- (a) a right of appeal or review arises under the current Act but an appeal or a review has not commenced before the coming into force of sections 93 and 94 of this Act, or
- (b) a right of appeal or review arises under the amended Act,

the appeal body shall hear the appeal or conduct the review in conformity with the amended Act, including any right of any further appeal.

(5) For the purposes of hearing the appeal or conducting the review under subsections (3) and (4), references to the Council in sections 16, 17, 35 and 37 in the current Act or the amended Act are deemed to be references to the Labour Relations Board.

(6) For the purpose of section 42 of the current Act, a reference to an order of the Council in that section includes an order of the Labour Relations Board, if any.

Transitional — regulations

97 The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Occupational Health and Safety Act*, RSA 2000 cO-2, made by this Act.

Transitional — regulations, OHS codes and adopted codes

98(1) Any regulation, OHS code or adopted code under the previous Act, as that regulation, OHS code or adopted code read immediately before the coming into force of this section is deemed to have been made or adopted under this Act.

(2) Notwithstanding section 1(w) of this Act, a regulation deemed to have been made under this Act by subsection (1), while still in force, is included in the term “the regulations” so far as it is not inconsistent with the regulations under section 85(1) of this Act.

Consequential amendment

99 The *Body Armour Control Act* is amended in section 2(b) by striking out “an OHS code within the meaning of the *Occupational Health and Safety Act*” and substituting “the *Occupational Health and Safety Act*, a regulation made under that Act or the OHS code within the meaning of that Act”.

Consequential amendment

100 The *Workers’ Compensation Act* is amended

(a) in section 99 by striking out “39” and substituting “90”;

(b) by adding the following after section 147:

Information

147.1 The Board may collect information, including personal information, in addition to the information necessary to administer this Act, in order to disclose the information to the Minister responsible for the *Occupational Health and Safety Act* if the information is for research and educational

97 Transitional — regulations.

98 Transitional — regulations, OHS codes and adopted codes.

99 Amends chapter B-4.8 of the Statutes of Alberta, 2010.

Section 2(b) presently reads:

2 This Act does not apply to

(b) safety equipment or personal protective equipment designed, intended for use, and worn by an individual, to protect an individual from injury in the course of the individual's employment, and required by an OHS code within the meaning of the Occupational Health and Safety Act, or

100 Amends chapter W-15 of the Revised Statutes of Alberta 2000. Section 99 presently reads:

99 The Board may include in its assessment on employers amounts that will enable the Board to carry out its obligations under section 39 of the Occupational Health and Safety Act and pay those amounts to the Crown.

purposes related to the prevention of occupational injuries and illnesses, so long as the collection and disclosure are carried out in accordance with the *Occupational Health and Safety Act*.

Repeal

101 The *Occupational Health and Safety Act*, RSA 2000 cO-2, is repealed.

Coming into force

102 This Act, except for sections 38, 39, 93, 94, 96, 97 and 98, comes into force on June 1, 2018.

101 Repeals chapter O-2 of the Revised Statutes of Alberta 2000.

102 Coming into force.

Schedule 2

**AMENDMENTS TO THE
WORKERS' COMPENSATION ACT**

Amends RSA 2000 cW-15

1 The *Workers' Compensation Act* is amended by this Act.

2 The following is added before the enacting clause:

Preamble

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

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

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

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

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

3 The enacting clause is amended by adding "THEREFORE" before "HER MAJESTY".

4(1) Section 1(1) is amended

(a) by adding the following after clause (e):

(e.1) "Committee" means the Occupational Disease and Injury Advisory Committee established under section 24.3;

1 Amends chapter W-15 of the Revised Statutes of Alberta 2000.

2 Adds Preamble.

3 The enacting clause presently reads:

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

4 Section 1(1) presently reads in part:

1(1) In this Act,

(b) by repealing clause (i) and substituting the following:

- (i) “dependent child” means
 - (i) a child under the age of 18 years, or
 - (ii) a child under the age of 25 years who is enrolled at an educational institution approved by the Board;

(2) Subsection (1)(b) applies with respect to accidents that occur on or after September 1, 2018.

5 Section 4 is amended by renumbering it as section 4(1) and by adding the following after subsection (1):

- (2)** Neither the Board nor the Crown shall provide variable pay to a member or employee of the Board.
- (3)** In subsection (2), “variable pay” means a bonus or other incentive pay provided in addition to base salary as defined in the regulations.

6 Section 5 is amended

(a) by adding the following after subsection (1):

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

- (e) *“child” includes a grandchild, the child of a spouse by a former marriage, and any other child to whom the worker stood in loco parentis;*
- (i) *“dependent child” means a dependent child who is under the age of 18 years;*

5 Section 4 presently reads:

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

6 Section 5 presently reads in part:

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

- (a) a member who shall be the chair,*
- (b) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of employers,*
- (c) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of workers, and*
- (d) not more than 3 members whom the Lieutenant Governor in Council considers to be representative of the interests of the general public.*

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

(b) by repealing subsection (2);

(c) in subsections (6) and (6.1) by striking out “, other than the President,”.

7 Section 7.1(2) is repealed and the following is substituted:

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

8 Section 9 is amended by striking out “, other than the President,”.

9 The following is added after section 9.1:

Code of Rights and Conduct

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

(2) The Code of Rights and Conduct must include provisions

(a) conferring rights on workers and employers, including the right to participate in decisions that affect them,

(2) During the time that a person is the President of the Board, that person is, by virtue of holding that office, a non-voting member of the board of directors of the Board.

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

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

7 Section 7.1(2) presently reads:

(2) The Board shall publish notice of the annual general meeting in newspapers that, in the Board's opinion, have general circulation in Alberta.

8 Section 9 presently reads:

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

9 Code of Rights and Conduct.

- (b) imposing obligations on the Board respecting the manner in which the Board interacts with workers and employers,
- (c) providing for the procedure for making and handling complaints about breaches of the Code,
- (d) providing for the consequences of, and remedies for, a breach of the Code, and
- (e) any other matter specified in the regulations.

(3) The rights and obligations in the Code of Rights and Conduct are in addition to any other rights and obligations under this Act, any other enactment or the general law.

(4) The Board shall make the Code of Rights and Conduct available to the public by publishing it on the Board's website and by any other means the Board considers appropriate.

10 Section 13(3) is repealed and the following is substituted:

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

11(1) Section 13.1 is amended

(a) by adding the following after subsection (2):

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

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

- (a) to hear and determine matters and questions relating to assessments referred to in section 97,
- (b) to hear and determine whether to grant interim relief while a matter is under appeal, and

10 Section 13(3) presently reads:

(3) The Appeals Commission shall publish notice of the annual general meeting in newspapers that, in the opinion of the Appeals Commission, have general circulation in Alberta.

11 Section 13.1 presently reads in part:

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

- (a) appeals from decisions under section 46 made by a review body appointed under section 45,*
- (b) appeals from decisions under section 120 made by a review body appointed under section 119,*
- (c) appeals from determinations of the Board under section 21(3), and*

(c) to carry out a review referred to in subsection (7.1).

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

(b) by adding the following before subsection (3):

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

(c) by adding the following after subsection (7):

(7.1) Before deciding to hold a hearing to reconsider a matter under subsection (7), on receiving an application, the Appeals Commission shall review the information provided in support of the application under subsection (7) to determine whether there is an arguable case for reconsideration.

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

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

(d) by repealing subsection (8);

(e) by adding the following after subsection (9):

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

(2) Subsection (1)(c) applies with respect to an application for reconsideration made on or after September 1, 2018.

12(1) Section 13.2 is amended

(a) in subsection (6)(c) by adding “, subject to subsection (6.1),” after “shall”;

(b) by adding the following after subsection (6):

(d) any other matters assigned to it under this or any other Act or the regulations under this or any other Act,

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

(2) The chief appeals commissioner may authorize a panel of 2 or more appeals commissioners to act on behalf of the Appeals Commission under subsection (1) and that panel may exercise the powers of the Appeals Commission for that purpose.

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

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

(8) The Appeals Commission, at its discretion on the application of a person with a direct interest, may reconsider any appeal decision that was made by the members of the board prior to November 1, 1988 and may confirm, rescind or vary the decision.

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

12 Section 13.2 presently reads in part:

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

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

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

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

(c) in subsection (8) by striking out "one year" and substituting "2 years";

(d) by adding the following after subsection (11):

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

(2) Subsection (1)(c) applies with respect to decisions or determinations referred to in section 13.2(1) of the *Workers' Compensation Act* made on or after September 1, 2018.

13 Section 17 is amended by adding the following after subsection (4):

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

- (a) *shall give all persons with a direct interest in the matter under appeal an opportunity to be heard and to present any new or additional evidence,*
- (b) *is bound by the board of directors' policy relating to the matter under appeal,*
- (c) *shall permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal,*
- (d) *may confirm, reverse or vary the decision or determination appealed,*
- (e) *may direct that its decision be implemented within a specified time period, and*
- (f) *may refer any matter back to the review body or the Board, as the case may be, for further action or decision, with or without directions.*

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

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

13 Section 17 presently reads in part:

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

14 The following is added after section 23:

Part 3.1 Fair Practices Office

Fair Practices Office

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

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

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

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

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

Fair Practices Commissioner

23.2(1) The Fair Practices Commissioner shall

- (a) subject to subsection (2), review and make recommendations to the Board, the Appeals Commission or the Medical Panels Office, or any one or more of them, as the Fair Practices Commissioner considers appropriate,
 - (i) relating to any matter under this Act, for the purpose of determining administrative fairness and processes used to reach decisions, and
 - (ii) relating to a breach of the Code of Rights and Conduct,

14 Adds Part 3.1, Fair Practices Office.

- (b) establish programs directed at providing independent advice, assistance and advocacy services to employers and to workers and their dependants, and
- (c) perform any other function or duty provided for in the regulations.

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

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

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

- (a) that any matter referred to in subsection (1)(a) is final,
- (b) that no appeal lies in respect of the matter referred to in subsection (1)(a), or
- (c) that no proceeding or decision of the Board, the Appeals Commission or the Medical Panels Office, or by any officer, employee or member of the Board, the Appeals Commission or the Medical Panels Office whose decision, act or omission it is, may be challenged, reviewed, quashed or called into question.

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

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

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

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

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

Annual report and meetings

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

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

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

Costs of the Fair Practices Office

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

Immunity

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

Regulations

23.6 The Lieutenant Governor in Council may make regulations

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

15 Section 24 is amended by repealing subsections (6) and (7) and substituting the following:

(6) If a worker suffers disablement

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

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

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

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

15 Section 24 presently reads in part:

(6) If a worker suffers disablement from or because of any occupational disease and at some time during the 12 months preceding the disablement was employed in the industry or process deemed by the regulations to have caused that disease, the disease is deemed to have been caused by that employment, unless the contrary is shown.

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

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

(8) If the Appeals Commission is of the opinion that a disease or condition may be linked to employment in a particular industry or process or linked to an activity carried out in a particular type of employment, the Appeals Commission shall so notify the Board and the Committee.

16(1) Section 24.1 is amended

(a) in subsection (1) by adding the following after clause (b):

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

(b) by repealing subsection (7) and substituting the following:

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

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

(2) Subsection (1) applies with respect to accidents that occur on or after April 1, 2018.

17(1) Section 24.2 is repealed and the following is substituted:

PTSD presumptions

24.2(1) In this section,

- (a) “firefighter” means a full-time firefighter or part-time firefighter as defined in section 24.1;
- (b) “first responder” means a firefighter, paramedic, peace officer or police officer;

16 Section 24.1 presently reads in part:

24.1(1) In this section,

- (a) “full-time firefighter” means an employee, including an officer and a technician, employed by a municipality or Metis settlement and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;*
- (b) “municipality” means a municipality as defined in the Municipal Government Act;*
- (c) “part-time firefighter” means a casual, volunteer or part-time member of a fire protection service of a municipality or Metis settlement.*

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

17 Section 24.2 presently reads

24.2(1) In this section,

- (a) “emergency medical technician” means an individual who is registered as a member of the designated health discipline of Emergency Medical Technicians under the Health Disciplines Act in the Emergency Medical Responder, Emergency Medical Technician-Ambulance or Emergency Medical Technologist-Paramedic area of practice;*
- (b) “firefighter” means a full-time firefighter or part-time firefighter as defined in section 24.1;*

- (c) “paramedic” means an individual who is a regulated member of the Alberta College of Paramedics under the *Health Professions Act* and who holds a practice permit issued under that Act;
 - (d) “peace officer” means an individual appointed as a peace officer under section 7 of the *Peace Officer Act* who is authorized by that appointment to use the title “Sheriff”;
 - (e) “physician” means an individual who is a regulated member of the College of Physicians and Surgeons of Alberta under the *Health Professions Act* authorized to use the title “physician” and who holds a practice permit that allows for unsupervised practice issued under that Act, or an individual who has a similar status under similar legislation in Canada;
 - (f) “police officer” means an individual appointed as a police officer under section 5 or 36 of the *Police Act* or as a chief of police under section 36 of the *Police Act*;
 - (g) “post-traumatic stress disorder” means Posttraumatic Stress Disorder as that condition is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
 - (h) “psychological injury” means any psychological disorder or condition that meets the diagnostic criteria for a disease or condition that is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
 - (i) “psychologist” means an individual who is a regulated member of the College of Alberta Psychologists and who holds a practice permit issued under the *Health Professions Act*, or an individual who has a similar status under similar legislation in Canada.
- (2) If a first responder or any other class of worker prescribed by the regulations is or has been diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.

- (c) *“peace officer” means an individual appointed as a peace officer under section 7 of the Peace Officer Act who is authorized by that appointment to use the title “Sheriff”;*
 - (d) *“physician” means an individual who is a regulated member of the College of Physicians and Surgeons of Alberta under the Health Professions Act authorized to use the title “physician” who holds a practice permit for unsupervised practice issued under that Act, or an individual who has a similar status under similar legislation in a jurisdiction outside Alberta;*
 - (e) *“police officer” means an individual appointed as a police officer under section 5 or 36 of the Police Act or as a chief of police under section 36 of the Police Act;*
 - (f) *“post-traumatic stress disorder” means Posttraumatic Stress Disorder as that condition is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;*
 - (g) *“psychologist” means an individual who is a regulated member of the College of Alberta Psychologists who holds a practice permit issued under the Health Professions Act or an individual who has a similar status under similar legislation in a jurisdiction outside Alberta.*
- (2) *If a worker who is or has been an emergency medical technician, firefighter, peace officer or police officer is diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker’s duties as an emergency medical technician, firefighter, peace officer or police officer.*
- (3) *The Board shall*
- (a) *assist a worker who is diagnosed with post-traumatic stress disorder in obtaining, or*
 - (b) *provide to the worker*

(3) If a worker

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

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

(4) The Board shall

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

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

(2) Subsection (1) applies with respect to accidents that occur on or after April 1, 2018.

18 The following is added after section 24.2:

**Occupational Disease and Injury
Advisory Committee**

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

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

treatment by culturally competent clinicians who are familiar with the research concerning treatment of first responders for post-traumatic stress disorder.

18 Occupational Disease and Injury Advisory Committee.

- (v) an employee of Covenant Health, designated by Covenant Health,

and

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

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

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

(3) The purpose of the Committee is to

- (a) propose recommendations to the Minister respecting amendments to the Act or the regulations relating to occupational diseases,
- (b) periodically review the regulations referred to in sections 24(6) and 24.1(4) and provide advice to the Minister respecting amendments to those regulations,
- (c) monitor trends and stay informed about occupational diseases, injuries and conditions, and
- (d) provide any other advice or recommendations requested by the Minister.

(4) Where the Committee considers that a disease or condition is linked to employment in a particular industry or process or is linked to an activity carried out in a particular type of employment, the Committee may direct the Board to deem the disease or condition to have been caused by that employment or activity, as the case may be, and the Board shall deem it.

(5) The chair may engage other persons to assist the Committee in carrying out its purposes.

(6) The Committee may make rules governing the calling of its meetings, the conduct of business at its meetings and any other matters as required.

(7) In accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, the Minister may pay members of the Committee reasonable travelling and living expenses and may pay remuneration to those members referred to in subsection (2).

(8) The Minister may provide administrative support to the Committee.

(9) The costs of carrying on the operations of the Committee, as approved by the Minister, the costs of providing administrative support referred to in subsection (8) and the expenses payable to the members must be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

19 Section 38(1) is repealed and the following is substituted:

Medical examination and investigation

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

20 Section 45 is amended by adding the following after subsection (4):

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

19 Section 38(1) presently reads:

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

20 Section 45 presently reads:

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

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

21 Sections 46.1 to 46.4 are repealed and the following is substituted:

Minister responsible for Medical Panels Office

46.1 The Minister is responsible for the Medical Panels Office.

Medical Panels Office

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

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

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

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

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

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

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

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

21 Sections 46.1 to 46.4 presently read:

46.1(1) Where it considers it appropriate to do so, the Board or the Appeals Commission may, in the course of evaluating a claim for compensation under this Act, refer any medical issue relative to the claim to a medical panel to be dealt with under this section.

(2) Where a difference of medical opinion arises in the course of the Board's evaluation of a claim for compensation under this Act, the Board shall refer the matter to a medical panel to be dealt with under this section.

(3) A person is not eligible to be a member of a medical panel unless the person

(a) is a regulated member of the College of Physicians and Surgeons of Alberta who holds a practice permit issued under the Health Professions Act, or

(b) has a similar status under similar legislation in a jurisdiction outside Alberta.

(4) The Lieutenant Governor in Council may make regulations

(a) respecting the appointment and removal of the members of a medical panel;

(b) respecting the remuneration and expenses to be paid to the members of a medical panel;

(c) respecting the powers and duties of the members of a medical panel;

(d) respecting the remuneration and expenses to be paid to the medical panels commissioner appointed under section 46.3;

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

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

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

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

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

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

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

- (e) *respecting the powers and duties of the medical panels commissioner;*
 - (f) *respecting the determination of what constitutes a difference of medical opinion for the purposes of subsection (2);*
 - (g) *respecting the practice and procedure applicable to proceedings before a medical panel;*
 - (h) *respecting the ownership, custody, control, collection, use and disclosure of records, reports and information submitted to or created or acquired by a medical panel or the medical panels commissioner;*
 - (i) *governing any transitional matter concerning the application or operation of this section and sections 46.2 to 46.4 in respect of matters dealt with under any of those sections;*
 - (j) *respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this section and sections 46.2 to 46.4.*
- (5) *The medical findings of a medical panel are binding on the Board, the Appeals Commission and all other persons with a direct interest in the claim.*
- (6) *The medical findings of a medical panel are final and conclusive and not open to question or review in any court.*

46.11 If regulations under the Alberta Public Agencies Governance Act apply in respect of remuneration or expenses referred to in section 46.1(4)(d), those regulations prevail, to the extent of any conflict or inconsistency, over any regulations made under section 46.1(4)(d).

46.2 The Minister is responsible for medical panels.

46.3(1) The Lieutenant Governor in Council may appoint a medical panels commissioner.

(2) The costs of carrying on the operations of medical panels, as approved by the Minister, and the remuneration and expenses payable to the medical panels commissioner and the members of medical panels shall be paid by the Minister and be reimbursed quarterly to the Crown by the Board from the Accident Fund.

Medical panels

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

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

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

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

- (a) the requirement under subsection (3) is met, and
- (b) in the Appeals Commission's opinion, there is a difference of medical opinion.

(5) A request for the establishment of a medical panel shall be made to the Medical Panels Office and must include the records and information, including personal information, available to the Board or the Appeals Commission, as the case may be, relating to the medical issue or matter.

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

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

46.4 No action may be maintained or brought against a medical panel or a member of a medical panel in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the medical panel.

(7) Where the Medical Panels Office receives a request for the establishment of a medical panel, the Medical Panels Commissioner shall, in accordance with the regulations and subject to section 46.4, establish a medical panel to deal with the issue or matter that is the subject of the application.

(8) A person is not eligible to be a member of a medical panel unless the person is a regulated member of the College of Physicians and Surgeons of Alberta who holds a practice permit issued under the *Health Professions Act* or has a similar status under similar legislation in a jurisdiction outside Alberta.

(9) For the purposes of providing a report of its medical findings, the medical panel established under subsection (7)

- (a) shall review the records and information received under subsection (5),
- (b) if the worker has selected a physician to provide input and make representations on behalf of the worker before a medical panel pursuant to the regulations, shall arrange to receive the physician's input and representations, and
- (c) may
 - (i) interview or examine the worker,
 - (ii) invite a physician, including the worker's treating physician, and any other health provider who holds a practice permit under the *Health Professions Act* whom the medical panel considers appropriate, to provide input,
 - (iii) seek, or request the Medical Panels Commissioner to seek, advice or information relevant to the medical issue or matter from one or more of any of the following:
 - (A) physicians;
 - (B) medical specialists;
 - (C) health care providers who hold a practice permit under the *Health Professions Act*,

and

- (iv) request the Medical Panels Commissioner to do one or both of the following:
 - (A) to arrange for any tests on or assessments of the worker;
 - (B) to compile medical information relevant to the medical issue or matter.

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

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

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

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

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

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

Case conferencing

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

- (a) any physicians referred to in section 46.3(10);

- (b) any health care provider who holds a practice permit under the *Health Professions Act* the Medical Panels Commissioner considers appropriate;
 - (c) the parties;
 - (d) any other person the Medical Panels Commissioner considers appropriate.
- (2) The participants in the conference may consider
- (a) the resolution of the difference of medical opinion, the process for resolving the difference and how the resolution process can be facilitated,
 - (b) simplification or clarification of a matter or issue referred to the medical panel under section 46.3, and
 - (c) any other matter that may aid in the resolution or facilitate the resolution of the matter referred to the medical panel.
- (3) The Medical Panels Commissioner shall provide the parties and any other person directed to attend the conference with notice of the conference and any material to be relied on in the conference in a reasonable time before the date the conference is scheduled to take place.
- (4) The Medical Panels Commissioner may make a procedural order before, at or following the conference.
- (5) A case conference and any statements disclosed during the conference are without prejudice.

Regulations

46.5 The Lieutenant Governor in Council may make regulations

- (a) respecting the powers, duties and functions of the Medical Panels Commissioner and the Medical Panels Office;
- (b) respecting the ownership, custody, control, collection, use and disclosure of records, reports and information submitted to or created or acquired by the Medical Panels Office, the Medical Panels Commissioner, a Deputy Medical Panels Commissioner and a medical panel;

- (c) respecting the appointment and removal of the members of a medical panel;
- (d) respecting the remuneration and expenses to be paid to the members of a medical panel;
- (e) respecting the duties of the members of a medical panel;
- (f) respecting applications under section 46.3;
- (g) respecting the practice and procedure applicable to proceedings before a medical panel;
- (h) respecting the establishment and maintenance of the roster referred to in section 38(1);
- (i) respecting the selection of a physician for the purpose of section 38(1);
- (j) respecting the procedures relating to a case conference referred to in section 46.4;
- (k) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of sections 46.1 to 46.4.

22(1) Section 47(4) is amended by striking out “Subject to section 70(3), a lump” **and substituting** “A lump”.

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

23(1) Section 56 is repealed and the following is substituted:

Compensation for disability

56(1) The Board shall pay periodic compensation

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

22 Section 47(4) presently reads:

(4) Subject to section 70(3), a lump sum payment made by the Board shall be computed on the basis of the rate of compensation being paid at the date the lump sum payment is approved by the Board.

23 Section 56 presently reads:

56(1) The Board shall pay periodic compensation

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

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

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

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

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

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

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

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

(8) Payments customarily made by an employer to a worker to cover any special expenses incurred by the worker in the course

(2) If an accident causes injury to a worker and results in disablement, the Board shall pay periodic compensation to the worker based on the worker's net earnings, and for that purpose the Board shall calculate the worker's net earnings in accordance with the regulations and based on a period or periods of time prior to the accident that, in the Board's opinion, fairly and justly represent the worker's net earnings at the time of the accident.

(2.1) If the period or periods of time prior to the accident referred to in subsection (2) are, in the Board's opinion, insufficient to allow the Board to calculate the worker's net earnings, the Board may pay periodic compensation based on another amount as determined by the Board, subject to the maximum payable under subsection (4).

(3) In making a calculation under subsection (2), the Board shall consider separately each source of employment the worker had at the time of the accident from which the worker no longer has the ability to earn wages or in which the worker's ability to earn wages is impaired, due to the accident, regardless of whether the source of employment is in an industry to which this Act applies.

(4) In computing net earnings for the purposes of this Act, no regard may be taken of the aggregate gross annual earnings of the worker in excess of an amount prescribed by order of the Board.

(5) An order referred to in subsection (4) applies only in respect of an accident that occurs on or after the day specified in the order.

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

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

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

- (a) in the case of permanent total disability, \$900 per month, and*

of the worker's employment shall not be included in computing the worker's net earnings under subsection (3) for the purposes of this Act.

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

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

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

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

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

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

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

and

(b) in the case of permanent partial disability, a proportionate part of \$900 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability.

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

(a) where the worker's bi-weekly net earnings are greater than the sum referred to in subsection (7)(a), the greater of

(i) the sum referred to in subsection (7)(a), and

(ii) the bi-weekly equivalent of the amount that the worker would have received under subsection (6) had the worker been permanently totally disabled,

and

(b) where the worker's bi-weekly net earnings are equal to or less than the sum referred to in subsection (7)(a), 100% of those bi-weekly net earnings.

(9) Where work is made available to a worker who is temporarily partially disabled and the Board is satisfied that the worker is medically and physically capable of doing the work and that, considering all the circumstances, it is fair and just to expect the worker to accept the work, the following applies, notwithstanding subsection (8):

(a) if the worker accepts the work, the Board shall pay periodic compensation to the worker if, in doing the work, the worker suffers an earnings loss that is caused by the residual disability, and in that case the compensation shall be in an amount that is a proportionate part of 90% of the worker's earnings loss, based on the Board's estimate of the degree to which the earnings loss is caused by the residual disability;

(b) if the worker refuses the work, the Board shall continue to pay periodic compensation to the worker in accordance with clause (a) as if the worker had accepted the work.

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

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

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

(14) Notwithstanding subsection (13), if the worker is subsequently terminated or the work is withdrawn by the employer, the Board shall pay compensation for temporary total disability until the Board determines the worker is capable of other suitable employment.

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

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

(17) After the worker has reached both medical and vocational plateaus, the Board may, at such times as it considers appropriate, investigate the worker's circumstances for the purposes of reviewing the worker's entitlement to an economic loss payment, and may, following the investigation, confirm or

(10) Subsection (9) applies regardless of whether the work is in an industry to which this Act applies.

adjust the level of the economic loss payment payable in accordance with the worker's actual or estimated earning capacity at the time.

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

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

24 The following is added after section 56:

Non-economic loss payment

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

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

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

25(1) Sections 57 and 58 are repealed.

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

24 Non-economic loss payment.

25 Sections 57 and 58 presently read:

57(1) A worker receiving compensation for permanent total disability or permanent partial disability under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that worker to, on and after January 1, 1982, the greater of

- (a) \$675 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$675 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and*
- (b) the amount of the worker's pension on December 31, 1981 under section 53 of the former Workers' Compensation Act, RSA 1980 cW-15, plus 10% of that amount.*

(2) A worker receiving compensation for permanent total disability or permanent partial disability under this Act or any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that worker to,

(a) on and after July 1, 1986, the greater of

(i) \$730 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$730 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and

(ii) the amount of the worker's pension on June 30, 1986, plus 8% of that amount, not to exceed an amount equal to the maximum pension payable under section 56;

(b) on and after January 1, 1990, the greater of

(i) \$900 per month in the case of permanent total disability, or, in the case of permanent partial disability, a proportionate part of \$900 per month based on the Board's estimate of the impairment of earning capacity from the nature and degree of disability, and

(ii) the amount of the worker's pension on December 31, 1989, plus 10% of that amount, not to exceed an amount equal to the maximum pension payable under section 56.

58(1) Notwithstanding section 57, on and after January 1, 1982, an injured person receiving compensation under a predecessor of this Act for

(a) permanent total disability, or

(b) permanent partial disability, if the degree of disability in aggregate is at least 50%,

shall be granted an additional supplement that, together with any other compensation to which the injured person is entitled, will provide a monthly amount equal to that which would have been payable had the scale of compensation in force in 1980 been in effect at the time the accident for which the injured person is receiving compensation occurred.

26 Section 59 is repealed and the following is substituted:

Cost of living adjustments

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

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

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

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

(2) A supplement under subsection (1)

(a) is payable only in respect of accidents that occurred before April 1, 1975, and

(b) is payable until the injured person reaches the age of 65 years.

(3) The amount of a supplement, if any, to which a person is entitled under subsection (1) shall be considered to be part of the compensation the person is receiving for the purposes of determining the additional payment, if any, to which the person is entitled under section 57.

26 Section 59 presently reads:

59(1) The Board may by order, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amounts payable as compensation to persons who are receiving compensation under this Act or any predecessor of this Act in respect of permanent total disability, permanent partial disability or death of a worker.

(2) An order referred to in subsection (1) applies only to persons receiving compensation referred to in subsection (1) on the day specified in the order.

(3) An adjustment is subject to the maximum pension payable under section 56 that is in effect on the day specified in the order referred to in subsection (1).

27(1) The following is added after section 60:

Retirement benefit

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

- (a) the date the worker reaches the age of 65 years,
- (b) 5 years following the date of the accident, and
- (c) another date, if the Board is satisfied that the worker would have retired at a later date than provided for in clauses (a) and (b).

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

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

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

(2) Subsection (1) applies in respect of accidents that occur on or after January 1, 2018.

28 Section 62 is repealed.

27 Retirement benefit.

28 Section 62 presently reads:

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

29 Section 65 is repealed.

30 Section 66 is repealed.

29 Section 65 presently reads:

65(1) If a worker suffers permanent disability as the result of an accident and the injury aggravates a pre-existing condition, the Board may, in addition to compensation it pays in respect of that part of the disability caused by the accident, pay to the worker a supplement in an amount determined by it in respect of that part of the disability caused by the pre-existing condition, subject to the maximum amount payable pursuant to section 56.

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

(3) A supplement under subsection (1) is payable until the enhanced disability ceases or the worker reaches the age of 65 years, whichever occurs first.

(4) A worker who is receiving a supplement under subsection (1) on December 31, 1989 shall receive, on and after January 1, 1990, an increase to the supplement based on an increase of 10% to the net earnings of the worker used to calculate the supplement, subject to the maximum pension payable under section 56.

(5) Section 59 applies to the net earnings of the worker used in calculating a supplement under subsection (1).

30 Section 66 presently reads:

66(1) In the case of an accident causing permanent partial disability, if the Board is satisfied that the worker's net earnings after the accident together with any compensation the worker is receiving with respect to that accident are less than the worker's net earnings calculated under section 56 the Board may, in addition to the compensation payable under that section, pay compensation in an amount up to 90% of the earnings loss, according to what percentage of the earnings loss is, in the Board's opinion, caused by the residual disability.

(2) Subsection (1) applies regardless of whether the accident that gave rise to the right to compensation occurred before or after the coming into force of this Act, but in the case of an accident that occurred before January 1, 1982 section 56(4) does not apply and

31 Section 67 is repealed and the following is substituted:

Compensation to learner and apprentice

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

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

32(1) Section 68 is repealed and the following is substituted:

Increase in compensation for young workers

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

- (a) the worker was
 - (i) under the age of 25 years at the date of the accident,
or

the calculation of net earnings shall be based on the maximum allowable earnings in effect at the time of the accident.

(3) A worker who is receiving additional compensation under subsection (1) for earnings loss on December 31, 1989 shall receive, on and after January 1, 1990, an increase to the additional compensation based on an increase of 10% to the net earnings of the worker used to calculate the additional compensation, subject to the maximum pension payable under section 56.

(4) Section 59 applies to the net earnings of the worker used in calculating the additional compensation under subsection (1) for earnings loss.

31 Section 67 presently reads:

67(1) If a worker who is a learner is disabled because of an accident, the compensation to which the worker is entitled shall be calculated on the same basis as if the worker were, at the time of the accident, a beginner in the industry in which the worker was a learner.

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

32 Section 68 presently reads:

68 If a worker was at the time of the worker's accident less than 18 years of age, the Board may, on the worker reaching the age of 18 years, pay compensation to the worker on the same basis as if, at the time of the accident, the worker had been a similarly employed worker who was 18 years of age or older.

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

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

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

33 Section 69 is repealed.

34(1) Section 70 is repealed and the following is substituted:

Compensation for death

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

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

33 Section 69 presently reads:

69 If a worker is seriously and permanently disfigured or otherwise permanently injured as a result of an accident, the Board may, notwithstanding any other provision in this Act, pay to the worker additional compensation that it considers appropriate in the form of a lump sum or periodic payment.

34 Section 70 presently reads:

70(0.1) For the purposes of this Act, if at the time of the worker's death there is both a spouse and an adult interdependent partner of the worker, then

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

interdependent partner is entitled to a pension under this section,

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

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

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

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

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

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

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

interdependent partner is entitled to a pension under this section,

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

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

(2) Subject to this section, the pension referred to in subsection (1) shall, where there is a dependent spouse or dependent adult interdependent partner and dependent children, be paid to the spouse for the spouse's benefit and the benefit of the dependent children until the month in which the youngest dependent child reaches the age of 18 years, at which time a 5-year term pension is payable to the dependent spouse or dependent adult interdependent partner in the amounts specified in subsection (3).

(3) If the dependent spouse or dependent adult interdependent partner is gainfully employed when the youngest dependent child reaches the age of 18 years, the pension under subsection (1) terminates in the month in which the child reaches that age and a 5-year term pension is payable commencing in the month following that month in an amount equal to

- (a) for the first 12-month period, the full pension,*
- (b) for the 2nd 12-month period, 80% of the full pension,*
- (c) for the 3rd 12-month period, 60% of the full pension,*
- (d) for the 4th 12-month period, 40% of the full pension, and*
- (e) for the 5th 12-month period, 20% of the full pension*

that the worker would have received had the worker lived and been permanently totally disabled.

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

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

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

whichever is later.

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

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

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

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

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

(4) If the dependent spouse or dependent adult interdependent partner is not gainfully employed when the youngest dependent child reaches the age of 18 years, the Board may, notwithstanding subsection (2), continue payment of the full pension under subsection (1) after the child reaches that age until

- (a) the spouse or adult interdependent partner becomes gainfully employed, or*
- (b) the expiration of a period of 60 months after the month in which the child reaches the age of 18 years,*

whichever occurs first, at which time a 5-year term pension is payable to the spouse or adult interdependent partner in the amounts specified in subsection (3) on and from the month following the month in which the spouse or adult interdependent partner becomes gainfully employed or the 60-month period terminates.

(5) If, during the period of time referred to in subsection (4)(b), the dependent spouse or dependent adult interdependent partner neglects or refuses to accept vocational rehabilitation services provided under subsection (11), the spouse or adult interdependent partner is entitled to receive only a 5-year term pension commencing in the month following the month in which the neglect or refusal occurred and in the amounts set out in subsection (3).

(6) If a worker dies as a result of an accident, leaving a dependent spouse or dependent adult interdependent partner and no dependent children, and if the spouse or adult interdependent partner accepts vocational rehabilitation services provided under subsection (11), the spouse or adult interdependent partner is entitled to a pension in the amount referred to in subsection (1) until

- (a) the spouse or adult interdependent partner becomes gainfully employed, or*
- (b) the expiration of a period of 60 months after the date of death of the worker,*

whichever occurs first, at which time a 5-year term pension is payable in the amounts set out in subsection (3) commencing in the month following the month in which the spouse or adult interdependent partner becomes employed or the 60-month period expires.

the Board considers appropriate, for as long as the incapability continues.

(11) Where a dependent spouse or dependent adult interdependent partner is receiving a pension other than under subsection (10) and that pension ends, that person is entitled to receive a lump sum retirement benefit calculated by multiplying the total amount of the pension paid up to the month in which the pension payments ended by 2%.

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

(7) In a case to which subsection (6) applies, if the spouse or adult interdependent partner is gainfully employed at the time of the worker's death or neglects or refuses to accept vocational rehabilitation services provided under subsection (11), the spouse or adult interdependent partner is entitled to receive only a 5-year term pension payable commencing in the month following the month in which the worker died and in the amounts set out in subsection (3).

(8) If a worker dies as a result of an accident and leaves a dependent spouse or dependent adult interdependent partner and no dependent children, and if the spouse or adult interdependent partner is employed at the time of the death or afterwards becomes employed, but that employment does not constitute gainful employment, the Board may deduct from the pension payable under this Act an amount not to exceed the amount earned by the dependent spouse or dependent adult interdependent partner from that employment.

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

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

the pension payable under this section shall be paid to the person who acts as guardian of the dependent children for the maintenance and education of the dependent children until the month in which the youngest child reaches 18 years of age, at which time a 5-year term pension is payable in the amounts set out in subsection (3), to be divided equally among the surviving children who were under the age of 18 years at the time of the worker's death.

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

(11) The Board may take whatever steps it considers necessary to provide the benefits and services referred to in section 89(1) to a dependent spouse or dependent adult interdependent partner.

35 The following is added after section 70:

Lump sum death payment

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

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

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

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

36(1) Section 71 is amended by striking out "\$165 per month" and substituting "\$420 per month".

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

(12) Notwithstanding anything in this Act, if the Board considers that a dependent spouse or dependent adult interdependent partner is an invalid or is incapable of substantially benefitting from rehabilitation services or of becoming gainfully employed, it may continue payment of the full pension payable under subsection (1), or a percentage of it that the Board considers appropriate, for as long as the dependent spouse or dependent adult interdependent partner remains an invalid or the incapability persists.

35 Lump sum death payment.

36 Section 71 presently reads:

71 Notwithstanding any payment to a dependent spouse or dependent adult interdependent partner under section 70, the Board may pay compensation to a dependent child of the deceased worker who is not residing with the dependent spouse or dependent adult interdependent partner at the time of the worker's death in an amount not exceeding \$165 per month.

37(1) Section 72 is amended by striking out “\$83” and substituting “\$420”.

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

38 Sections 74 and 75 are repealed.

37 Section 72 presently reads:

72 If a worker dies as a result of an accident and leaves no spouse or adult interdependent partner, or if a surviving spouse or adult interdependent partner subsequently dies or is confined to an institution, prison or correctional institution, the Board may make additional payments of not more than \$83 per month to a dependent child of the worker to assist in that child's maintenance and support.

38 Sections 74 and 75 presently read:

74(1) If, with respect to an accident that occurs before January 1, 1982, the dependent spouse or dependent adult interdependent partner of the worker, on or after January 1, 1982,

(a) dies,

(b) marries, or

(c) becomes an adult interdependent partner,

the Board shall, subject to subsection (2), pay to each dependent child of the worker who is not being maintained pursuant to section 75(4), compensation at the rate of \$165 per month.

(2) The Board shall pay the compensation referred to in subsection (1)

(a) until the child reaches the age of 18 years, or

(b) in the case of a dependent invalid child, irrespective of the age of that child, as long as, in the opinion of the Board, it might reasonably be expected that the worker, had the worker lived, would have continued to contribute to the support of that child.

75(1) A dependent spouse or dependent adult interdependent partner or a foster-parent receiving compensation under the former Workers' Compensation Act, RSA 1980 cW-15, in respect of an accident that occurred on or after January 1, 1974 but prior to January 1, 1982 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent spouse or dependent adult interdependent partner or the foster-parent, as the case may be, to,

- (a) *on and after January 1, 1982, the greater of*
 - (i) *\$675 per month, and*
 - (ii) *the amount of pension that person would otherwise receive under the former Workers' Compensation Act, RSA 1980 cW-15, as at December 31, 1981, plus 10% of that amount;*
 - (b) *on and after July 1, 1986, the greater of*
 - (i) *\$730 per month, and*
 - (ii) *the amount of pension that person would otherwise receive under clause (a) plus 8% of that amount, not to exceed an amount equal to the maximum pension payable under section 56;*
 - (c) *on and after January 1, 1990, the greater of*
 - (i) *\$900 per month, and*
 - (ii) *the amount of pension that person would otherwise receive under clause (b) plus 10% of that amount, not to exceed an amount equal to the maximum pension payable under section 56.*
- (2) *A dependent spouse or dependent adult interdependent partner or a foster-parent receiving compensation under any predecessor of this Act in respect of an accident that occurred prior to January 1, 1974 shall be granted an additional payment of compensation sufficient to increase the monthly payment to the dependent spouse or dependent adult interdependent partner or the foster-parent, as the case may be, to \$900.*
- (3) *If more than one person is acting as a foster-parent, the Board shall divide any amount payable under subsection (1) or (2) proportionately among those persons according to the number of children in respect of whom they are acting as foster-parents.*
- (4) *A dependent child receiving compensation under any predecessor of this Act shall be granted an additional payment of compensation sufficient to increase the monthly payment to that dependent child to the sum of \$165.*
- (5) *A payment under this section continues,*

39(1) The following is added after section 88:

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

**Obligation to return injured
workers to work**

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

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

(2) This section does not apply to

- (a) persons declared to be workers pursuant to section 14(3),
- (b) persons whose applications under section 15 have been approved by the Board,
- (c) individuals deemed to be workers pursuant to section 16,
- (d) persons declared to be workers by orders of the Board made pursuant to the regulations, or
- (e) unless subject to an order issued under section 14(2), employers and workers in an industry designated by the regulations as being exempt.

- (a) in the case of a dependent child under the age of 18 years, until that child reaches the age of 18 years, or*
- (b) in the case of a dependent invalid child, irrespective of the age of that child, as long as, in the opinion of the Board, it might reasonably be expected that the worker, had the worker lived, would have continued to contribute to the support of that child.*

39 Adds Part 5.1, Obligation to Reinstate Worker and Continue to Provide Benefits.

(3) The employer shall accommodate the work or the workplace to the needs of the worker to the extent that the accommodation does not cause the employer undue hardship.

(4) When the worker is medically and physically capable to perform the essential duties of the worker's employment on the date of the accident, the employer shall

- (a) offer to reinstate the worker in the position the worker held on the date of the accident, or
- (b) offer to provide the worker with alternative employment of a comparable nature at not less than the earnings and benefits earned by the worker on the date of the accident.

(5) When the worker is medically and physically capable to perform suitable work but is unable to perform the essential duties of the worker's employment on the date of the accident, the employer shall offer the worker the first opportunity to accept suitable employment that becomes available with the employer.

(6) Where an employer reinstates a worker in accordance with this section and then terminates the employment, the employer is presumed not to have fulfilled the employer's obligations under this section if the worker is terminated

- (a) within 6 months after reinstatement, or
- (b) while the worker is continuing to receive compensation under this Act.

(7) The employer may rebut the presumption under subsection (6) by demonstrating to the Board that the termination was not related to the worker's accident.

(8) Nothing in this section prevents an employer from

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

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

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

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

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

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

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

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

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

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

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

- (a) contacting the worker as soon as possible after the accident occurs and maintaining communication throughout the period of the worker's recovery and impairment,

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

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

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

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

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

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

Continuation of employment benefits

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

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

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

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

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

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

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

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

- (a) the plan continues to provide the worker with the health benefit to which the worker would otherwise be entitled, and

- (b) the plan does not require the employer to make contributions during the worker's absence and does not require the worker to draw on the benefit credits, if any, under the plan during the absence.

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

(2) Subsection (1) applies in respect of accidents that occur on or after September 1, 2018.

40 Section 91 is repealed and the following is substituted:

Accident Fund

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

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

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

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

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

- (a) unfairly burden employers in the short term, or
- (b) prevent full funding of the Accident Fund.

41 Section 104 is amended by striking out "section 56(4)" and substituting "section 56".

40 Section 91 presently reads:

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

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

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

(4) In addition to the funds referred to in subsection (3), the Board may maintain a reserve fund sufficient to meet costs arising from extraordinary events that might otherwise

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

(b) prevent full funding of the Accident Fund.

41 Section 104 presently reads:

104 Where the assessment is based on the payroll of the employer and the payroll shows in a year gross earnings in respect of any worker in excess of the amount established under section 56(4), for

42 Section 116 is amended by striking out “\$25” and substituting “\$200”.

43 Section 119 is amended by adding the following after subsection (4):

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

44 Section 136 is repealed and the following is substituted:

Grants

136(1) An organization of employers or workers engaged in an industry to which this Act applies may apply to the Board in a manner acceptable to the Board for a grant under this section.

(2) On receiving an application, the Board may make a grant to an organization in any amount the Board determines if it is satisfied

- (a) that a primary objective and purpose of the organization is the promotion of education in accident prevention in the industry in which the employers or workers are engaged,

that year, the excess amount shall be deducted from the amount of the payroll before it is used as a basis for assessment.

42 Section 116 presently reads:

116 No assessment levied by the Board against an employer in respect of any industry carried on by the employer to which this Act applies shall be less than \$25.

43 Section 119 presently reads:

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

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

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

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

44 Section 136 presently reads:

136(1) An association of employers who are engaged in an industry to which this Act applies may apply to the Board in a manner acceptable to the Board for a grant under this section.

(2) On receiving an application, the Board may make a grant to the association in any amount the Board determines if it is satisfied

(a) that a primary objective and purpose of the association is the promotion of education in accident prevention in the industry in which the employers are engaged, and

- (b) that the organization sufficiently represents the interests of the employers or workers in that industry in Alberta, and
- (c) that the organization has met the criteria set out by the Minister responsible for the *Occupational Health and Safety Act*.

(3) A grant under subsection (2) must be used for the purpose of assisting in the payment of the expenses of the organization related to the promotion of education in accident prevention in the industry.

(4) The Board may make a grant subject to any terms and conditions it considers appropriate, including, without limitation, terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(5) Any money paid by the Board under this section must be charged against the industry represented by the organization and levied as part of the assessment against the industry, and where the organization represents more than one industry, the Board may apportion the charge among the industries in the manner it considers appropriate.

(6) The Board shall publish on the Board's website the names of recipients of grants made under this section, the purpose for which the grant will be used and the amount of the grant.

45 The following is added after section 136:

**Grants for improving the health
and safety of workers**

136.1(1) The Board may make grants for the purpose of improving the health and safety of workers.

(2) A grant under this section is subject to any terms and conditions the Board considers appropriate, including, without limitation, terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(3) The Board shall publish on the Board's website the names of recipients of grants made under this section, the purpose for which the grant will be used and the amount of the grant.

(b) that the association sufficiently represents the interests of the employers and workers in that industry in Alberta.

(3) A grant under subsection (2) shall be used for the purpose of assisting in the payment of the expenses of the association related to the promotion of education in accident prevention in the industry.

(4) The Board may make a grant subject to any terms and conditions it considers appropriate including, without limitation, terms and conditions respecting the use of the funds, reporting and return of unused or misused funds.

(5) Any money paid by the Board under this section shall be charged against the industry represented by the association and levied as part of the assessment against the industry, and where the association represents more than one industry the Board may apportion the charge among the industries in the manner it considers appropriate.

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

45 Grants for improving the health and safety of workers.

46 Section 152.1 is amended

- (a) in subsection (1) by striking out** “103, 105, 106, 108, 109, 110, 138, 139, 140, 140.1, 145, 147(3) or 151.1” **and substituting** “88.1, 88.2(2), 103, 105, 106, 108, 109, 110, 138, 139, 140, 140.1, 145, 147(5) or 151.1”;
- (b) in subsection (3) by striking out** “An administrative penalty” **and substituting** “Subject to sections 88.1(13) and 88.2(5), an administrative penalty”.

47 Section 153(1) is amended

- (a) by repealing clause (k) and substituting the following:**
 - (k) defining “occupational disease” for the purposes of this Act and deeming employment in specified industries or processes or deeming an activity carried out in a particular type of employment to be the cause of specified occupational diseases;
- (b) by adding the following after clause (l):**
 - (l.1) defining base salary for the purpose of section 4(3);
 - (l.2) for the purpose of section 9.2(2)(e);
 - (l.3) prescribing classes of workers for the purpose of section 24.2(2);

46 Section 152.1 presently reads in part:

152(1) A person who contravenes this Act or a regulation or order made under it is guilty of an offence.

(3) An administrative penalty may not exceed \$25 000

(a) for each contravention, or

(b) for each day or part of a day on which the contravention occurs and continues,

as the case may be.

47 Section 153(1) presently reads:

153(1) The Lieutenant Governor in Council may make regulations

(a) governing applications by persons for inclusion within the application of the Act;

(b) exempting industries from the application of this Act;

(c) governing the giving of notice of an accident;

(d) governing the recording by an employer of the particulars of an accident or the allegation of the happening of an accident under section 33(1);

(e) governing the payment for medical aid provided to injured workers, including the amount to be paid;

(f) governing the rendering of accounts to the Board;

(g) relating to employers' statements of wages;

(h) governing the sale by auction of distrained goods;

(i) respecting the amount of the penalty payable under sections 112(2) and 121(2);

(j) defining "net earnings" for the purposes of this Act;

48 Section 156(1) is amended by striking out “, 77”.

49 The following is added after section 158:

Part 10 Review of Act

Review of Act

159(1) The Lieutenant Governor in Council shall, on or before February 1, 2021 and at least once every 5 years thereafter, appoint a review committee consisting of at least 3 persons to review and report on all matters concerning the Act, the regulations and the administration of the Act and the regulations.

(2) For an appointment of members under subsection (1),

- (a) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers,

- (k) defining “occupational disease” for the purposes of this Act and deeming employment in specified industries or processes to be the cause of specified occupational diseases;*
- (l) governing the legal costs and fees payable for the purposes of sections 22(11) and 34(2);*
- (m) governing any other matter necessary to carry out this Act according to its purpose.*

48 Section 156 presently reads:

156(1) Except for sections 1, 6, 77 and 80 of the Financial Administration Act, the Financial Administration Act does not apply to the Board or the Accident Fund.

(2) The Lieutenant Governor in Council, on the advice of the Treasury Board, may make regulations and issue directives that the Lieutenant Governor in Council considers necessary in connection with the exercise or performance of the Treasury Board’s powers and duties under the Financial Administration Act or any other Act with respect to the Board, the Appeals Commission and the Accident Fund.

49 Adds Part 10, Review of Act.

- (b) one person must be selected from a list of at least 3 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers, and
 - (c) one person must be selected from a list of at least 3 persons who applied to be a member of the review committee but who are not members of an organization that represents employers or workers.
- (3) The Lieutenant Governor in Council shall designate one of the members of the review committee as chair of the committee and may designate another member as vice-chair.
- (4) The membership of the review committee must include equal representation of the interests of employers, workers and the general public.
- (5) On completion of the report, the review committee shall submit the report to the Minister, who shall make it publicly available.

Transitional regulations

50 The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Workers' Compensation Act* made by this Act.

Coming into force

51(1) Sections 11(1)(a), 12(1)(a), (b) and (d), 26, 27, 28, 35, 38, 42, 44 and 45 come into force on January 1, 2018.

(2) Sections 4(1)(a), 15, 16, 17 and 18 come into force on April 1, 2018.

(3) Sections 4(1)(b) and (2), 9, 11(1)(b) and (c) and (2), 12(1)(c) and (2), 20, 22, 23, 24, 25, 29, 30, 31, 32, 33, 34, 36, 37, 39, 41, 43 and 46 come into force on September 1, 2018.

(4) Section 14 comes into force on December 1, 2018.

(5) Sections 19 and 21 come into force on Proclamation.

50 Transitional regulations.

51 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To