



CHAPTER 32

An Act to revise and consolidate the Workmen's Compensation Act

[Assented to, the 24th of March, 1926]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. This act may be cited as the *Workmen's Compensation Act*, 1926. Short title.

DIVISION I

COMPENSATION

2. Accidents happening by reason of or in the course of their work, to apprentices, workmen and employees, engaged: Compensation for accidents to certain workmen.

In the work of building; or in factories, manufactories or workshops;

In stone, wood or coal yards;

In lumbering operations, including the floating of timber;

In any transportation business by land or by water; or in loading or unloading;

In any gas or electrical business;

In the business of building, repairing or maintenance of public roads, railway or tramways, water-works, drains, sewers, dams, wharves, docks, elevators, bridges, or other similar work;

In mines or quarries;

In any industrial enterprise or yard, in which explosives are manufactured, used or kept, or in which machinery is used, moved by power other than that of men or of animals; but only if such accident is caused by such machine or discharge of such explosives,—

Shall entitle the injured person or his representatives to compensation as hereinafter determined.

3. The Government of the Province of Quebec and public and private corporations shall, on the same footing as individuals, be subject to these provisions whenever they come within one of the cases enumerated in section 2.

Application to Govt. and public and private corporations. Application to commercial establishments in certain cases. These provisions shall likewise apply to commercial establishments, but only for accidents caused through an elevator, or machinery moved by power other than that of men or animals, to those in charge of same, or which happen in a workshop which is part of the enterprise.

4. A workman who usually works alone shall not be subject to liability under this act from the fact of one or more other workmen casually working with him, or from the fact of the members of his family, who live with him, habitually working with him.

Not applicable to workmen usually working alone. Id., to agricultural industries, etc. This act shall not apply to agricultural industries, nor to navigation by means of sails, nor to domestic service.

5. 1. In the cases provided for in section 2, the person injured shall be entitled:

Compensation: Total and permanent incapacity; Permanent and partial; a. In case of total and permanent incapacity, to a life rent equal to two-thirds of his yearly wages;

Aggravation; b. In case of permanent and partial incapacity, to a life rent equal to one-half of the sum by which his yearly wages have been reduced in consequence of the accident;

c. After a permanent and partial incapacity, if the incapacity be aggravated by another accident, to a life rent equal to two-thirds of the sum by which his yearly wages are again reduced by such aggravation.

Rents due; These rents shall be due from the day on which the permanent nature of the incapacity is established;

Temporary incapacity under seven days; Id., seven days and over. Payment of allowance. **2.** In case of temporary incapacity which has lasted less than seven days, to medical attendance.

If the temporary incapacity has lasted seven days or more, to an allowance equal to half his daily wages at the time, starting from the seventh day after the accident.

Amount. Such allowance shall be payable at the times and place where payment is usually made in the enterprise, but the interval between each payment shall not exceed sixteen days; it shall not exceed twenty-five dollars a week, nor be less than eight dollars a week save where the wages of the person injured are less than this, in which case it shall not exceed the amount of his daily wages.

Pension payable for death to: **3.** When the accident results in death, a pension shall be paid, starting from the death, to the representatives, herein-

after designated, of the deceased, in the order in which they are enumerated, and each degree excluding those following:

a. To the surviving consort, not divorced nor separated from bed and board at the time of the death, provided the marriage took place before the accident, a life rent equal to twenty per cent of the yearly wages of the deceased. Surviving consort.

If the deceased has left legitimate or legitimized children, under sixteen years of age, the life rent to the consort shall be increased in the following proportions: Children under sixteen years of age.

For one child, ten per cent of the yearly wages of the deceased;

For two children, twenty per cent of the yearly wages of the deceased;

For three children, thirty per cent of the yearly wages of the deceased;

For four or more children, forty per cent of the yearly wages of the deceased.

The rent shall be proportionally reduced as the children of the deceased reach the full age of sixteen years. Proportionate reduction.

In the event of remarrying, the consort shall lose the right to his or her share of the rent, but shall continue to receive that allotted to the children. Remarriage entails loss of rent.

Where the widow who is receiving a rent remarries, she shall receive a final allowance equal to the rents for twelve months; Id., for widow, but grant of final allowance.

b. To each child who is without father and mother, a rent equal to twenty per cent of the yearly wages, until he reaches the full age of sixteen years, the total of such rents not to exceed sixty per cent of the yearly wages; Orphans.

c. If there be no consort surviving or children, qualified to receive under the preceding sub-paragraphs *a* and *b*, each of the ascendants and descendants, of whom the deceased was the principal support, shall receive a rent, payable to the ascendants for life, and to the descendants until the age of sixteen years, equal to ten per cent of the yearly wages of the deceased, the total amount of the rents so allowed not to exceed thirty per cent of the yearly wages, and each rent, as the case may be, being reduced proportionally. Ascendants and descendants.

6. Accidents which are provided for by this act shall in addition entitle the injured person or his representatives, as the case may be: Additional obligations:

1. For a period not to exceed six months, to all medical, surgical and pharmaceutical and hospital charges according to a tariff approved by the Lieutenant-Governor in Council; as well as to charges of transporting the injured person to the nearest hospital. Wherever there is more than one Payment of medical and hospital charges, etc. Choice of hospital;

hospital, the injured person may select one of his own choice;

Supplying of 2. To the supplying, and normal renewing, during the
appliances; same period, of prosthetic and orthopedic appliances, the
use whereof is deemed necessary; and

Payment of 3. In case of death, to the actual funeral expenses, but
funeral ex- to the extent of one hundred dollars only.

Physicians The employer must procure for the injured person,
and nurses whose mother tongue is French or English, the services of a
speaking physician and, if required, of nurses speaking his language.
language of Should he fail to do so, the injured person may provide
injured them himself at the expense of the employer. The em-
person. ployer and the head of the enterprise, or the insurance
company, as the case may be, may be sued directly by the
Direct ac- physicians and hospital establishments, having had the
tion for care of the injured person, but, if there is no agreement to
medical the contrary, only to the extent of the sums fixed by the
services. tariff.

Rents, etc., 7. The rents, allowances and compensation due under
inalienable, this act shall be inalienable and exempt from seizure.
etc.

Mode and The rents shall be payable monthly, at the domicile of
place of the person entitled thereto, or at any other place, in the
payment. Province, indicated by him.

Basis of 8. The yearly wages upon which the rent is based shall
rent. be, in the case of a workman engaged in the business during
the twelve months next before the accident, the actual
remuneration allowed him during such time, whether in
money or in kind.

Id., where In the case of a workman employed less than twelve
less than months before the accident, such wages shall be the actual
twelve remuneration which he has received since he was employed
months. in the enterprise, plus the average remuneration received by
workmen of the same class during the time necessary to
complete the twelve months.

Id., where If the work is not continuous, the year's wages shall be
work not calculated both according to the remuneration received
continuous. while the work went on, and according to the workman's
earnings during the remainder of the year.

No over- In the case where the workman receives a fixed wage, any
time, with remuneration he may have received for overtime shall not
fixed wage. be taken into account in calculating his yearly wages.

Minimum The yearly wages to be considered in calculating the rent
and maxi- shall not be less than six hundred dollars, nor more than
mum yearly two thousand dollars.
wages.

Burden of 9. The rents, allowances and compensation established
liability. by this act shall be at the charge of the injured person's im-

mediate employer; but the head of the industry or enterprise for which such employer is acting as a contractor, sub-contractor or otherwise, shall be jointly and severally liable with such employer, in favour of the injured person or his representatives, for the payment of such rents, allowances and compensation.

If the judgment fixing a compensation is not complied with within fifteen days, the beneficiaries may sue the debtor's guarantee insurance company directly, to recover the amount of the judgment. The action against the insurance company shall be subject to a prescription of six months from the date of the judgment. Direct action against insurance company. Prescription.

The head of the industry or enterprise, after having paid, may recover the amount so paid from the party responsible. Recovery by head.

10. Every accident occasioning inability to work shall be reported to the Minister of Public Works and Labour by the employer or the authorized representatives of such employer within thirty days. This provision shall not apply to the Government of the Province of Quebec. Report of accident. Exception.

The report shall be in writing and contain all information required by the Minister. Form, etc., of report.

Immediately after settlement of the compensation, the employer shall report in writing to the Minister and answer all the questions put in this connection. Report of settlement.

Failure, without reasonable excuse, to make such reports shall render the employer liable to a fine of not less than twenty-five dollars and not more than one hundred dollars, payable to the Crown, and recoverable in the usual manner with costs, and, in default of payment of the fine and costs, the employer, and, in the case of a corporation, the president and the manager thereof, shall be liable to an imprisonment for not more than thirty days. Penalties.

The fine and imprisonment may be repeatedly imposed until the party condemned has furnished the Minister with the required reports. Id., repeated.

The injured person and the attendant physician may give a like notice. Like notice.

11. Notice of an accident shall be given to the employer within thirty days, by the injured person or his representatives, and by the physicians who attended him. Notice of accident.

In default of such notice, the person injured, his representatives and the physicians are deprived of their right of action, unless they prove that they have been prevented from giving such notice for reasons deemed sufficient by the judge or the court. Loss of right of action.

Insurance. **12.** With the exception of the Crown, public corporations and railways under the control of the Parliament of Canada, no one may engage in the enterprises, operations or business mentioned in sections 2 and 3 of this act, without having previously obtained from a fixed premium or a mutual insurance company, approved by the Lieutenant-Governor in Council, a policy of insurance by which the insurer undertakes to perform the obligations imposed upon the insured by this act, for any accidents of which his workmen or employees may be the victims by reason of or in the course of their work.

Guarantee in lieu of insurance. Such policy of insurance may, however, be replaced by a deposit, in the office of the Minister of Public Works and Labour, or of the corporations, persons, or officers designated by order-in-council, of a surety-bond, a sum of money or securities, or any other guarantee deemed sufficient to answer for the solvency of the person making such deposit and for the payment of the rents, allowances and compensation for which he may be liable under this act.

Penalties. The persons who fail to comply with the obligation imposed upon them by this section shall be liable to a fine of not less than five hundred dollars and not more than one thousand dollars, payable to the Crown, and recoverable in the usual manner with costs; and, in default of paying the fine imposed and the costs, the person in default, and, in the case of a corporation, the president and manager thereof, shall be liable to an imprisonment of not less than eight days and not more than thirty days.

Id., repeated. The fine and imprisonment may be repeatedly imposed until the party in default has complied with the provisions of this section.

Payt. of capital to insurance company. **13.** The debtor may, at any time, free himself from the duty of effecting the rental payments for which he is liable, by paying the capital of such rents to an insurance company, approved by the Lieutenant-Governor in Council, which shall in his place undertake the duty of effecting the rental payments at a rate fixed by order-in-council.

Id., to injured person. When the capital of the rents does not exceed five hundred dollars, it shall be paid over to the injured person or to his representatives, and the payment of such capital shall free the debtor from the duty of effecting the rental payments.

No retention of wages. **14.** 1. It is forbidden for employers, or owners of industries or enterprises to make any retention of any part of the salary or wages of their workmen or employees for purposes of insurance against accidents happening by

reason of or in the course of their work, even with the consent of such workmen or employees.

2. Any agreement under which such a retention is made or authorized shall be null and of no effect. Nullity.

3. In any case where such retention is made, the workman, apprentice or employee, in the three months following the termination of his contract of employment, may recover, before any court of competent jurisdiction, the amount so unlawfully withheld from his salary or wages. Recovery where made.

Subsections 1, 2 and 3 of this section shall not apply to employees who, individually and in good faith, take out supplementary policies of insurance and who give written orders to their employers to pay the premiums out of their wages or salaries. Exception for certain supplementary policies.

DIVISION II

LIABILITY

15. Apart from the action granted under this act, the injured person or his representatives shall retain, against the authors of the accident, other than the employer, his servants or agents, the right to claim compensation for the damage caused, in accordance with the rules of common law. Liability at common law.

The compensation granted them shall free to that extent the employer and the owner of the industry or enterprise from the obligations put upon them. Such action against the third parties responsible may even be exercised by the employer and the owner of the industry or enterprise, at their own risk, in the place and stead of the injured person or his representatives, if such injured person or representatives neglect to avail themselves of it, within a delay of fifteen days after being put in default in writing. Discharge of obligations. Right of action.

16. Damages resulting from accidents happening by reason of or in the course of the work shall only entitle, against the employer and the owner of the industry or enterprise, the injured person or his representatives, in the cases provided for in this act, to the compensation which it fixes. Only compensation provided.

17. The injured person shall be bound, not oftener than once a month, at the expense of the employer, if the latter requires him so to do, in writing, to submit to an examination by a practising physician chosen and paid by the employer, and, if he refuses to submit to such examination or opposes the same in any way, his right to rents, allowances and compensation as well as any remedy to enforce the same shall be suspended until the examination takes place. Submission to medical examination.

The person injured, shall, in such case, always be entitled Id., in pre-

sence of own to demand that the examination shall take place in the
physician. presence of a physician chosen by him.

Nullity of **18.** Every agreement contrary to the provisions of this
agreements. act shall be absolutely null.

DIVISION III

PROCEDURE

Jurisdiction **19.** The Superior Court, the Circuit Court and the
of courts. Magistrate's Court shall have jurisdiction in every action
or contestation in virtue of this act, in accordance with the
jurisdiction given to them respectively, by the Code of
Civil Procedure.

Procedure **20.** The fixing and recovery of the rents, allowances
by petition. and compensation under this act shall be effected, notwith-
standing article 117 of the Code of Civil Procedure, by a
summary petition to one of the judges of the court of com-
petent jurisdiction, whereof notice must be given to the
adverse party at least six clear days before its presentation.

Notice.

Powers of
judge.

The judge before whom the parties appear shall have the
widest powers respecting the fixing of the compensation
provided by this act, the summoning of witnesses and of
any experts, as well as the taxation of all costs and the
general conducting of the inquiry, and he may in particular:

a. If he considers that no rights are prejudiced, render
judgment immediately; or

b. Adjourn the case to a date which shall not be distant
more than fifteen days and shall then proceed, in or out of
term, to hear and decide the matter summarily, and without
having the evidence of witnesses taken in writing; or

c. At the request of any party, if he considers that the
ends of justice will be better served, refer the case to the
Superior Court and order the issue of a writ in the usual
manner. The proceedings on such writ are summary and
subject to the provisions of the Code of Civil Procedure
respecting summary matters.

Expert
witnesses.

In any case, no more than one expert witness may be
produced on each side, on the initiative of the parties.

Effect of
decisions.

Decisions rendered by the judge in virtue of the fore-
going provisions shall have the same effect as a judgment
of the court.

No obliga-
tion to
plead.

The defendant, unless he wishes to invoke questions of
law and special facts, is not obliged to plead in writing to
the petition, all the allegations whereof he is deemed to have
denied.

Taking of
evidence.

One of the parties, in all cases, may exact the taking of the

evidence in shorthand, but the expense thereof shall be borne by him.

Settlements, arrangements, compromises and payments effected without the sanction of the judge or of the court, saving the case of subsection 2 of section 5, and the cases of section 6, are null *de jure*. Nullity of settlements, etc.

21. The advocates and attorneys representing the injured person or his representatives shall be entitled, as well in appeal as in the court of first instance, to the taxable costs only, adjudged against the opposing party; they cannot receive from their clients any retainer nor any fee or commission whatever, either directly or indirectly, arising out of the application of this act, under pain of being guilty of contempt of court. They shall in addition be obliged to return all sums collected contrary to this prohibition. Taxable costs for lawyers. No retainer, etc.

22. Shall be null *de jure* and of no effect, all obligations contracted by the injured person or his representatives to remunerate the services of an intermediary who undertakes to secure to the said injured person, or to his representatives, the benefit of the provisions of this act. No remuneration for services of intermediary.

Sums paid contrary to this provision may be recovered before any court of competent jurisdiction. Idem.

23. Whenever the amount in dispute exceeds two hundred dollars, a final appeal shall lie, as to the question of law only, to the Court of King's Bench, before five judges, from judgments of the judge or of the court of first instance. Appeal.

The appeal shall be taken within fifteen days from the rendering of such judgment; such appeal shall be heard, with precedence over other cases, at the first sitting of the court after the inscription, and without a printed factum or record. Delay. Hearing.

24. The court of first instance or a judge of such court may, upon petition, at any stage of the case, whether before judgment or while an appeal is pending, grant a provisional weekly allowance to the person injured or to his representatives. Provisional weekly allowance.

25. There shall, even in the cases provided for in section 29 herebelow, be no trial by jury in any action taken in virtue of this act. No trial by jury.

26. The petition to recover any compensation provided for under this act shall, as against all persons, be subject to a prescription of one year from the date of the accident. Prescription.

Revision of
compensa-
tion.

Delay.

27. A petition to revise the amount of the compensation, based on the alleged aggravation or diminution of the disability of the person injured or upon his death as the result of the accident, may be taken during the two years next after the date of the final judgment.

Common
law rights.

28. This act shall not do away with any of the common law rights of action belonging to any persons who cannot avail themselves of its provisions.

Actions be-
gun under
act con-
tinued at
common
law.

29. Cases begun under this act may, if it be afterwards established that its provisions do not apply in the circumstances, be continued and adjudged as an ordinary action at common law, provided that the petition be so drawn up to permit thereof; and, for such purpose, the judge or the court may allow all lawful amendments.

Workmen,
etc., en-
gaged to
work out-
side Prov-
ince.

30. Workmen, apprentices and employees who are engaged in this Province to go and work outside, or their representatives, shall not be entitled to the benefits of this act if they are entitled to the compensation provided for under the law of the place where the accident occurred.

Provisions
of act made
applicable
by agree-
ment.

Rights, etc.,
of signa-
tories.

31. Employers to whom this act does not apply may place themselves under its provisions, if they enter into a written agreement for such purpose with their apprentices, workmen and employees individually.

During the period agreed upon, the respective legal rights and obligations of the signatories of the said agreement with regard to accidents happening by reason of or in the course of the work shall be governed by these provisions to the exclusion of any other law.

Application
of act.

32. This act shall not apply to cases begun before the date of the coming into force of this act, nor to accidents which happened before such date.

Repeals.

33. Chapters 274 and 275 of the Revised Statutes, 1925, are repealed.

Coming into
force.

34. This act shall come into force on the first day of April, one thousand nine hundred and twenty-seven.