

## C H A P . 65

## An Act to amend the act respecting trust companies

[Assented to 29th May, 1909]

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

1. Section 2 of the act 6 Edward VII, chapter 14, is repealed. 6 Ed. VII, c. 14, s. 2, repealed.
2. Section 4 of the said act is amended by striking out the words : " in the Province ", in the first and second lines of paragraph 4. Id., s. 4, amended.
3. The said act is amended by adding thereto the following sections : Id., ss. 5, 6, added.

" 5. The officer mentioned in section 1 of this act shall at such times as may be appointed by the Provincial Treasurer for that purpose, have access to the premises of each such trust company and the right to examine its books of account, papers and documents, for the purpose of ascertaining the position of the company's affairs with reference to the matters mentioned in the yearly statements rendered by the company under section 4 of this act. Powers of inspector.
- " 6. Any such company refusing to allow such examination to take place, or in any way preventing or hindering the same, shall be liable to a penalty of \$25.00 per day during the whole time it so refuses, prevents or hinders such examination." Penalty for refusing, &c., inspection.
4. This act shall come into force on the day of its sanction Coming into force.

## C H A P . 66

An Act respecting the responsibility for accidents suffered by workmen in the course of their work, and the compensation for injuries resulting therefrom

[Assented to 29th May, 1909]

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

## SECTION I

## COMPENSATION

1. Accidents happening by reason of or in the course of their work, to workmen, apprentices and employees engaged in the Accidents to certain work-

men, &c., to involve certain compensation.

work of building ; or in factories, manufactories or workshops ; or in stone, wood or coal yards ; or in any transportation business by land or by water ; or in loading or unloading ; or in any gas or electrical business ; or in any business having for its object the building, repairing, or maintenance of railways or tramways, water-works, drains, sewers, dams, wharves, elevators, or bridges ; or in mines, or quarries ; or in any industrial enterprise, in which explosives are manufactured or prepared, or in which machinery is used, moved by power other than that of men or of animals, shall entitle the person injured or his representatives to compensation ascertained in accordance with the following provisions.

Agricultural industries, &c., not included.

This act shall not apply to agricultural industries nor to navigation by means of sails.

Compensation :

**2.** In cases to which article 1 of this act applies, the person injured is entitled :

For absolute and permanent incapacity.

*a.* In case of absolute and permanent incapacity, to a rent equal to fifty per cent of his yearly wages, reckoning from the day the accident took place, or from that upon which by agreement of the parties or by final judgment it is established that the incapacity has shown itself to be permanent ;

For permanent and partial incapacity.

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

For temporary incapacity.

*c.* For temporary incapacity, to compensation equal to one half the daily wages received at the time of the accident, if the inability to work has lasted more than seven days, and beginning on the eighth day.

Maximum of capital of rents.

The capital of the rents, shall not, however, in any case except in the case mentioned in article 5, exceed two thousand dollars.

Compensation in case of death.

**3.** When the accident causes death, the compensation shall consist of a sum equal to four times the average yearly wages of the deceased at the time of the accident, and shall in no case, except in the case mentioned in article 5, be less than one thousand dollars or more than two thousand dollars.

Funeral expenses, &c.

There shall further be paid a sum of not more than twenty-five dollars for medical and funeral expenses, unless the deceased was a member of an association bound to provide, and which does provide therefor.

Compensation how payable.

The compensation shall be payable as follows :

To surviving consort.

*a.* To the surviving consort not divorced nor separated from bed and board at the time of the death, provided the accident took place after the marriage.

To children.

*b.* To the legitimate children or illegitimate children acknowledged before the accident, to assist them to provide for themselves until they reach the full age of sixteen years.

c. To ascendants of whom the deceased was the only support at the time of the accident. To ascendants.

If the parties do not agree upon the apportionment of the compensation, it shall be apportioned by the proper court. Apportionment of compensation.

Nevertheless every sum paid under article 2 of this act in respect of the same accident shall be deducted from the total compensation. Proviso.

4. A foreign workman or his representatives shall not be entitled to the compensation provided by this act, unless at the time of the accident he or they reside in Canada, or if he or they cease to reside there while the rent is being paid; but if he or they cannot take advantage of this act the common law remedy shall exist in his or their favour. When foreign workman, &c., entitled to compensation.

5. No compensation shall be granted if the accident was brought about intentionally by the person injured. No compensation in certain case.

The court may reduce the compensation if the accident was due to the inexcusable fault of the workman, or increase it if it is due to the inexcusable fault of the employer. Increase or reduction of compensation.

6. If the yearly wages of the workman exceed six hundred dollars, no more than this sum shall be taken into account. The surplus up to one thousand dollars shall give a right only to one fourth of the compensation aforesaid. This act does not apply in cases where the yearly wages exceed one thousand dollars. Compensation if wages exceed \$600.00. When act does not apply.

7. Apprentices are assimilated to the workmen in the business who are paid the lowest wages. Apprentices.

8. The wages upon which the rent is based, shall 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. Wages upon which rent based.

In the case of workmen employed less than twelve months before the accident, such wages shall be the actual remuneration which they have received since they were employed in the business, plus the average remuneration received by workmen of the same class during the time necessary to complete the twelve months. Basis if workman employed less than 12 months.

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

9. As soon as the permanent incapacity to work is ascertained, or, in case of death of the person injured, within one year, compensation shall be payable, &c. When compensation payable, &c.

month from the date of the agreement between the employer and the parties interested, or, if there be no agreement, within one month from the date of the final judgment condemning him to pay the same, the employer shall pay the amount of the compensation to the person injured or his representatives, or, as the case may be, and, at the option of the person injured or of his representatives, shall pay the capital of the rent to an insurance company designated for that purpose by order in council.

Rents payable quarterly.

Compensation for temporary incapacity

Conditions upon which insurance companies may pay rents, &c.

**10.** The rents payable under this act, shall be paid quarterly. The compensation in case of temporary incapacity is payable at the same time as the wages of the other employees, and at intervals in no case to exceed sixteen days.

**11.** The Lieutenant-Governor in Council may prescribe the conditions upon which the insurance companies applying by petition to be authorized to pay the said rents in virtue of this act, shall be authorized so to do ; but no company that has not made a deposit with the Government of Canada or of this Province, in conformity with the laws of Canada or of this Province, of an amount deemed sufficient to ensure the performance of its obligations, shall be so authorized.

Compensation not alienable, &c.

**12.** All compensation to which this act applies, shall be unalienable and exempt from seizure, but the employer may deduct from the amount of the indemnity any sum due to him by the workman.

Compensation at charge of employer, &c.

**13.** The compensation prescribed by the preceding articles shall be entirely at the charge of the employer, and the employer shall not, for this purpose, deduct any part of the employee's wages, even with the consent of the latter.

## SECTION II

### LIABILITY FOR ACCIDENTS

Recourse against third persons.

**14.** The person injured or his representatives, shall continue to have, in addition to the recourse given by this act, the right to claim compensation under the common law from the persons responsible for the accident other than the employer, his servants or agents.

Effect of compensation from third persons, &c.

The compensation so awarded to them shall, to the extent thereof, discharge the employer from his liability ; and the action against third persons responsible for the accident, may be taken by the employer at his own risk, in place of the person injured or his representatives, if he or they refuse to take such action after having been put in default so to do.

**15.** The employer shall be liable to the person injured or <sup>Employer</sup> to his representatives mentioned in article 3 of this act, for <sup>only liable</sup> injuries resulting from accidents caused by or in the course of <sup>under this</sup> the work of such person, in the cases to which this act applies, <sup>act.</sup> only for the compensation prescribed by this act.

**16.** All moneys paid by any insurance company or mutual <sup>Moneys paid</sup> benefit society, shall be applied, to the extent thereof, on <sup>by insurance</sup> account of the sums and rents payable in virtue of this act, if <sup>companies,</sup> the employer proves that he has assumed the assessments or <sup>&c., how</sup> premiums demanded therefor. But the employer's liability shall continue if the company or society neglects to pay or becomes unable to pay the compensation for which it is liable.

**17.** Workmen who usually work alone shall not be subject <sup>Certain</sup> to this act from the fact of their casually working with one or <sup>workmen not</sup> more other workmen. <sup>subject to act</sup>

**18.** The person injured shall be bound, if the employer <sup>Medical ex-</sup> requires him so to do, in writing, to submit to an examination <sup>amination of</sup> by a practicing physician chosen and paid by the employer, <sup>person in-</sup> and if he refuses to submit to such examination or opposes the <sup>jured, &c.</sup> same in any way, his right to compensation as well as any remedy to enforce the same shall be suspended until the examination takes place. The person injured, shall, in such case, always be entitled to demand that the examination shall take place in the presence of a physician chosen by him.

**19.** Every agreement contrary to the provisions of this act <sup>Agreements</sup> shall be absolutely null. <sup>contrary to</sup>  
<sup>act null.</sup>

### SECTION III

### SECURITY

**20.** The claim of the person injured or of his representatives, <sup>Privilege for</sup> for medical and funeral expenses, as well as for compensation <sup>medical ex-</sup> allowed for temporary incapacity to work, shall be secured <sup>penses, &c.</sup> by privilege on the moveable and immoveable property of the employer, ranking concurrently with the claim mentioned in paragraph 9 of article 1994 of the Civil Code.

Payment of compensation for permanent incapacity to work, <sup>Privilege in</sup> or in respect of an accident followed by death, shall so long as <sup>case of death,</sup> the compensation has not been paid, or so long as the sum <sup>&c.</sup> necessary to procure the required rent has not been paid to an insurance company or otherwise paid in virtue of this act, be secured by a privilege upon moveable property of the same nature and rank, and by a privilege upon immoveable property ranking after other privileges, and after hypothecs.

## SECTION IV

## PROCEDURE

Courts having jurisdiction. **21.** The Superior Court and the Circuit Court shall have jurisdiction of every action or contestation in virtue of this act, in accordance with the jurisdiction given to them respectively, by the Code of Civil Procedure.

Appeals, &c. **22.** Review and appeal of or from judgments susceptible thereof, shall be taken within fifteen days from the rendering of such judgments, and if not so taken the right thereto shall lapse. Such appeals shall have precedence.

Provisional allowance. **23.** The court or judge may, upon petition, at any stage of the case, whether before judgment or while an appeal is pending, grant a provisional daily allowance to the person injured or to his representatives.

No trial by jury. **24.** There shall no trial by jury in any action taken in virtue of this act, but the proceedings shall be summary, and shall be subject to the provisions of the Code of Civil Procedure respecting such matters.

Prescription of actions. **25.** The action to recover any compensation to which this act applies shall, as against all persons, be subject to a prescription of one year.

Revision of amount of compensation. **26.** A demand to revise the amount of the compensation, based on the alleged aggravation or diminution of the disability of the person injured, may be taken during the four years next after the date of the agreement of the parties as to such compensation, or next after that of the final judgment. Such demand shall be in the form of an action at law.

Petition for leave to sue, &c. **27.** Before having recourse to the provisions of this act, the workman must be authorized thereto by a judge of the Superior Court upon petition served upon the employer. The judge shall grant such petition without the hearing of evidence or the taking of affidavits, but may before granting the same use such means as he may think useful to bring about an understanding between the parties. If they agree, he may render judgment in accordance with such agreement, upon the petition, and such judgment shall have the same effect as a final judgment of a competent court.

Coming into force. **28.** This act shall come into force on the first day of January, 1910, and shall not apply to pending cases nor to accidents which happened before it came into force.