The Workers’ Compensation Act

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Workers’ compensation was introduced in Saskatchewan in the 1930’s

*The Workers’ Compensation Act, 2013, S.S. 2013, c.W-17.11 (the “Act”) its Regulations and board policies form a mandatory insurance scheme*

Compensation systems in Saskatchewan and all Canadian provinces were based upon the “Meredith Principles”
Meredith Principles: Compensation Without Fault

- Workers receive benefits without regard to who was at fault for the injury
- Entrenched through the operation of Sections 26 and 27 of the Act
- Exception – Section 30
Meredith Principles: Security of Payment

- Ensures that worker receives benefits in spite of the financial condition of their employer

- In most cases it is the board not the employer who pays the worker

- Section 26 - payment by the board out of the fund
Meredith Principles: Collective Liability for Employers

• An individual employer does not bear the responsibility for injury costs, they are borne by the collective of provincial employers

• Sections 114 and 115 - establish the fund and set the parameters for payments from the fund

• Payments from the fund cover:
  – the costs of compensation,
  – medical aid, and
  – expenses incurred in administering the Act
Meredith Principles: Independent Administration and Adjudication

- Claims submitted by injured workers are handled impartially and objectively.
- Arises through the operation of Sections 9, 20 and 115 of the Act.
Meredith Principles: Exclusive Jurisdiction

- The board is given the exclusive jurisdiction to determine all matters involving claims or disputes that arise under the Act.
- Courts are prohibited from interfering with the decisions of the board.
- This principal is covered in Section 20 of the Act.
Highlights of The Act

- The Act came into force January 1, 2014 and replaced previous workers’ compensation legislation.
- The Act provides the framework for the system, and the administration of all facets of workers’ compensation in Saskatchewan.
Part II — Scope of Act

Who Is In, Who Is Out?

- Section 3(1) and 3(2) and *The Workers’ Compensation Exclusion Regulations, 2014* establish who is and is not covered.

- Sections 3(3), (4), (5) and (6) provide the process by which those who are excluded can seek inclusion.
Part III – Workers’ Compensation Board

The Corporation and Jurisdiction

- Establishes the Workers’ Compensation Board as a corporation - Section 9
- Full-time Chairperson
- Equal number of full-time Board Members, half representing employer community, half representing worker community
- Term – Section 10
  - Chairperson – 5 years
  - Board Members – 4 years
Part III - Workers’ Compensation Board

- Sections 15, 16 and 18 give the board the authority to create the administrative and adjudicative structure.
- Section 19 outlines the duties of the board.
- Section 20 gives the board exclusive jurisdiction to deal with all matters arising under the Act.
- Decisions of the board are generally not reviewable by the Courts.
Part III - Workers’ Compensation Board

Reviewing and Appealing a Decision

• Sections 18 creates the appeal process

• The board has the authority to revisit or reconsider matters that have already been decided

• Section 104 permits the review of compensation being paid. This process can be commenced either by the board or at the request of the worker
Part IV — Compensation

Am I Eligible?

• Section 26 – compensation is payable for injuries incurred during the course of employment
• Section 30 – not eligible if you purposely harm yourself unless the harm is serious or results in death
• Section 31 – payable when disabled beyond the day of injury
Part IV — Compensation

Workers’ Duties

• Section 44 – report injury to employer and board within 6 months of occurrence

• Section 46 – if section 44 is not complied with the board may still consider a claim if it is just and fair to do so

• Section 51 – worker must mitigate their loss
Part IV — Compensation

Employer and Health Care Professional Duties

- Section 52 – employer must report the injury within 5 days of becoming aware of its occurrence
- Sections 55 and 57 – health care professionals have a duty to provide reports regarding the treatment and care of the injured worker
Part IV — Compensation

Can I Sue or be Sued?

• Section 38 – may commence an action and maintain compensation

• Section 39 – board’s right of subrogation

• Section 43 – actions against employers and fellow workers are prohibited
Medical Review Panels

• Section 59 – worker may request a medical review panel if:
  – they are claiming a greater PFI;
  – they are claiming a greater limitation on working capacity
  – they are claiming that compensation should have been granted for a longer period of time
  – the board’s decision was based upon an erroneous or incomplete medical report
Part IV — Compensation

Compensation to Workers

• Sections 66 through 79
• Section 66 – PFI award; minimum $2,200; maximum $45,200
• Section 68 – level of compensation; 90% of gross earnings after IT, CPP and EI have been deducted
Part IV — Compensation

Compensation to Dependants

• Sections 80 through 93
• Section 81 – amount payable to dependent spouse; generally equal to what worker would have been paid at least for the first 5 years
• Section 83 – dependent children between 18 and 25 are eligible for a monthly allowance when attending school
Part IV — Compensation

Review of Compensation

• Section 100 – the worker may ask that the level of compensation be reviewed, or the board may review the level without a request from the worker

• Compensation may be suspended or terminated if the conditions in Section 101(1) arise
Part IV — Compensation

Medical Aid and Rehabilitation

- Sections 103 through 111
- The board is responsible for the cost of medical and surgical aid
- Board may pay the costs of special procedures
- Board may pay for other measures that will assist the worker or a dependent spouse in overcoming the effects of the injury
Part V – Injury Fund

• Section 115 – board’s authority to expend funds
• Section 122 – creates employer’s obligation to provide payroll statement
• Section 131 – deems contractors or subcontractors to be workers of the principal
• Principal may recover the assessment costs from the contractor
• Section 132 – principal has an obligation to obtain clearances prior to paying contractors
Part VI – Assessments

- Section 141 – board is to provide notice to the employer regarding their assessment

- Sections 155 through 157 - address the issue of the collection of unpaid assessments
  - Section 155 – board may issue a Certificate for the unpaid assessment and this has the same effect as a judgment of the court.
Part VI – Assessments

• Section 156 – duty of a purchaser of a business to ensure that there are no outstanding assessments owed by the vendor

• Section 157 – the board may place a tax lien against the business property
Part VII – Other Matters

- Section 161 – establishes Workers’ Advocate
- Sections 167, 168, 169 and 181 together with section 44 address the abolition of court actions by an injured worker
- Sections 173 and 174 address the release of claim file information to an injured worker and an employer
Offences and Penalties

- In general there are three types of fines and penalties the board can seek or hand out:
  - Summary conviction with a fine of not more than $1,000
  - Discretionary penalties in an amount set by the board
  - Administrative penalties not exceeding $10,000
Part VII – Other Matters

Administrative Penalties

- Maximum $10,000
- Section 183:
  - Employer failing to notify board of injury or failing to notify within 5 days – section 52
  - Employer collecting from worker for cost of medical aid – section 105
  - Employer failing to submit payroll statement – section 122
Part VII – Other Matters

- Failure by employer who is carrying on business temporarily, or started the business mid-year to pay an amount ordered by the board – section 158

- Employer deducting amounts employer owes to the board from worker’s wages – section 164
Part VII – Other Matters

Discretionary Penalties

• Section 54(b) - pay the board the amount of compensation and medical aid paid out for injuries that are not reported or not reported on time

• Section 105(2)(b) – pay to the worker three times the amount collected by the employer from the worker for medical aid

• Section 123(2)(b) – order the employer to pay an additional percentage of an assessment when the payroll is not submitted as required
Part VII – Other Matters

• Section 163(4)(b) - order employer to pay to the board any amount of compensation that the worker would be entitled to where the employer has the worker agree to not submit a claim

• Section 164(2)(b) – order the employer to pay the worker any amount that was deducted from their wage for the purposes of paying the employer’s obligations under the Act
Section 187 – Cabinet can make regulations. Usually done after consultation with the board.

Two types:
- General Regulations
- Exclusion Regulations
Regulations

• General Regulations
  – Submission of payroll statements
  – Penalties for default
  – Coverage for employers
  – Coverage for spouses and other family members
  – Principal’s obligation to notify the board re: contractor or subcontractor work

• Exclusion Regulations
  – Outline those industries and occupations that are excluded from the Act
Policy

• The role of policy is to assist board employees in the decision-making process
• Policies provide guidance to the staff on the application of the Act
• See the board’s website for its policies and procedures - www.wcbsask.com
Reminders

• Please remember to complete your feedback forms

• Please visit the displays