

**The Meredith Act**  
also known as  
**the Workers' Compensation Act, 2025**

**PART 1: PURPOSES AND PRINCIPLES**

**Purposes**

1. In accordance with the historic trade-off of workers' rights to access justice through the courts in exchange for timely no-fault compensation for losses arising from workplace accidents and diseases, the following shall be the purposes and principles of this Act:
  - a. The purpose of this *Act* is to provide compensation, benefits, rehabilitation, education and training (hereinafter compensation) to injured workers or their survivors.
  - b. It is also a purpose of this Act to authorize the gathering information about workplace health and safety, injuries, and disease, and to analyze and distribute this information to the Ministry of Labour, other ministries, officers of health, coroners, other government agencies, other governments, and the public.

**Principles**

2. In interpreting and applying this *Act* the following principles shall be observed and applied as both interpretive and substantive provisions:
  - a. Compensation **Proportionate** to the Degree of Loss of Earnings and Intangible Losses
  - b. **Timely** Administration Without Court Proceedings
    - i. Compensation to injured workers shall be provided quickly without court proceedings.
  - c. **No Burden** on Public or Families
    - i. The object of compensation for injured workers shall be, at a minimum, to put the injured worker into the same or similar position they would have enjoyed but for the workplace related injury or disease, so that they shall not be a burden on their families, friends, or community at large, because of the workplace injury or disease.

- d. **Monies and Assets are a Trust**
  - i. All monies and assets levied for, contributed to, or held by the Commission shall be considered a public trust on behalf of current or future injured workers, and shall be treated accordingly under common and statute law unless a specific term herein states a contrary intention.
- e. **Collective Responsibility** for Costs on Employers
  - i. The costs of providing compensation and appeals of compensation decisions shall be the collective responsibility of the employers of Ontario;
- f. **Security** of Payment
  - i. Injured workers shall enjoy security of payment;
- g. **No Fault**
  - i. Compensation shall be paid to injured workers without regard to fault or negligence of any person or entity, and without regard to any pre-existing medical condition, weakness, or susceptibility to harm, whether known or unknown, on the part of the injured worker.
- h. **Independence**
  - i. The administration of worker's compensation and the appeal process for decisions made in the administration of the compensation shall be independent and free from interference from the executive branch of government, akin to the judicial branch of government.
- i. **Exclusivity of Jurisdiction**
  - i. Administration of the compensation, adjudication of claims, and appeals of any decisions arising from a dispute over compensation, or other matters arising from this *Act*, shall be made exclusively by the independent commission or independent appeals tribunal as specified herein;
- j. **Privity**
  - i. The decision making of the Commission and the appeals process

of the Tribunal for individual claimants shall not be constrained or interfered with in any manner by any Court. The right of judicial review shall not be available to any party until and unless the Tribunal has made a final disposition of any matter or dispute.

- ii. In the event that there is an allegation that the Commission is in breach of trust over the administration of compensation, such an allegation shall be brought in the Superior Court.
- iii. Under no circumstances shall such a proceeding be allowed to amount to a collateral attack on the decision making of the Commission or the jurisdiction of the Tribunal.

## **PART 2: DEFINITIONS**

### **3. Definitions**

“Accident” means any harm beyond the trivial that occurs to a worker arising from the attendance at and participation in the enterprise, work, or undertakings of the employer. This includes, but is not limited to:

- a. a wilful and intentional act, not being the act of the worker,
- b. a chance event occasioned by a physical or natural cause, and
- c. disablement arising out of the employment.

“Contribution Rate” means the amount of money that the Commission shall require employers to contribute to the Commission for the benefit of injured workers and the family members of workers killed by accident or occupational disease, and shall be stated as a given amount of dollars and cents per one hundred dollars of gross pay to any given worker.

“Dependant” has the same meaning as in Part III, s. 29 of the *Family Law Act*, RSO 1990, c F.3

“Employer” means any person, sole proprietor, partnership, corporation, corporate entity of any sort, whether public, private, for-profit, not-for-profit, co-operative, or otherwise, employing any person to labour for or serve the employer in exchange for money, wages, compensation or payment of any valuable thing or service. An employment relationship arises upon the formation of an employment contract, whether personal, collective, casual, or as a dependent contractor, regardless of whether any duties have actually been performed by the worker or payment of money has been made by the employer.

For the purposes of this Act, an employment relationship shall include the employment of minors, co-op students, apprentices, learners, and volunteers, no matter how characterized.

“Injured Worker” means any person who has suffered impairment of their physical, mental and social well being caused by a physical or mental injury, or disease, or any other form of ill health, because of an accident, exposure to harmful conditions, repetitive strain, exposure to harmful agents, or any other harmful thing, because of their participation in a workplace, whether for wages, payment in kind, benefits, or any other valuable consideration.

“Occupational Disease” means ill-health to a worker or among workers wherein working conditions or factors adverse to their health in their employment is or was a significant contributing factor to the ill health. It is not necessary for the worker’s employment to be the sole, primary or predominant cause of the occupational disease;

- a. When making determinations respecting the worker’s entitlement to benefits for the effects of an occupational disease, the Commission shall have regard to evidence consisting of scientific data or information about the worker’s employment-related exposures, but such evidence shall not be used as a substitute for the Commission’s power and responsibility for making those determinations;
- b. When making determinations respecting the worker’s entitlement to benefits for the effects of an occupational disease, all of the worker’s exposures shall be considered and shall be presumed to be additive unless the presumption is rebutted with evidence of a synergistic effect; and,
- c. When making determinations respecting the worker’s entitlement to benefits for the effects of an occupational disease, evidence that the rate of a particular occupational disease among persons in the worker’s workplace is higher than the rate of the disease in the community shall be presumed to be evidence that the occupational disease occurred due to the nature of the worker’s employment.

“Significant Contributing Factor” means a material contribution that is not required to meet any particular quantifiable threshold but that is more than trifling or speculative. In making any such determination, the Commission shall have regard to whether it is more likely than not that the employment is a significant contributing factor;

“Worker” means any natural person providing labour or services for compensation or wages or payment in kind from any employer. An employment relationship arises upon the formation of an employment contract, whether personal, collective,

casual, or as a dependant contractor, regardless of whether any duties have actually been performed by the worker or payment of money has been made by the employer. For the purposes of this Act, an employment relationship shall include the employment of minors, co-op students, apprentices, learners, and volunteers, no matter how characterized.

“Workplace Injury” means any impairment of a worker’s physical, mental and social well being caused by a physical or mental injury, or disease, or any other form of ill health, because of an accident, exposure to harmful conditions, repetitive strain, exposure to harmful agents, or any other harmful thing that was a significant contributing factor to the impairment, because of their participation in a workplace, whether for wages, payment in kind, benefits, or any other valuable consideration and includes psychological or mental health conditions arising from workplace conditions, traumatic incidents, or psychological sequela of physical injuries.

### **PART 3: COMPENSATION [*Proportionate, Security, No Burden, No Fault*]**

#### **Compensation**

4. Compensation to injured workers shall be provided quickly without court proceedings.
5. Injured workers shall be entitled to compensation for:
  - a. Lost earnings and compensation in kind;
  - b. Lost pension contributions;
  - c. Health care and rehabilitation services;
  - d. Training and Education;
  - e. Pain and suffering; and,
  - f. In the event of a workplace fatality or premature death due to occupationally related disease, compensation to the dependants of the deceased worker and their estate.

#### **Lost earnings and compensation in kind**

6. Compensation shall include replacement of all lost work earnings arising from the workplace injury or disease at the rate of ninety per cent (90%) of the after tax earnings of the worker.

- a. Earnings shall be calculated as either:
    - i. The total value of declared earnings in the previous tax year; or
    - ii. The average value of declared earnings in the previous five years;whichever is greater.
  - b. In the event that the worker has not filed up-to-date or complete tax returns, the Commission shall:
    - i. Calculate a rate for interim benefits and provide interim benefits accordingly;
    - ii. Offer assistance to the worker to promptly file or re-file such tax returns, and provide such assistance to the worker to do so without delay; or
    - iii. Promptly refer the worker to a list of qualified sources for independent tax preparation, which the Commission shall maintain at all times.
  - c. When late, retroactive, or amended tax returns are accepted by the Canada Revenue Agency or its successors in law, the resulting tax assessment notifications shall be accepted as definitive proof of income and benefits under this *Act* shall be calculated thereon.
  - d. If the use of interim benefit calculations under this *Act* arising from late, retroactive or amended tax filings results in an overpayment following finalization of tax filings for a worker, the resulting overpayments are recoverable by the Commission notwithstanding any other provision of this *Act*.
7. Compensation shall include payment into any employer sponsored or group health benefit plan providing drugs, dental, eyeglasses, or other similar health benefits not covered by public health insurance, in which the worker was enrolled at the time of the accident or onset of the disease, until such time as the worker returns to work or would cease to be a member of the plan by virtue of retirement, or is severed from employment in accordance with this *Act*.
  8. In the event that a worker suffers a permanent work related injury or disease that results in either a partial or complete loss of wages, the compensation for such a loss shall be indexed to the Consumer Price Index (CPI) maintained by Statistics Canada, and adjusted annually.

- a. The adjustment shall be calculated as follows:
  - i. On or about October 31<sup>st</sup> of each calendar year the Commission shall obtain the CPI data for the month of October from Statistics Canada, or as soon thereafter as data becomes available.
  - ii. The CPI as of that month shall be compared to the CPI of the same month of the previous calendar year.
  - iii. The difference between the two CPI numbers shall be rendered into a percentage change.
  - iv. The percentage change shall be applied to all benefits and compensation payable to injured workers in the following twelve month period commencing January 1<sup>st</sup> of the next following calendar year.
  - v. In the event the calculation yields a negative number, there shall be no reduction in compensation for loss of wages.
  
9. If the injured worker was receiving non-taxable benefits as part of their total compensation from the employer, then employer shall continue to extend any and all such compensation for the duration of the employment, or the injured worker's return to work, as the case may be.
  
10. In the event of a loss of earnings, whether partial or full, loss of earnings benefits are payable until:
  - a. The loss of earnings ends, subject to the following conditions;
    - i. eligibility for loss of earnings benefits shall be reduced by the amount of any actual earnings received by the injured worker.
      - (1) An injured worker and the accident employer, if still employed by the accident employer, are required to inform the Commission of any changes in earnings of the injured worker within thirty days of the change.
      - (2) Any over-payment to injured workers as a result of a delay in reporting changes in earnings by the injured worker are recoverable by the Commission from the injured worker.
  
  - b. the day on which the worker reaches 70 years of age, if the worker was

less than 65 years of age on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred;

Or,

- c. five years after the date of the injury, if the worker was 65 years of age or older on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred;

Or,

- d. the day on which the worker is no longer impaired as a result of the injury.

### **Pension Contributions**

- 11. Compensation shall include pension contributions to any employer pension plan while the worker is unable to return to work, whether in whole or in part on a *pro rata* basis, until:
  - a. The loss of earnings ends; or
  - b. the day on which the worker reaches 70 years of age, if the worker was less than 65 years of age on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred; or
  - c. five years after the date of the injury, if the worker was 65 years of age or older on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred;

This provision shall apply notwithstanding the terms of *Human Rights Code*.

- 12. For permanently injured workers without an employer pension plan, the Commission shall establish a pension plan and make contributions to it at a rate not less than seventeen percent (17%) of any lost work earnings, and shall administer the pension plan subject to the following conditions:
  - a. Pension payments under this *Act* shall commence upon the termination of loss of earnings benefits due to age as specified under this *Act*, and shall be paid on a monthly basis;



- b. Pension plan payments shall commence the day on which the worker reaches 70 years of age, if the worker was less than 65 years of age on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred; or
- c. five years after the date of the injury, if the worker was 65 years of age or older on the date of the injury or recurrence, unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury or recurrence had not occurred;

This provision shall apply notwithstanding the terms of *Human Rights Code*.

- 13. Subject to the provisions of the *Canada Pension Plan*, RSC 1985, c C-8, and its Regulations, as amended from time to time, or its successors in law, compensation shall include pension contributions to the Canada Pension Plan while the worker is unable to return to work, until age 65, or as specified by the Canada Pension Plan. This provision shall apply notwithstanding the terms of *Human Rights Code*.
- 14. If the employment relationship between a permanently injured worker and an employer ends for the reasons contemplated in this *Act*, where there is a pension plan, the commuted value of the pension shall be transferred to the Commission's pension plan, and the Commission and the permanently injured worker shall continue to contribute to the plan in a like manner as the former employer and worker would have but for the permanent injury. This clause shall prevail over the *Insurance Act*, R.S.O. 1990, Ch. I.8, and its successors in law in the event of any conflict.

### **Health Care and Rehabilitation Services**

- 15. Health care costs for the diagnosis and treatment of injured workers shall be charged to the ordinary public health care insurance and payment system as specified under the *Health Insurance Act*, R.S.O. 1990, c. H.6, and its successors, for any and all such medical diagnosis and treatment that are approved for and covered by the *Health Insurance Act*, and its Regulations.
- 16. The Commission shall pay for diagnostic services and treatments that are not covered under the *Health Insurance Act*, provided that the diagnostic services and treatments are recognized as safe and effective by the relevant government agencies and professional colleges.
- 17. The Commission shall develop official policies governing its payment for non-*Health Insurance Act*, diagnostics and treatments, and shall update any and all such policies at not less than three year intervals.

18. The Commission shall provide prescribed medicines, prosthetics, braces, aids, mobility devices, and all other manner of thing that may assist an injured worker to be put in the same health situation they were in prior to the accident, to the extent possible, provided that the medication or thing is recognized as safe and effective by the relevant government agencies and professional colleges.
19. If an injured worker is enrolled in any workplace or group benefit plan as contemplated under s.7 they shall obtain the prescribed medicines, prosthetics, braces, aids, mobility devices, or other thing, or reimbursement therefore, from the plan first, and from the Commission second.
20. In the event that injured worker's benefit plan does not cover some or all of the prescribed medicines, prosthetics, braces, aids, mobility devices, or other thing, or the costs thereof, relating to the injured worker's workplace related injury or occupational disease, the Commission shall provide the prescribed medicines, prosthetics, braces, aids, mobility devices, or other thing, or reimburse injured worker for the costs thereof.

### **Training and Education**

21. The Commission shall provide education and retraining to a permanently injured worker who would otherwise not be able to return to gainful employment on the same or similar terms that they were able to engage in prior to the injury or onset of disease.
22. The first principle of any program of education or retraining is that the education or retraining shall put the injured worker into at least as good a position in the labour market as they were in prior to the injury or onset of the disease.
23. Any program of education or retraining shall take into consideration labour market demand, the aptitudes and abilities of the injured worker, and the preferences of the injured worker.
24. Assessment of labour market demand shall take into consideration any patterns of seasonal employment of the injured worker, any and all local or regional labour markets the injured worker may have access to, and any other factors that are relevant to placing the injured worker in a position, economic, social, geographic, or other, that is at least as good as the position they held prior to the injury or onset of the disease.

### **No Deeming**

25. Under no circumstances shall the commencement or completion of a program of training, re-training, or education under this *Act* constitute grounds for the termination of other benefits under this *Act*. Only the terms of commencement and termination of other benefits under this *Act* shall apply to those other

benefits.

### **Intangible Loss, Pain and Suffering**

26. Compensation shall include payments to permanently injured workers for intangible loss, pain and suffering due to workplace injuries or diseases. Such payments shall be considered compensatory, not remedial, and shall be considered separately and apart from other categories of compensation, including loss of earnings and compensation benefits.
27. Loss, pain and suffering compensation shall consider the physical losses of the injured worker, the experience of pain, all physical and mental sequela arising from the injury or disease, the social or other contextual factors affecting the injured worker, and shall be proportionate to the degree of loss or suffering of the injured worker.
28. Loss, pain and suffering compensation shall last as long as the pain, suffering or loss associated with the workplace injury or disease shall last.

### **Benefits to Dependants and the Estate**

29. In the event of a workplace fatality or a premature death due to an occupational disease, then the Commission shall pay to the dependants of the deceased worker or the estate of the deceased worker, as the case may be;
  - a. Reasonable and customary funerary expenses;
  - b. Compensation for the loss of earnings of the deceased, until the loss ceases;
    - i. In cases where the loss of earnings would have ceased by reason of the age limitations of this *Act* for loss of earnings benefits, the entitlement to pension benefits, if any, under this *Act* shall pass to such persons as were dependants of the deceased worker, at the time of the workers death;
  - c. In cases where the deceased worker had dependants, the dependants shall receive education, training, or retraining as if they were the deceased and had suffered a permanent injury, to enable them to earn a living equivalent to that of the deceased;
  - d. A payment for loss, pain, and suffering equivalent to one year of earnings of the deceased, calculated as 100% of the amounts in s.6 .

#### **PART 4: COMMENCEMENT OF COMPENSATION** (*Timely, Secure, No Burden*)

30. Entitlement to compensation shall arise at the time that:
- a. The injured worker experiences a loss of earnings or payment in kind;
  - b. The injured worker requires health care not ordinarily available under public health insurance, or is advised by a treating health care practitioner that such treatment is likely to benefit the injured worker; and,
  - c. At such time as retraining and education is deemed advisable to place the injured worker into a position as good as they would have been in but for the injury, as agreed to by the injured worker and the Commission, upon such advice and consultation as either party deems advisable.
    - i. In the event that the injured worker and the Commission cannot agree on the need for or type of retraining and education, the matter may be appealed to the Tribunal, which shall hear and decide the matter without delay.
  - d. The onset of pain, suffering, loss, or an impairment of the worker's physical, mental, or social well being as a result of a workplace accident, injury, disease or other mechanism of harm.
31. Either the injured worker or the employer may notify the Commission of a possible entitlement issue, and shall do so as promptly as may be reasonable under all the circumstances.

#### **In Cases of Ongoing Loss of Earnings**

32. In any case where the injured worker is experiencing an ongoing loss of earnings, if the Commission cannot determine entitlement for the injured worker within fifteen (15) days of the receipt of a notice of possible entitlement, then the Commission shall provide interim compensation for loss of earnings until any outstanding issues are resolved and notice to the worker has been given regarding their ongoing entitlement to loss of earnings compensation.
33. Interim payments under s.32 are not recoverable by the Commission except in cases of fraud resulting in a conviction.

#### **PART 5: ADMINISTRATION** (*Independence, Privity, Jurisdiction, Trust, No Fault*)

##### **Duties of Parties Upon Notification**

34. Upon receipt of a notification, the Commission shall promptly forward a copy and an inquiry to the other workplace party, and to the workplace health and safety

committee or representative, as the case may be.

35. All information forwarded to and held by other parties shall be considered personal and confidential, with the exception of information that may indicate a *Criminal Code* violation may have occurred or that there may have been a violation of the *Occupational Health and Safety Act*.
36. In all cases of a possible violation of the *Occupational Health and Safety Act*, the Commission shall forward that information to the Ministry of Labour immediately.
37. In all cases of a possible violation of the *Criminal Code*, the Commission shall promptly review the matter and if there are reasonable, but not necessarily probable, grounds to believe that there has been a *Criminal Code* violation, the Commission shall promptly forward that information to the appropriate police service upon completion of their review.
  - a. For greater certainty, in possible cases of fraud, the review shall include inquiries to the concerned party as provided for under s. 127 and s.128 of this *Act*.
  - b. In all other cases as contemplated under s. 129 and s.130 of this *Act*, the Commission's review shall consist of such diligence and such urgency with regard to the safety and security of persons as the situation warrants.
38. There shall be no reprisal, penalty, or discrimination by an employer or other entity against any worker for notifying the Commission of a possible entitlement issue. Evidence of any such reprisal, penalty, or discrimination may result in the Commission referring the matter to the relevant police service for investigation of a possible *Criminal Code* violation.
39. If a workplace health and safety representative or health and safety committee investigates, reports on, or makes recommendations on a compensable workplace injury, the representative or committee shall provide copies of any such report, investigation, or recommendation to the Commission, notwithstanding any provision of the *Occupational Health and Safety Act*.

#### **Independence: Structure**

40. Compensation shall be administered by the commission, which will be styled as the Workers' Compensation Commission of Ontario.
41. The Commission shall be the legal successor to the Workplace Safety and Insurance Board, the Workers' Compensation Board, and the Workmens' Compensation Board.
42. Appeals of decisions made by the Commission shall be heard by the

independent tribunal, which shall be styled as the Workers' Compensation Appeals Tribunal of Ontario.

43. The Tribunal shall be the legal successor to the Workplace Safety and Insurance Appeals Tribunal, and the Workers' Compensation Appeals Tribunal.

**Governance of the Commission**

44. The Commission shall be governed by a board of Commissioners.
45. The Board of Commissioners shall have equal representation from representatives of workers and representatives of employers.
46. The Worker Representatives shall be drawn from unions, federations, congresses, councils of unions, recognized worker advocacy, research, or support groups, or such other *bona fide* worker organizations, as may be recognized from time to time, to represent workers employed in the following areas of employment:
  - a. Manufacturing;
  - b. Construction;
  - c. Transportation;
  - d. Health Services;
  - e. General Services, including government and public services; and,
  - f. Mines, forestry, fishing, and agriculture.
47. The Employer Representatives shall be drawn from businesses or *bona fide* associations of businesses, or trade associations, as may be recognized from time to time, operating in the following areas of business:
  - a. Manufacturing;
  - b. Construction;
  - c. Transportation;
  - d. Health Services;
  - e. General Services, including government and public services; and,
  - f. Mines, forestry, fishing, and agriculture.

48. In addition to the above Commissioners there shall be a general worker representative who shall be an injured worker, and a general employer representative.
49. If the *bona fide* concerned unions, federations, congresses, councils of unions, recognized worker advocacy, research, or support groups, or such other *bona fide* worker organizations either *en bloc* or within the enumerated sectors, present consensus candidates for nomination as Worker Representative Commissioners, the Lieutenant-Governor-in-Council shall appoint the candidates so presented.
50. If the *bona fide* businesses, associations of businesses, or trade associations, either *en bloc* or within the enumerated sectors, present consensus candidates for nomination as Employer Representative Commissioners, the Lieutenant-Governor-in-Council shall appoint the candidates so presented.
51. In the event that there are no consensus candidates for any or all positions for either Worker Representatives or Employer Representatives, the Lieutenant-Governor-in-Council shall:
  - a. Give preference to candidates that can demonstrate personal experience of workers' compensation systems as an injured worker. This provision is made under s. 15 (2) of the *Charter of Rights and Freedoms.*; and,
  - b. Give preference to candidates that can demonstrate the greatest degree of support or ability to represent their constituents in the enumerated areas of employment or as the general representative, as the case may be.
52. In applying the appointment provisions, the Lieutenant-Governor-in-Council and the Tribunal shall have regard to whether or not a given candidate is an injured worker or has experienced a workplace injury or workplace related disease.
53. Disputes over the degree of support or ability to represent any given constituency or the general representative for either the workers or employers shall be heard by the Tribunal, which shall report their recommendations to the Lieutenant-Governor-in-Council, along with their reasons, and shall publish the same seven days after reporting.
54. The Commissioners shall select a Chairperson, who shall be the fifteenth Commissioner. The Chairperson shall conduct all meetings of the Commissioners and shall have voice but shall only vote in the event of a tie vote among the other Commissioners on any particular matter.

55. In the event that the Commissioners cannot agree on a Chairperson, the Commissioners, jointly or severally, shall present their candidates to the Chief Justice of Ontario who shall make a final and binding selection, which shall not be questioned or challenged in any court of law or tribunal.
56. The Chief Justice of Ontario shall have due regard for the importance of the adjudicative function of the Commission, notwithstanding the other functions and duties of the Commission, and shall therefore apply the same criteria in selecting a Commission Chair as would be the case in selecting a Chief Adjudicator of the Tribunal.
57. The Board of Commissioners may make, amend, or repeal rules of procedure for themselves from time to time, but under no circumstances shall there be an unequal number of worker representatives and employer representatives in any meeting or deliberations of the Board.
58. The Commissioners shall meet at such times and places and in such a manner and for such duration as they may see fit, but under no circumstances shall they meet less than ten times in any given calendar year.
59. The Commissioners, acting as a Board, shall be responsible for hiring a chief executive officer to act as the day-to-day head of the Commission, on such terms and conditions as they may see fit, and the chief executive officer, however styled, shall be accountable to the Board of Commissioners.
60. On any matter not specifically provided for in the rules of procedure set by the Commissioners, the procedure set out in Roberts Rules of procedure shall apply.
61. The meetings of the Board of Commissioners shall be fully minuted and the minutes shall be promptly publicly posted, except for personnel matters, negotiation of contracts, the giving and receiving of legal advice and instructions, and such matters as may be subject to privacy laws or other applicable statute law. Such matters shall be posted when and if it is lawful and appropriate to do, with or without redactions as may be necessary to comply with privacy or other legal obligations.
62. In the execution of all their duties, the individual Commissioners, the Board of Commissioners, the Chair of the Board of Commissioners, and the chief executive officer, shall adhere to the Purposes and Principles stated in this *Act*.
63. The initial appointments of Commissioners to the Board of Commissioners shall be staggered and shortened so that in any given year one third of the Commissioners shall have their term expire. Thereafter, Commissioners shall serve terms of three years. Worker and employer groups may re-nominate a



Commissioner to represent them upon the expiry of any representative's term.

64. Replacement of vacancies from among the Commissioners for any reason shall be promptly made in a like manner, and the replacement representative shall serve the balance of the term of their predecessor.
65. Appointments are not revocable.

### **Duties of the Commission**

66. The Commission shall:

- a. Set contribution rates for various classes of employment and work or undertakings of employers in the Province of Ontario, according to employment groups enumerated in this Act;
  - i. For greater certainty, the Commission shall observe the principle of employer collective liability and shall not make any costs, premiums, rebates, experience ratings, bill-backs, or any other incentive or penalty, advantage or disadvantage, payable to or from individual employers, or dependant in any way on the particulars of any case of injury or disease to any worker.
- b. Assign any particular employment, whether personal, collective, dependant contractor, or casual, to one of the enumerated employment groups;
- c. Collect and prudently invest, bank, or safeguard the employer contributions paid on behalf of present and future injured workers;
- d. Promptly administer compensation to injured workers for:
  - i. Lost wages;
  - ii. Loss, Pain and suffering;
  - iii. Lost opportunities, including but not limited to lost pension contributions;
  - iv. Medical treatment or therapies likely to be effective even if not covered by standard public health care insurance;
  - v. Adaptive and prosthetic devices;
  - vi. Training, retraining, or education of any sort; and,

- vii. Any other thing that may assist an injured worker in regaining a situation at least as good as that which they were in prior to the injury.
- 67. Promptly administer compensation to the survivors of workers killed in workplace accidents or by occupational diseases.
- 68. If injury or death should occur to any worker in a non-traditional employment relationship, such as the employment of minors, co-op students, apprentices, learners, and volunteers, no matter how characterized, as defined in this *Act*, then the Commission shall assign a value to the work proposed and/or being performed, and compensate the injured worker or their surviving family members accordingly. Such assignment cannot be less than either the value of compensation normally paid by the employer for entry level for the type of employment, or the industry average for entry level for the type of employment, whichever is greater.
- 69. All compensation shall be provided without regard to any issue of negligence, contributory negligence, fault, tortious conduct, so called “Acts of God”, chance, act of war, insurrection, pre-existing or underlying medical condition, criminal conduct by any person other than the injured worker, or any other legal doctrine, save only for the doctrine of *Ex turpi causa non oritur actio*.
- 70. When rendering a decision on the administration of compensation the Commission shall give the benefit of reasonable doubt to the injured worker.
- 71. When rendering a decision in all matters the Commission shall make its decision based upon the merits and justice of each particular matter before it. In the interests of fairness, consistency, and the ability of all persons to know the law, the Commission shall have regard to Tribunal decisions with similar facts or similar issues, and shall address any such similarities, but shall not be strictly bound to such decisions as in ordinary courts of law and the doctrine of *stare decisis*.
- 72. When rendering a decision in all matters, or while making policy, practice, procedure, or any other function, the Commission shall observe and conform to the constitutional laws of Canada including the *Charter of Rights and Freedoms*, and shall also observe and conform to the *Human Rights Code* of Ontario.
  - a. For greater certainty, the Commission shall not do anything that directly or indirectly results in differential treatment of injured workers arising from or otherwise engaged by:
    - i. The worker’s place of residency, including seasonal and migrant

workers;

- ii. The worker's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
  - iii. The worker's rights to freedom of movement under s. 6 of the *Charter of Rights and Freedoms*, including moving out of the Province of Ontario for any reason.
73. Gather, analyze, and disseminate information on workplace injuries, and diseases, including, but not limited to: epidemiological, occupational, demographic, or other data related to patterns of workplace injury and disease.
74. The gathering, analysis, and dissemination of information shall include, but not be limited to, any accident reports, analysis, recommendations or Orders created by a:
  - a. Worker Health and Safety Representative;
  - b. Certified Worker Health and Safety Representative;
  - c. Employer Health and Safety Officer;
  - d. Health and Safety Joint Committee; or,
  - e. Ministry of Labour Health and Safety Inspector.
75. Such information shall be provided promptly on request of the Commission in any case and shall be promptly provided in all cases where a workplace injury or occupational disease has resulted in a loss of work time exceeding two work days for any worker, or a critical injury, as defined under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, has occurred.
76. This duty to provide information shall apply notwithstanding any provision of the *Occupational Health and Safety Act*, to the contrary.
77. In the event any such request for or automatic provision of such information results in the Commission being of the opinion that the a Ministry of Labour health and safety investigation is warranted, but has not occurred, the Commission shall promptly notify the Ministry of Labour Health and Safety Branch of the particulars of the case and the reasons for the Commission's recommendation to investigate.
78. If the Commission becomes aware of any anomalous patterns of workplace

injuries or workplace related diseases, or unusually high rates of workplace injuries or workplace related diseases in a particular workplace, particular employer, particular industry, or a particular type of employment, the Commission shall promptly notify the Ministry of Labour Health and Safety branch.

79. Except in cases of referral of a particular matter to police for investigation of a possible breach of the *Criminal Code* or to the Ministry of Labour for investigation of a particular accident under the *Occupational Health and Safety Act*, all personal information regarding injured workers shall not be released in any form without being aggregated and/or anonymized, or by operation of law.
80. The Commission shall monitor developments in the scientific and medical understanding of workplace injuries and occupational diseases, so that generally accepted advances in health sciences and related disciplines are reflected in benefits, services, programs and policies in a way that is consistent with the purposes of this *Act*;
  - a. Monitoring shall include, but not be limited to:
    - i. to review, at least annually, the lists of substances, processes, or things in Group 1 (known carcinogens) and Group 2A (probable carcinogens) published by the International Agency for Research on Cancer, or any of the successors to the Agency and the aforementioned Groups, and;
    - ii. if the International Agency for Research on Cancer and its successors finds that there is sufficient evidence for a substance, process, or thing to be classified in Group 1 in respect of certain organs, then the substance, process, or thing shall be included in a Regulation, Policy, or Schedule of the Commission designating the substance, process, or thing as presumptively a significant contributing factor to a worker suffering from a related disease if there is a known workplace or workplace related exposure, and;
    - iii. if the International Agency for Research on Cancer finds that there is sufficient evidence for a substance to be classified in Group 2A in respect of certain organs, then the substance, process, or thing shall be included in a Regulation, Policy, or Schedule of the Commission designating the substance, process, or thing as presumptively a significant contributing factor to a worker suffering from a related disease if there is a known workplace or workplace related exposure.
81. Shall gather such particulars of employment and earnings of workers employed

by employers as is necessary to administer this Act.

- a. Employers shall provide any and all such information promptly.
82. Employ such persons, purchase or lease such things, enter into such contracts, and generally do or cause to be done such things as are necessary to fulfill the Purposes and Duties of the Commission.

### **The Tribunal**

83. The Tribunal shall hear and decide all disputes arising from the administration of the *Act* by the Commission.
84. The decisions of the Tribunal shall be binding on the Commission for each and every particular case or appeal.
85. A dispute may include a dispute over the timeliness of decision making by the Commission.
86. In the event that the dispute involves a claim for lost earnings or compensation in kind, the Tribunal shall order and the Commission shall provide interim compensation pending a final decision by the Tribunal.
87. Interim compensation and benefits are not recoverable by the Commission except in cases of fraud resulting in a conviction.
88. A dispute may include a dispute over the degree of support or ability to represent any given constituency by a person nominated to be a Commissioner, but in such a case the Tribunal shall have the power to recommend to the Lieutenant-Governor-in-Council, but not decide the matter.
89. The Tribunal has the power and obligation to consider and apply all relevant law, but most especially the *Charter of Rights and Freedoms*, any other constitutional law, and the Ontario *Human Rights Code*.
- a. Without derogating from the generality of the obligation to give effect to constitutional and human rights law, the Tribunal shall not uphold any Commission decision, practice, policy, or other act, directly or indirectly resulting in differential treatment of injured workers arising from or otherwise engaged by:
    - i. The worker's place of residency, including seasonal and migrant workers;
    - ii. The worker's race, ancestry, place of origin, colour, ethnic origin,

citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

- iii. The worker's rights to freedom of movement under s. 6 of the *Charter of Rights and Freedoms*, including moving out of the Province of Ontario for any reason.

- 90. The Tribunal shall be headed by the Chief Adjudicator.
- 91. The Chief Adjudicator shall have experience of not less than ten years as:
  - a. A judge of a Superior Court with managerial responsibilities; or,
  - b. A labour relations arbitrator; or,
  - c. Adjudicative experience in administrative law with managerial experience; or,
  - d. Some combination of the above experience amounting to ten years of experience.
- 92. Unions, federations, congresses, or councils of unions, recognized worker advocacy, research, or support groups, or such other *bona fide* worker organizations, and businesses, associations of businesses, or trade associations, and other groups with a *bona fide* interest in the work of the Tribunal shall submit nominations to the Lieutenant Governor in Counsel for the position of Chief Adjudicator.
- 93. The Lieutenant Governor in Counsel shall select the Chief Adjudicator from among the nominees that possess the above noted qualifications.
- 94. The Chief Adjudicator shall hold office until age 65.
- 95. The Chief Adjudicator may request the Lieutenant Governor in Counsel for an extension of their appointment to age 70, if supported by a majority of the currently serving Tribunal Adjudicators.
- 96. Unions, federations, congresses, or councils of unions, recognized worker advocacy, research, or support groups, or such other *bona fide* worker organizations and businesses, associations of businesses, or trade associations, and other groups with a *bona fide* interest in the work of the Tribunal shall submit nominations to the Chief Adjudicator for the positions of Tribunal Adjudicators.
- 97. The Chief Adjudicator shall appoint such numbers of Tribunal Adjudicators as

may be required from time to time to accomplish the work of the Tribunal from the list of nominees provided.

98. The Tribunal Adjudicators shall serve until age 65.
99. A Tribunal Adjudicator may request the Chief Adjudicator for an extension of their appointment to age 70, which will be determined by the Chief Adjudicator in their sole discretion.
100. The age limits on the tenure of the Chief Adjudicator and Tribunal Adjudicators shall operate notwithstanding the terms of the *Human Rights Code* of Ontario for the purpose of ensuring predictable, timely, and orderly turnover and replacement of office holders within the Tribunal.
101. Tribunal Adjudicators and the Chief Adjudicator shall devote themselves to their duties and shall not seek or accept remuneration from other employment, business, or professional activities.
102. In the event of a credible allegation that a Tribunal Adjudicator is unable or unwilling to execute the duties of their office in a competent, timely, knowledgeable, and unbiased manner, the Chief Adjudicator shall strike a panel of Tribunal Adjudicators to investigate, hear submissions, make recommendations, and report to the Chief Adjudicator on the allegations.
103. The Chief Adjudicator shall determine what actions, if any, are required in response to the allegations, including, but not limited to dismissal of the allegations, remedial professional development of the Adjudicator, reasonable accommodation of an Adjudicator's disability, or admonishment or discipline of an Adjudicator including suspension or termination from office.
104. In the event of a credible allegation that the Chief Adjudicator is unable or unwilling to execute the duties of their office in a competent, timely, knowledgeable, and unbiased manner, the Lieutenant Governor in Counsel shall strike a panel of Superior Court Judges based on the recommendations of the Chief Justice of Ontario, to investigate, hear submissions, make recommendations, and report to the Lieutenant Governor in Counsel on the allegations.
105. The Lieutenant Governor in Counsel shall determine what actions, if any, are required in response to the allegations, including, but not limited to dismissal of the allegations, remedial professional development of the Chief Adjudicator, reasonable accommodation of any disability, or admonishment or discipline of the Chief Adjudicator including suspension or termination from office.
106. In all cases the striking of panels, investigations, hearings, recommendations,

and final disposition of complaints, whether against a Tribunal Adjudicator or the Chief Adjudicator, shall not be constrained or interfered with by any action or application in any court of law. The right of judicial review shall only be available after final disposition of any such matter.

107. For administrative purposes, the Chief Adjudicator shall be considered to be the equivalent of a deputy minister and shall be remunerated accordingly.
108. For administrative purposes, the Chief Adjudicator shall report to the Attorney General directly.
109. The Chief Adjudicator shall annually present a budget for the operation of the Tribunal to the Attorney General.
110. The Attorney General shall forward the budget to the Commission which shall provide the funds.
111. The audited accounts of the Commission and Tribunal shall be forwarded to the Auditor General annually, and shall be published.
112. The Chief Adjudicator shall determine the times, places, and manner of all appeals.
113. The Chief Adjudicator shall create or cause to be created rules, policies, and practices of procedure for all appeals, and shall publish any and all such rules, policies, and practices of procedure.
114. The Chief Adjudicator, on behalf of the Tribunal, has the power to and shall employ such persons, purchase or lease such things, enter into such contracts, and generally do or cause to be done such things as are necessary to fulfill the Purposes and Duties of the Tribunal.

## **PART 6: WORKER AND EMPLOYER RIGHTS**

### **Worker Rights**

115. An injured worker may appeal any decision of the Commission to the Tribunal.
116. An injured worker has a right to a transparent and intelligible decision concerning any application for compensation. Therefore, the Commission shall:
  - a. Promptly send a complete copy of the injured worker's file to the injured worker or their representative upon receiving an appeal.
  - b. The file shall contain any communication between a decision maker and



any manager, supervisor, support staff, or other person that touches on the injured worker's case. Where such communication is informal and/or oral, the decision maker shall summarize the communication on the file.

- c. The file shall contain a copy of any policy, guideline, precedent, template, recommended process or procedure, or any other document used or consulted with in the rendering of the decision.
  - d. Failure to provide a complete record to the injured worker or their representative will be strictly interpreted in favour of the injured worker in proceedings at the Tribunal.
117. An injured worker has a right to privacy and security of their person. This right includes, but is not limited to:
- a. Privacy of medical records:
  - b. When assessing medical evidence, the Commission may request copies of medical records concerning the injured worker's work related injury or disease, but may not require medical records unrelated to the work related injury or disease.
    - i. The determination of whether records and data are related to a workplace injury or disease shall be considered a matter of professional medical judgment within the discretion of the treating or supervising healthcare professional acting in consultation with their patient, and is not open to challenge or review by the Commission.
    - ii. If related and unrelated medical data is intermingled on a record, the unrelated data may be redacted by the treating or supervising healthcare professional, in consultation with the patient.
      - (1) In the event such redactions create confusion or uncertainty for the Commission, the Commission may request further clarification, but such a request shall not amount to a challenge or a request for review, and will not be treated as such.
  - c. The Commission may request additional information from health care providers, but such requests shall be limited to clarifying the basis for the diagnosis, the basis for the prognosis, and the basis for the recommended prescription or course of treatment.
  - d. Health conditions that are relevant to, but not arising from the workplace

injury or disease shall be reported, with an explanation of the relevance.

- e. Autonomy in medical and healthcare providers:
  - i. Injured workers have the right to select their own healthcare providers and to change providers.
  - ii. The Commission may request a second opinion in any particular case, subject to the following conditions:
    - (1) The injured worker shall retain their autonomy to select who examines their person and health record;
    - (2) All costs of the obtaining the second opinion shall be borne by the Commission;
    - (3) No opinion may be rendered without a full, in-person examination, and such follow-up examinations and consultations as would normally be the case for any treating healthcare professional in like circumstances, and the receipt and review of a full copy of the primary healthcare professionals' relevant records prior to the examination;
    - (4) The opinion of the examiner shall be restricted to their diagnosis, prognosis, and prescription, relating to the workplace injury or disease, and any health conditions that are relevant to the workplace injury or workplace related disease;
    - (5) The first duty of the examining healthcare professional shall be to the patient, as in all professional healthcare-patient relationships;
    - (6) The second opinion examiner shall first inform the injured worker of their diagnosis, prognosis, and prescription.
    - (7) The second opinion examiner shall then inform, with a copy of the records created, the primary healthcare professional of their diagnosis, prognosis, and prescription.
    - (8) The second opinion examiner shall then inform the Commission of their diagnosis, prognosis, and prescription.
    - (9) The Commission may request additional information from the secondary healthcare provider, but such requests shall

be limited to clarifying the basis for the diagnosis, the basis for the prognosis, and the basis for the recommended prescription or course of treatment. Health conditions that are relevant to, but not arising from the workplace injury or disease shall be reported, with an explanation of the relevance.

118. Payments made by the Commission to healthcare providers for information, reports, and services shall not be less than at the same rates as provided for under the *Health Insurance Act*, R.S.O. 1990, c. H.6, or its successors, and shall not be subject to any form of co-pay, additional payment, or fee from the injured worker.
119. An injured worker has a right to security of employment:
  - a. The injured worker's contract of personal or collective employment shall not be considered interrupted, suspended, or terminated by reason of a workplace injury or disease.
  - b. The employer of an injured worker has an ongoing obligation to employ the injured worker in gainful and meaningful work to the extent possible with accommodation, short of undue hardship.
  - c. "Accommodation" and "undue hardship" have the same meaning under this *Act* as it does under the *Human Rights Code*, R.S.O. 1990, c. H.19.
  - d. In the event of a dispute or conflict between an employer and an injured worker over terms of employment, accommodation, or alleged undue hardship, the Commission shall not reduce or terminate any benefits due to the injured worker because of such a dispute.
  - e. The Commission may refer the matter for professional mediation by a qualified independent mediator, if the parties to the dispute consent.
  - f. The Commission shall rule on the dispute, if there is no mediated settlement.
  - g. An appeal from a Commission ruling as to whether an employer has met their duty to accommodate an injured worker in gainful and meaningful employment will be heard by the Tribunal if there are also disputes over compensation under this *Act* due to the injured worker.
  - h. If there are no other disputes over injured worker entitlements or rights under this *Act*, but only a dispute with the employer over reasonable accommodation in employment, then the injured worker may elect to have

the dispute heard by the *Human Rights Tribunal* rather than the *Workers Compensation Appeals Tribunal*.

- i. In the event of a hearing before the Tribunal of any such dispute, the Tribunal shall accept any recognized healthcare professional's opinion as to diagnosis, prognosis, and prescription pertaining to the worker as definitive of the medical facts in issue.
    - i. Without derogating from the generality of the foregoing, a healthcare professional's prescription may include recommendations for workplace accommodation of disabilities, modified work duties, alternative work duties, restrictions on work duties, hours, or any other workplace related matter relating to the injury, disease, or disability of the worker under treatment.
  - j. If accommodated re-employment is not possible without undue hardship, then the employment relationship may be considered severed without just cause, and the injured worker shall be paid such money or other compensation by the employer as is required by the terms of their collective agreement, personal employment contract, employment standards law, or common law, or any combination of such law as the case may be, notwithstanding ss.117(a).
  - k. If an employer severs the employment relationship with an injured worker, whether formally or constructively, notwithstanding the above general duty to continue the employment of the injured worker and not in accordance with the provisions of this *Act*, nothing in this *Act* shall be construed as preventing the injured worker from seeking redress in any court of law or tribunal for any losses or claims over and above those compensated for by the operation of this *Act*.
120. An injured worker has a right to education, training, or retraining as may be required to put them into a position at least as good as their position at the time of the injury or onset of disease.

### **Employer Rights**

121. No employer shall be charged a premium, penalty, surcharge or other form of additional payment in conjunction with any individual case of a workplace injury or disease.
122. An employer may appeal to the Tribunal any decision affecting the employer's contribution rates paid to the Commission, including, but not limited to, which workplace classification is assigned to some or all of the employer's business.
123. No action in negligence may be brought in any court against the employer by

any injured worker or survivors of a deceased worker for injury or death arising from a workplace accident or occupationally related disease. The Commission has exclusive jurisdiction to decide on all such claims and the Tribunal has exclusive jurisdiction to hear all appeals from the decisions of the Commission.

## **PART 7: OFFENCES**

### **Fraud**

124. If the Commission becomes aware that a worker may be committing a fraud to obtain compensation to which they are not entitled, the Commission shall refer the matter to the appropriate police force as a possible violation of s. 380 the *Criminal Code of Canada*, or its successors in law.
125. If the Commission becomes aware that an employer may be committing a fraud to deny compensation to which an injured worker may be entitled, the Commission shall refer the matter to the appropriate police force as a possible violation of s. 380 the *Criminal Code of Canada*, or its successors in law.
126. If the Commission becomes aware that a contractor, sub-contractor, third party, or stranger, be they a natural person or corporate entity, may be committing a fraud against a worker, employer, or the Commission, the Commission shall refer the matter to the appropriate police force as a possible violation of s. 380 the *Criminal Code of Canada*, or its successors in law.
127. Under no circumstances shall a referral to police for suspected fraud occur before notice has been given to any concerned party with adequate opportunity to seek counsel and make representations to the Commission.
128. After receiving representations from a concerned party or a reasonable time for making such representations has elapsed, the Commission shall either refer the matter to the appropriate police force, or not, and shall so advise the concerned party.

### **Intimidation or Inducement**

129. If the Commission becomes aware that an employer may be violating s. 425.1 (1) of the *Criminal Code of Canada*, or its successors in law, the Commission shall promptly refer the matter to the appropriate police force as a possible violation of the law. This *Act* shall be considered as a Provincial law as contemplated under s. 425.1(1) of the *Criminal Code of Canada*.

### **Westray**

130. If the Commission becomes aware that an employer may have violated s. 217.1 of the *Criminal Code of Canada*, or its successors in law, the Commission shall promptly refer the matter to the appropriate police force as a possible violation of

the law.

## **PART 8: GENERAL**

### **General Duties**

131. Injured workers and employers are required to promptly report to the Commission any workplace accidents, injuries, onsets of symptoms, diagnosis, prognosis, prescription, accident reports, documents, Ministry of Labour investigations or reports or orders or witness statements, or in general, any information or thing that may be related to a workplace accident or disease.
132. If the Commission requests any such thing as noted in s.129, or any other information, report, or thing from any injured worker or employer, the requested thing shall be promptly provided, unless exempted by operation of law, or is no longer in the worker's or employer's possession.
133. The Commission shall prescribe such systems, forms, and information reporting for accidents, injuries, or onsets of symptoms, diseases, or ill health of workers by employers and workers, which shall include, but not be limited to:
  - a. Accidents requiring first aid, whether the first aid is provided by the employer or a third party;
  - b. Accidents requiring examination of a worker as an Urgent Care, or Clinical out patient;
  - c. Accidents requiring examination of a worker as an Emergency Care patient, whether admitted to hospital or not;
  - d. Reporting of accommodation, modification, or change of work duties of a worker for reasons of the worker's health, whether the health issue is work or occupationally related or not; and,
  - e. Any other circumstances that the Commission may prescribe.
134. All employers are required to register any and all employment within 15 days of the commencement of such employment, if the said employment is either expected to or in fact does result in payment to the worker in the amount of one hundred dollars in any given thirty day period, or six hundred dollars in any six month period, or one thousand two hundred dollars in any twelve month period, or other valuable goods, services, or credit in any form equivalent to the above amounts as expressed in Canadian dollars.
135. All employers are liable to pay such contributions, retroactive to the date of the

formation of the employment contract, to the Commission on behalf of their workers upon notification of the rates and other terms as may be determined by the Commission from time to time.

### **General Powers**

136. If any such thing, report, or information as noted in this *Act* and required by the Commission is not provided by a worker, employer, or third party, in a reasonable amount of time after reasonable notice, the Commission may apply to the Superior Court for such relief and remedy as may be required under all the circumstances, including, but not limited to, an order to appear before the Court with the thing, report, or information, and the Commission may request an award of costs from the Court.
137. The Commission may make, amend, or rescind such policies, guidelines, rules, and practices as may reasonably facilitate the execution of the Commission's duties, provided that such policies, rules, guidelines, and practices are consistent with this *Act*, and that such policies, rules, guidelines, and practices are both publicly available and made known to employers or injured workers, as the case may be, as applicable in any particular case.
138. Any dispute over whether any Commission policies, rules, guidelines, and practices are consistent with this *Act*, or relevant to any particular matter, shall be heard by the Tribunal.
139. The Tribunal may make, amend, or rescind such policies, guidelines, rules, and practices as may reasonably facilitate the execution of the Tribunal's duties, provided that such policies, rules, guidelines, and practices are consistent with this *Act*, and that such policies, rules, guidelines, and practices are both publicly available and made known to employers or injured workers, as the case may be, as applicable in any particular case.
140. Any dispute over whether any Tribunal policies, rules, guidelines, and practices are consistent with this *Act*, or relevant to any particular matter, are not appealable, but may be included in any Application for Judicial Review of a Tribunal decision brought by an injured worker or employer.

### **Offices of the Worker and Employer Advisers Continued**

141. The Office of the Worker Adviser is continued. Its functions are to:
  - a. Advise and represent injured workers and their survivors in dealing with the Commission.
  - b. Educate workers and the public at large about injured workers, the

compensation system, and workplace accidents and diseases.

- c. To issue public recommendations to the Commission on trends, patterns, and problems among injured workers.

142. The Office of the Employer Adviser is continued. Its functions are to:

- a. Advise and represent employers with fewer than 20 employees in dealing with the Commission.
- b. Educate employers and the public at large about injured workers, the compensation system, and workplace accidents and diseases.
- c. To issue public recommendations to the Commission on trends, patterns, and problems among small employers.

143. The Commission shall fund the costs that may be incurred by each office in performing its functions.

- a. The Office of the Worker Advisor shall be funded such that no injured worker will wait more than 15 days to have a meeting with a qualified lawyer or paralegal upon requesting such a meeting.
- b. The Office of the Employer Advisor shall be funded such that no employer will wait more than 15 days to have a meeting with a qualified lawyer or paralegal upon requesting such a meeting.

### **Conversion**

144. Injured workers who are receiving benefits under the *Workplace Safety and Insurance Act, 1997*, and any and all predecessor worker's compensation Acts at the time of the coming into force of this Act, shall have their cases reviewed and converted into cases under this Act, subject to the following terms:

- a. Under no circumstances shall there be a lessening or diminishment of benefits of any effected worker by conversion to this Act. If a greater benefit pertains to the particular injured worker under the previous applicable law, those benefits shall be maintained under this Act.
- b. Conversion of cases to this Act shall otherwise apply notwithstanding any provision in any previous Act.
- c. Conversion shall commence on the first anniversary of the coming into force of this Act in the following manner:
  - i. From the first anniversary of the coming into force of this Act to the



second anniversary, one fifth (20%) of the historic cases shall be reviewed and converted, commencing with the oldest cases first.

- ii. From the second anniversary of the coming into force of this *Act* to the third anniversary, one fifth (20%) of the historic cases shall be reviewed and converted, commencing with the oldest cases first.
- iii. From the third anniversary of the coming into force of this *Act* to the fourth anniversary, one fifth (20%) of the historic cases shall be reviewed and converted, commencing with the oldest cases first.
- iv. From the fourth anniversary of the coming into force of this *Act* to the fifth anniversary, one fifth (20%) of the historic cases shall be reviewed and converted, commencing with the oldest cases first.
- v. From the fifth anniversary of the coming into force of this *Act* to the sixth anniversary, one fifth (20%) of the historic cases shall be reviewed and converted, commencing with the oldest cases first.

145. Presumptions of causation of occupational diseases contained in the *Workplace Safety and Insurance Act, 1997* under s. 15 and s. 15.1 shall be retained under this *Act* and restated, along with the contents of Schedule 3 and Schedule 4 of the *Workplace Safety and Insurance Act, 1997*, in appropriate Regulations made in conformity with this *Act*.

### **Regulations**

146. The Lieutenant-Governor-in-Council may make Regulations from time to time for the implementation and administration of this *Act*.

- a. Any Regulation made under this *Act* must conform to and identify the applicable Principals noted under s. 2 of this *Act* under which the Regulation is being made.

**Appendix A**  
**Statutes Referred to or Incorporated by Reference**

*Constitution Act, 1982, Canadian Charter of Rights and Freedoms*

**Equality Rights**

Equality before and under law and equal protection and benefit of law

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

15 (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

.....

*Criminal Code (R.S.C., 1985, c. C-46)*

Duty of persons directing work

217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

.....

**Fraud**

380 (1) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service,

(a) is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years, where the subject-matter of the offence is a testamentary instrument or the value of the subject-matter of the offence exceeds five thousand dollars; or

(b) is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction,

where the value of the subject-matter of the offence does not exceed five thousand dollars.

.....

**Threats and retaliation against employees**

425.1 (1) No employer or person acting on behalf of an employer or in a position of authority in respect of an employee of the employer shall take a disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such an employee, or threaten to do so,

(a) with the intent to compel the employee to abstain from providing information to a person whose duties include the enforcement of federal or provincial law, respecting an offence that the employee believes has been or is being committed contrary to this or any other federal or provincial Act or regulation by the employer or an officer or employee of the employer or, if the employer is a corporation, by one or more of its directors; or

(b) with the intent to retaliate against the employee because the employee has provided information referred to in paragraph (a) to a person whose duties include the enforcement of federal or provincial law.

.....

*Health Insurance Act*, R.S.O. 1990, c. H.6

.....

*Human Rights Code*, R.S.O. 1990, c. H.19.

.....

*Insurance Act*, R.S.O. 1990, Ch. I.8

.....

*Occupational Health and Safety Act*, R.S.O. 1990, c. O.1

## SCHEDULE A

### Recognized Occupational Diseases and Occupational Disease Causing Agents

1. Asbestosis/Mesothelioma
2. Black Lung
3. Anything listed under Schedule 3 and Schedule 4 of the *Workplace Safety and Insurance Act, 1997*