

Chapter 14

AN ACT TO AMEND THE WORKERS' COMPENSATION ACT

(Assented to November 5, 2003)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **The *Workers' Compensation Act* is amended by this Act.**
2. **The following provisions are amended by striking out "Board" wherever it appears and substituting "Governance Council":**
 - (a) **the definition "year" in subsection 1(1);**
 - (b) **section 7.7;**
 - (c) **section 52;**
 - (d) **subsections 62(1) and (3);**
 - (e) **subsections 63(5) and (6).**

3. **(1) Subsection 1(1) is amended by**
 - (a) **repealing the definition "employer" and substituting the following:**

"employer" means a person who or body that employs one or more persons under a contract of service, and includes the Government of Nunavut, the Board and the Crown in right of Canada insofar as the latter submits to the operation of this Act; (*employeur*)

- (b) **repealing the definition "independent operator";**
- (c) **repealing the definition "mine rescue work" and "rescue work";**
- (d) **repealing the definition "physician" and substituting the following:**

"physician" means a person who is authorized by law to practice medicine in the place where the person is so practicing; (*médecin*)

- (e) **striking out "subsection 6(2)" in the definition "Secretary" and substituting "subsection 2(6)";**
- (f) **repealing the definition "worker" and substituting the following:**

"worker" means a person employed under a contract of service and includes

- (a) a learner;
- (b) a person engaged in or engaged in training for
 - (i) rescue or recovery services,
 - (ii) ambulance services, or
 - (iii) firefighting services;

whether working with or without remuneration; and

- (c) a person
 - (i) to whom the Board has provided that this Act applies under subsection 8(2),
 - (ii) deemed to be a worker under subsection 8(3), 9(2), 10(1) or (2),
 - (iii) who is considered to be a worker under subsection 11(3) or (6), and
 - (iv) who is deemed to be a worker under the regulations;
(*travailleur*)

- (g) **repealing the definition "Year's Maximum Insurable Remuneration" and substituting the following:**

"Year's Maximum Insurable Remuneration" means the prescribed maximum remuneration for any year for the purposes of determining the benefits payable in respect of an accident that occurs in the year and for determining the amount of the assessable payroll of an employer for the year; (*rémunération maximale assurable de l'année*)

- (h) **adding the following definitions in alphabetical order:**

"claimant" means a person claiming compensation; (*demandeur*)

"dentist" means a person who is authorized by law to practice dentistry in the place where the person is so practicing; (*dentiste*)

"director" means a director of the Governance Council and includes the president;
(*membre*)

"Governance Council" means the Governance Council referred to in section 3; (*conseil de gestion*)

"health care provider" means a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or other class of persons whose qualifications to practice any of the healing professions are accepted by the Board;
(*pourvoyeur de soins de santé*)

"hospital" includes the hospitals listed in Schedule A of the *Hospital Insurance Regulations*, R.R.N.W.T. 1990, c.T-12; (*hôpital*)

"review committee" means a review committee appointed by the Board under subsection 24(1) or 64(1); (*comité d'examen*)

"self-employed person" means a person, including a partner in a partnership, who is engaged in an industry and does not employ under a contract of service any workers in connection with that industry; (*travailleur autonome*)

"workers' advisor" means the workers' advisor appointed under subsection 7.91(1) and includes a deputy workers' advisor; (*conseiller des travailleurs*)

(2) Subsection (1.1) is repealed and the following substituted:

Staff of the Board

(1.1) For the purposes of this Act, the "staff of the Board"

- (a) means those persons who are employed in the administration of this Act, the *Explosives Use Act*, the *Mine Health and Safety Act* and the *Safety Act*;
- (b) does not include a person appointed under subsection 7.2(2) or 7.91(1).

(3) The following is added after subsection 1(2):

(3) The staff of the Board, other than a member of the staff appointed under subsection 2(8), are employees in the public service of the Government of the Northwest Territories.

4. Section 2 is repealed and the following substituted:

Continuation of Board

2. (1) The Workers' Compensation Board previously established as a corporation with the name "Workers' Compensation Board" is continued.

Natural person

(2) Subject to section 60.1, the Board has the capacity and the rights, powers and privileges of a natural person and section 17 of the *Interpretation Act* applies to the Board as if it were a corporation established by an enactment of Nunavut.

Office

(3) The office of the Board shall be located in Yellowknife.

Administration of Acts

(4) The Board shall administer this Act, the *Explosives Use Act*, the *Mine Health and Safety Act*, the *Safety Act* and the regulations made under these Acts.

Administration costs

(5) The costs of administering the Acts and the regulations referred to in subsection (4), including the remuneration of the staff of the Board, shall be paid out of the Accident Fund.

Secretary, officers and other members of staff

(6) The Board may appoint and establish the duties of a Secretary and such officers and other members of the staff of the Board as it considers necessary to carry out its responsibilities under the Acts and the regulations referred to in subsection (4).

Delegation of powers and duties

(7) The Board may delegate all or any of its powers or duties under the Acts and regulations referred to in subsection (4) to such members of the staff of the Board as it designates.

Advisors

(8) The Board may appoint physicians, lawyers, accountants, actuaries and other professionals that it requires to assist and advise it in the administration of the Acts and the regulations referred to in subsection (4), and the functions, duties and remuneration of those advisors shall be fixed by the Board and the remuneration shall be paid out of the Accident Fund.

5. Subsection 3(2) is repealed and the following substituted:

Governance Council

(2) There shall be a Governance Council of the Board, appointed by the Minister of the Government of the Northwest Territories responsible for the *Workers' Compensation Act* (Northwest Territories), composed of not more than seven directors as follows:

- (a) one director who shall be the chairperson;
- (b) not more than two directors whom the Minister considers as representing the interests of employers;
- (c) not more than two directors whom the Minister considers as representing the interests of workers;
- (d) not more than two directors whom the Minister considers as representing the interests of the general public.

Consultation with Nunavut and Nunavut appointments

- (3) Where an agreement under subsection 82.1(1) has been entered into,
- (a) the Minister referred to in subsection (2) shall consult with the Minister of the Government of Nunavut responsible for the *Workers' Compensation Act* (Nunavut) prior to appointing the director referred to in paragraph (1)(a); and
 - (b) two of the directors appointed under subsection (1) shall be appointed, while the agreement is in effect, on the recommendation of the Minister of the Government of Nunavut responsible for the *Workers' Compensation Act* (Nunavut).

President is non-voting director

(4) The president of the Board is, by virtue of his or her office, a non-voting director of the Governance Council.

Vice-chairperson

(5) The Governance Council may designate a director referred to in paragraph (1)(b), (c) or (d) as the vice-chairperson.

Chairperson is committee member

(6) The chairperson is, by virtue of his or her office, a member of any committee of the Governance Council.

Absence of chairperson

(7) If the chairperson is absent or unable to act, the vice-chairperson shall act in the stead of the chairperson.

Term of office

(8) A director holds office for a term not exceeding three years as fixed in the appointment.

Reappointment

(9) Subject to subsections (9) and (10), the Minister referred to in subsection (2) may reappoint a person as a director.

Restriction on appointment

(10) The Minister referred to in subsection (2) may not appoint a person as a director if the appointment would result in the person serving as a director for a continuous period exceeding six years.

Appointment after break in service

(11) The Minister referred to in subsection (2) may appoint as a director a person who has served as a director for a continuous period of six years, if not less than 12 consecutive months have passed since that six-year period.

Meetings

(12) The meetings of the Governance Council shall be held in Yellowknife or at another place that the Governance Council may direct.

Quorum

(13) A majority of the number of directors appointed under subsection (2) constitute a quorum.

Remuneration

(14) The remuneration of the directors, other than the president, shall be prescribed and shall be paid out of the Accident Fund.

Powers and duties of Governance Council

(15) The Governance Council

- (a) shall
 - (i) establish policies for the implementation of this Act, including a policy that establishes a process for consulting with persons who are likely to be affected by such policies,
 - (ii) review and approve the programs and operating policies of the Board, and

- (iii) establish annual operating and capital budgets of the Board,
- (b) is responsible for the proper stewardship of the Accident Fund; and
- (c) may enact by-laws and pass resolutions for the conduct of the business and affairs of the Board and the Governance Council.

6. The following is added after subsection 5(2):

Duty of care of directors and officers

(3) Every director and officer of the Board, in exercising his or her powers and performing his or her duties, shall

- (a) act honestly and in good faith with a view to the best interests of the Board; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Reliance on statements or reports

(4) A director or officer of the Board is not liable for a breach of duty under subsection (3) if he or she relies in good faith on

- (a) financial statements of the Board represented by an officer of the Board, or in a written report of the auditor of the Board, to fairly reflect the financial condition of the Board; or
- (b) a report of a lawyer, accountant, engineer, appraiser or other person whose position or profession lends credibility to the report.

7. Section 6 is repealed and the following substituted:

President

6. (1) The Governance Council shall appoint a person to be the president of the Board.

Powers, duties and status of president

(2) The president

- (a) is the chief executive officer of the Board;
- (b) shall advise and inform the Governance Council on the operating, planning and development functions of the Board;
- (c) is responsible for the implementation of policy as established by the Governance Council;
- (d) is an employee in the public service of the government of the Northwest Territories
- (e) has the status and responsibility of a deputy head under the *Public Service Act* (Northwest Territories) ; and
- (f) shall carry out any functions and duties assigned to the president by the Governance Council.

Delegation

(3) The president may delegate any or all of his or her powers and duties to members of the staff of the Board.

8. (1) The following is added after the heading "APPEALS TRIBUNAL":

7.1. (.01) The appeals tribunal previously established by the *Workers' Compensation Act* (Northwest Territories) is continued, and is composed of the following members appointed by the Minister responsible for the *Workers' Compensation Act* (Northwest Territories):

- (a) two members that the Minister considers appropriate; and
- (b) such additional members as the Minister considers appropriate that comprise, in equal number,
 - (i) members appointed on the recommendation of representatives of workers, and
 - (ii) members appointed on the recommendation of representatives of employers.

(2) The following is added after subsection (1):

Consultation with Nunavut

(1.1) Where an agreement under subsection 82.1(1) has been entered into, the Minister responsible for the *Workers' Compensation Act* (Northwest Territories) shall consult with the Minister of the Government of Nunavut responsible for the *Workers' Compensation Act* (Nunavut) prior to appointing members of the appeals tribunal under subsection (.01).

(3) The following is added after subsection (2):

Restrictions

(2.1) A person may not be appointed to the appeals tribunal under subsection (.01) if the person is

- (a) a director of the Governance Council; or
- (b) a member of a review committee appointed under section 24 or 64.

Terms of Members

(2.2) A member of the appeals tribunal

- (a) is appointed for a term not exceeding three years as specified in the appointment; and
- (b) subject to subsections (3.1) and (3.2), may be reappointed on the expiration of his or her term of office.

(4) The following is added after subsection (3):

Restrictions on appointment

(3.1) The Minister may not appoint a person as a member of the appeals tribunal if the appointment would result in the person serving as a member of the appeals tribunal for a continuous period exceeding six years.

Appointment after break in service

(3.2) The Minister may appoint as a member of the appeals tribunal a person who has served as a member of the appeals tribunal for a continuous period of six years, if not less than 12 consecutive months have passed since that six-year period.

9. Subsection 7.2 is repealed and the following substituted:

Remuneration

7.2. (1) The remuneration of the members of the appeals tribunal shall be prescribed under the *Workers' Compensation Act* (Northwest Territories) and shall be paid out of the Accident Fund.

Employees

(2) The Minister responsible for the *Workers' Compensation Act* (Northwest Territories) may appoint employees that the Minister considers necessary for the proper conduct of the business of the appeals tribunal.

Status of employees

(3) An employee appointed under subsection (2) is an employee in the public service of the Government of the Northwest Territories.

Advisors

(4) The appeals tribunal may contract for the services of medical and legal advisors and other professionals that it may require to assist it in the hearing of an appeal.

Administration costs

(5) The costs of administering the appeals tribunal, including the remuneration of the employees appointed under subsection (2), as approved by the Governance Council, shall be paid out of the Accident Fund.

10. The following is added after section 7.9:

PART I.2

WORKERS' ADVISOR

Workers' advisor and deputy workers' advisors

7.91. (1) The Minister may appoint a workers' advisor and one or more deputy workers' advisors.

Reporting

(2) The workers' advisor shall report to the Minister.

Not employees in the public service

(3) The workers' advisor and deputy workers' advisors are not employees in the public service.

Remuneration

(4) The remuneration and expenses of the workers' advisor and deputy workers' advisors, as approved by the Governance Council, shall be paid out of the Accident Fund.

Agreement with Government of the Northwest Territories

(5) The Governance Council may enter into an agreement with the Government of Nunavut respecting funding and administration of the office of the workers' advisor.

Functions

- (6) The workers' advisor shall, on request,
- (a) assist any person who is or has been a claimant for benefits under this Act, unless he or she is of the opinion that the claim is without merit; and
 - (b) advise workers and dependants on the application and administration of this Act and the regulations and any decisions made under it.

Provision of documents

(7) The Board shall, on the written consent of a claimant, provide any documents in its possession that relate to the claim to the workers' advisor.

Representations by workers' advisor

(8) The workers' advisor may, if he or she considers it appropriate, make representations on behalf of a claimant in support of the claim

- (a) to the Board;
- (b) to a review committee; and
- (c) to the appeals tribunal.

Disclosure of information

(9) The workers' advisor shall not, without the consent of the claimant, divulge any information respecting a claim to any person other than the persons or agencies directly concerned in the claim.

Annual report

(10) The workers' advisor shall report annually on the functions of his or her office to the Minister and the Governance Council.

11. (1) Subsection 8(1) is repealed and the following substituted:

Application of Act

8. (1) This Act applies to all employers and workers in all industries carried on in Nunavut.

(2) The following is added after subsection 8(2):

Assessment not payable if remuneration not paid

(2.1) Where a person described in subsection (2) is not paid remuneration for the employment described in that subsection, the employer of the person is not required to pay assessments in respect of the person.

(3) Subsections 8(3) and (4) are repealed and the following is substituted:

Volunteer employment

(3) On receipt of an application by an employer proposing to engage a person in any volunteer employment in which remuneration, if any, is nominal, the Board shall

- (a) deem the person to be a worker;
- (b) determine the assessment that shall be payable for the purposes of this Act; and
- (c) determine the person's remuneration for the purposes of this Act.

12. Subsection 9(1) is repealed and the following is substituted:

Exclusions

9. (1) Self-employed persons and directors of corporations performing work as part of the business of the corporation, are not workers for the purposes of this Act.

13. (1) Paragraph 10(1)(c) is amended by striking out "an independent operator" and by substituting "a self-employed person".

(2) Paragraph 10(2)(a) is amended by striking out "16 years" and by substituting "19 years".

(3) Subsection 10(3) is amended by striking out "\$24,000" and by substituting "the prescribed amount".

14. (1) Subsection 11(2) is repealed.

(2) Subsection 11(5) is amended by striking out "dependent spouse" and by substituting "dependent spouse, a woman or man referred to in section 28".

15. Subsection 12(2.3) is repealed and the following is substituted:

Presumptions respecting accidents

(2.3) For greater certainty, the presumptions in subsections 14(2) and (3) apply to the interpretation of this section.

16. Section 14 is repealed and the following substituted:

Eligibility for compensation

14. (1) A worker shall receive compensation for a personal injury resulting from an accident arising out of and during the course of his or her employment unless

- (a) the injury is attributable solely to the serious and willful misconduct of the worker and neither death nor serious disablement result from it; or
- (b) the accident occurs as a direct result of enemy action or of action taken in combating an enemy force or in an attempt to repel a real or apprehended attack by such force.

Presumption respecting occurrence of accident

(2) Where an accident arose out of a worker's employment it shall be presumed, unless the contrary is proven on a balance of probabilities, to have occurred during the course of his or her employment.

Presumption respecting accident arising out of employment

(3) Where an accident occurred during the course of a worker's employment it shall be presumed, unless the contrary is proven on a balance of probabilities, that it arose out of his or her employment.

Classes or instruction

(4) Where a worker is required as a condition of his or her employment to attend any classes or to take any course of instruction, the classes or course of instruction and any transportation to or from them is deemed, for the purposes of this Act, to be part of the employment.

Presumption respecting death

(5) Where a worker is found dead at a place where the worker would be during the course of his or her employment, it shall be presumed, unless the contrary is proven on a balance of probabilities, that the death was the result of a personal injury by accident arising out of and during the course of his or her employment.

Industrial disease

(6) Where a worker is disabled because of an industrial disease, and at some time during the 12 months preceding the disablement was employed in an industry that exposed him or her to conditions that might reasonably have caused the disease, the disease is deemed to have been due to the nature of that employment unless the contrary is proven on a balance of probabilities.

Date of accident for industrial disease

(7) Where a worker is disabled because of an industrial disease, for the purposes of this Act and for the purposes of adjudicating the claim of the worker, the date of the accident is deemed to be the date of disablement.

Compensation for day of accident

(8) Where a worker is only disabled by an accident for the day of the accident, no compensation other than medical aid shall be provided.

Compensation for days after accident

(9) Where a worker is disabled by an accident for more than one day, compensation shall be paid from the day following the accident for any days for which the worker in the usual course of his or her employment would have been paid.

17. Sections 17 and 18 are repealed and the following substituted:

Notice of accident from worker

17. (1) A worker who suffers a personal injury as a result of an accident arising out of and during the course of his or her employment shall, as soon as is practicable, give notice of the accident and the injury to his or her employer and the Board.

Notice of accident from employer

(2) An employer who is aware that a worker in his or her employ has suffered or has reported that he or she has suffered a personal injury or has died as the result of an accident arising out of and during the course of the worker's employment shall give notice of the accident and the injury or death to the Board within three days after becoming aware of the matter and shall provide a copy of the notice to the worker or, if the worker has died, to the worker's dependants.

Report of health care provider

(3) A health care provider who attends to a worker who has suffered or has reported that he or she has suffered a personal injury as the result of an accident arising out of and during the course of the worker's employment shall send the Board a report within three days after the date of his or her first attendance on the worker.

Notice of claim by dependant

(4) A dependant of a worker who died as a result of an accident arising out of and during the course of the worker's employment shall give notice to the Board as soon as is practicable of the dependant's claim for compensation.

Receipt of notice or report constitutes claim

(5) Receipt by the Board of a notice referred to in subsection (1) or (2) or a report referred to in subsection (3) constitutes a claim by the worker, and receipt by the Board of a notice referred to in subsection (4) constitutes a claim by the dependant.

Limitation period for worker's claim

(6) No compensation shall be paid to a worker unless a claim is made by the worker to the Board within one year after the date of the accident.

Exception

(7) Notwithstanding subsection (6), where a claim is made by a worker more than one year after the date of the accident, the Board may pay compensation to the worker, if

- (a) the worker gave the notice required by subsection (1) to his or her employer and the employer did not give the notice required by subsection (2) to the Board; and
- (b) in the opinion of the Board the claim is a just one and ought to be allowed.

Limitation period for dependant's claim if worker made claim

(8) Where a worker dies after making a claim, no compensation shall be paid to a dependant unless he or she submits a claim to the Board within one year after the date of the worker's death.

Limitation period for dependant's claim if worker did not make claim

(9) Where a worker dies without making a claim, no compensation shall be paid to a dependant unless

- (a) the death occurs within one year after the date of the accident,
- (b) the death occurs within three years after the date of the accident and the employer did not give the notice required by subsection (2) to the Board, or
- (c) the death occurs as a result of an industrial disease within three years after the date the worker was last in an employment where he or she was exposed to the conditions that might reasonably have caused the disease.

and unless, in any case, the dependant submits a claim to the Board within one year after the date of the worker's death.

Board may require information

(10) The Board may require a claimant, an employer or a health care provider to provide any information that the Board considers necessary for the adjudication of an application for compensation.

Penalty if employer fails to give notice or provide information

(11) Every employer that fails to give any notice or to provide any information required by or under this section is liable to the prescribed penalty, unless excused by the Board on the ground that the notice could not have been given or the information could not have been provided for some sufficient reason.

Employer liable for investigation costs

(12) In addition to any penalty levied under subsection (11), an employer that fails to provide information required by this section or that fails to reply to the Board's

communications regarding an injured person within 30 days after the date of the communication, is liable to the Board for the costs of any investigations conducted by the Board of the facts and circumstances surrounding the matter.

Consequence if worker fails to provide information

(13) The Board may withhold payments of compensation to a claimant who willfully fails to comply with subsection (10) until he or she complies with that subsection.

Medical investigation

18. (1) Where a worker claims compensation under this Act,
(a) the Board may require the worker to present himself or herself for such medical investigation as the Board considers necessary to assist in determining whether the worker is entitled to compensation, or
(b) the Board may approve any medical investigation already carried out on satisfactory reports being submitted to the Board,
and in either case the Board may pay the costs of the medical investigation, and the Board may make payments to the worker, as computed on the same basis as compensation, for the period the Board determines is necessary for the purpose of the investigation.

Medical examination

(2) A worker to whom compensation is payable under this Act shall present himself or herself for a medical examination in the manner and at the time and place that the Board may require.

Consequence of failing to cooperate

(3) If a worker does not cooperate in respect of a medical investigation or a medical examination required under this section, the Board may suspend the payment of compensation to the worker until he or she cooperates as required.

Cooperation in worker's recovery

18.1. (1) The Board, a worker, and the worker's health care providers shall cooperate in the process of the worker's recovery from his or her disability through early assessment, diagnosis and the development of a medical evidence based best practice treatment plan.

Primary health care provider

(2) For the purposes of subsection (1), a worker shall have a primary health care provider who is a physician or, where appropriate, a dentist, who will be responsible for the diagnosis of the worker's condition and for coordinating the development of a medical evidence based best practice treatment plan.

Nearest health care provider

(3) Subject to subsections (2) and (5), a worker shall be examined and treated by the nearest appropriate health care provider.

Choice of health care provider

(4) Subject to subsection (5), where more than one health care provider referred to in subsection (3) is available, a worker may choose among them.

Board may require use of different health care provider

(5) The Board may require a worker to use a different health care provider if the Board is of the opinion that the health care provider used by the worker may not be of assistance in or may impede the process of the worker's recovery.

Consequence of failing to comply

(6) If a worker does not comply with a requirement under subsection (3) or (5), the Board may suspend the payment of compensation to the worker until he or she complies with the requirement.

Worker's duty to mitigate disability and to cooperate in rehabilitation

18.2. (1) Every worker who is receiving, or is entitled to receive, compensation under this Act for a disability other than a permanent total disability, shall

- (a) take reasonable measures to mitigate the disability; and
- (b) cooperate with the reasonable requirements of the Board in being rehabilitated for suitable productive employment.

Consequence for failing to comply

(2) If, in the opinion of the Board, a worker does not comply with subsection (1), the Board may notify the worker that he or she is required to take such actions as the Board considers necessary for the worker to comply with subsection (1) and, if the worker does not take the actions within a period of time that the Board considers reasonable having regard to the circumstances of the case, the Board may reduce, suspend or terminate the payment of compensation to the worker.

18. The following is added after section 19:

Health care provider's report

19.1. (1) A health care provider shall, within three days after examining or treating an injured worker, submit a report to the Board containing the information required by the Board.

Report is property of health care provider and Board

(2) A report of a health care provider submitted under this Act is the property of the health care provider and the Board.

Progress report to employer

(3) On the written request of the employer of a worker, the Board shall provide the employer with a report of the progress being made by the worker.

Payment does not constitute acceptance of claim

(4) Payment by the Board of an account for medical aid rendered to an injured worker does not of itself constitute acceptance of a claim by the Board.

Definition

19.2. (1) In this section, "medical advisor" means a physician who provides medical advice to the Board.

Conflicting opinions

(2) If the Board receives conflicting opinions respecting a matter relating to a worker's injury from a worker's health care provider and the Board's medical advisor, the Board shall require the medical advisor to contact the worker's primary health care provider and to attempt to resolve the conflict.

Referral to specialist

(3) If the medical advisor and the primary health care provider are unable to reach a consensus respecting the matter in relation to which conflicting opinions have been provided by discussing the matter, the matter shall be referred for advice to a physician or dentist who specializes in the area that is the subject of the conflicting opinions.

Vocational rehabilitation

19.3. (1) The Board may, if it considers it appropriate, provide a worker to whom compensation is payable with vocational rehabilitation, including consultation, advice, counseling, the planning and design of a rehabilitation plan and the costs of rehabilitation, to help the worker return to work and to assist in lessening or removing the consequences of his or her injuries.

Payments by Board

(2) The Board may pay any expenses it considers appropriate to aid in the recovery of an injured worker.

19. Section 21 is repealed and the following substituted:

Decisions respecting claim

21. (1) All decisions related to a claimant's entitlement to compensation shall be determined in the first instance by the Board based on

- (a) the evidence before the Board;
- (b) the application of this Act and the regulations;
- (c) the application of policy established by the Governance Council under subparagraph 4(a)(i) that relates to the issue in question; and
- (d) medical, legal or other relevant professional opinions that, in the opinion of the Board, should be accepted.

Advice obtained under subsection 19.2(3)

(2) Advice obtained from a physician or dentist under subsection 19.2(3) is evidence under paragraph (1)(a), and the Board shall consider it in making a decision relating to a claimant's entitlement to compensation.

20. Section 24 is repealed and the following substituted:

Review committee

24. (1) The Board shall appoint a review committee to review, in accordance with this section, the decisions of the Board regarding claims for compensation.

Request for review

(2) An employer, worker or dependant who is dissatisfied with a decision of the Board regarding a claim for compensation, may, in writing, request that the decision be reviewed by the review committee.

Review

(3) On receiving a request for a review, the Board shall cause its decision to be reviewed by the review committee.

Oral hearing on request

(4) An oral hearing shall be held if an employer, worker or dependant concerned in the claim requests an oral hearing.

Medical examination

(5) For the purposes of the review, the review committee may require the worker to undergo a medical examination by a physician.

Application of subsections 18(2) and (3)

(6) Subsections 18(2) and (3) apply, with such modifications as the circumstances require, to a requirement to undergo a medical examination under subsection (5).

Determining review

(7) In determining a review, the review committee shall

- (a) consider the evidence before the review committee;
- (b) apply this Act and the regulations;
- (c) apply policy established by the Governance Council under subparagraph 4(a)(i) that relates to the issue in question; and
- (d) consider medical, legal or other relevant professional opinions that, in the opinion of the review committee, should be accepted.

Advice obtained under subsection 19.2(3)

(7.1) Advice obtained from a physician or dentist under subsection 19.2(3) is evidence under paragraph (7)(a), and the review committee shall consider it in determining a review.

Powers of review committee

(8) The review committee may confirm, vary or reverse any decision made in respect of the claim.

21. Section 34 is repealed.

22. Subsection 35(1) is amended by

- (a) repealing paragraphs (b) and (c) and substituting the following:**
 - (b) an amount for funeral expenses, not exceeding the prescribed limit;
 - (c) the expense of transporting the body of the worker to the worker's last usual place of residence within Canada, if the death occurred away from that place;
- (b) striking out "16 years" in paragraph (e) and substituting "19 years"; and**
- (c) striking out "16 years of age" in subparagraphs (g)(i) and (ii) and substituting "19 years of age".**

23. Section 37 is repealed and the following substituted:

Extended period of compensation for child attending school

37. Where a dependent child of a worker

- (a) is 19 years of age or over; and
- (b) is attending an academic, technical or vocational school and making progress at the school satisfactory to the Board,

the Board shall make payments of compensation at the rate set out in paragraph 35(1)(e) until the dependent child

- (c) fails to make progress at the school satisfactory to the Board,
- (d) no longer attends the school; or
- (e) is granted a university degree for the first time or completes a course in technical or vocational training,

whichever occurs first.

24. Subsection 39(5) is repealed and the following substituted:

Annual deductions

(5) The annual deductions for a worker referred to in subsection (2) shall be determined in accordance with the regulations.

25. Subsection 51(1) is repealed and the following substituted:

Clothing allowance

51. (1) The Board may, on the application of a worker, pay an allowance not exceeding the prescribed limit for the replacement or repair of clothing worn or damaged

by reason of the wearing of an upper or lower limb prosthesis or appliance supplied by the Board.

26. Subsection 53(3) is repealed.

27. Subsection 54(8) is repealed and the following substituted:

Contracts for medical aid

(8) The Board may contract with health care providers and with hospitals and other institutions for the provision of any medical aid required for the treatment and rehabilitation of injured workers.

28. The following is added after section 60:

Power to acquire and dispose of real property

60.1. (1) Subject to subsection (2), the Board may

- (a) lease or purchase real property and construct or alter buildings required for the purposes of the Board;
- (b) if the Board considers it necessary or expedient to lease or purchase real property having more space than is necessary for its purposes, lease or purchase that property and lease or otherwise dispose of the surplus space;
- (c) if the Board considers it necessary or expedient to construct or alter a building that will have more space than is necessary for its purposes, construct or alter that building and lease or otherwise dispose of the surplus space; and
- (d) sell, lease or otherwise dispose of any of its real property.

Approval of the Commissioner

(2) The Board may not, without the approval of the Commissioner in Executive Council,

- (a) purchase real property in Nunavut that has a value exceeding \$100,000;
- (b) construct or alter a building in Nunavut if the estimated value of the construction or alterations exceeds \$100,000; or
- (c) sell, lease or otherwise dispose of any of its real property in Nunavut that has a value exceeding \$100,000.

29. Part VI is repealed.

30. Subsection 61(4) is amended by striking out "made to the Board" and substituting "made to the Governance Council".

31. Subsection 62(2) is amended by striking out "the Board may require" and substituting "the Governance Council may require".

32. Section 64 is repealed and the following substituted:

Review committee

64. (1) The Board shall appoint a review committee to review, in accordance with this section, the decisions of the Board respecting the amounts of employer assessments.

Request for review

(2) An employer that is dissatisfied with a decision of the Board respecting the amount of an assessment may, in writing, request that the decision be reviewed by the review committee.

Review

(3) On receiving the request for a review, the Board shall cause its decision to be reviewed by the review committee.

Oral hearing on request

(4) An oral hearing shall be held if the employer that requested the review requests an oral hearing.

Determining review

(5) In determining a review, the review committee shall

- (a) consider the evidence before the review committee;
- (b) apply this Act and the regulations; and
- (c) apply policy established by the Governance Council under subparagraph 4(a)(i) that relates to the issue in question.

Powers of review committee

(6) The review committee may confirm, vary or reverse any decision made in respect of the amount of the employer's assessment.

Exclusion

(7) For greater certainty, this section does not apply to the determination of an assessment rate for a class or subclass by the Governance Council.

Appeal

64.1. An employer that is dissatisfied with a decision of the review committee under section 64 may, in writing, appeal the decision to the appeals tribunal continued under section 7.1.

33. (1) Subsection 66(2) is amended by striking out "written or oral, express or implied,".

(2) Subsections 66(3) and (4) are repealed and the following substituted:

Building permits

(3) Within three days after a municipal corporation grants a building permit involving an expenditure of an amount in excess of the prescribed amount, the person whose duty it is to keep a record of such permits shall provide written notice of the permit to the Board.

Penalty

(4) Every municipal corporation that contravenes subsection (3) is subject to a prescribed penalty.

34. (1) That portion of subsection 67(5) preceding paragraph (a) is amended by striking out "the Board and any officer of the Board or person authorized by it" and substituting "the Governance Council and any officer of the Board or person authorized by the Board".

(2) Subsection 67(8) is amended by striking out "the Board and every officer or person authorized by it" and substituting "the Governance Council and every officer or person authorized by the Board".

(3) Subsections 67(11) to (13) are repealed.

35. Subsection 72(8) is repealed and the following substituted:

Offence and punishment

(8) Every employer that continues to employ workers after being served with an order is guilty of an offence and liable on summary conviction to a fine, for each day that the default continues, not exceeding the greater of \$1,000 or 2% of assessable payroll and, in default of payment, to imprisonment for a term not exceeding six months.

Liability of officers, directors and agents

(9) Where a corporation commits an offence under subsection (8), any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable to the punishment provided for the offence under subsection (8), whether or not the corporation has been prosecuted or convicted.

36. The following is added before section 78:

Confidential information

77.1. (1) Any information respecting a worker, a dependant or an employer obtained by a person under this Act is confidential and may only be disclosed

(a) under the authority of the Board to the persons directly concerned;

- (b) under the authority of the Board to agencies or departments of the Government of Nunavut, the Government of Canada or the government of a province or territory; or
- (c) in accordance with the *Access to Information and Protection of Privacy Act*.

Disclosure of information

(2) No person shall disclose any information obtained under this Act respecting a worker, a dependant or an employer except in accordance with subsection (1).

Offence

(3) Every person who contravenes subsection (2) is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$5,000.

37. (1) Subsection 82.1(1) is amended by striking out "subsection 6(1) of that Act" and substituting "subsection 2(4) of that Act".

(2) Paragraph 82.1(3)(a) is amended by

- (a) striking out "subsection 6(1)" in subparagraph (i) and by substituting "subsection 2(4)"; and**
- (b) striking out "subsection 6(1) of that Act" in subparagraph (ii) and by substituting "subsection 2(4) of that Act".**

38. The following is added after section 82.4:

REVIEW PANELS

Review panel

82.5. (1) The Minister, after consulting with the Governance Council, may appoint a review panel to conduct a review of this Act.

Composition

- (2) A review panel shall be composed of
- (a) one person whom the Minister considers as representing the interests of workers;
 - (b) one person whom the Minister considers as representing the interests of employers; and
 - (c) one person whom the Minister considers as representing the interests of the general public, who shall serve as chairperson of the review panel.

Terms of reference

(3) A review panel shall conduct its review in accordance with terms of reference established by the Minister.

Completion of review

(4) A review panel must complete its review and submit its report to the Minister within 12 months after its appointment.

Tabling of report

(5) The Minister shall table a copy of the report of a review panel in the Legislative Assembly during the first sitting following receipt of the report.

Costs of review

(6) The Minister may direct, on the recommendation of the Governance Council, that the costs of a review be paid out of the Accident Fund.

39. Subsections 83(1) to (3) are repealed and the following substituted:

Offence and punishment

83. (1) Every person who contravenes or fails to comply with a provision of this Act or the regulations or any order made under this Act or the regulations for which no specific punishment is provided, is guilty of an offence punishable on summary conviction and is liable

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding six months, or to both; or
- (b) in the case of a corporation, to a fine not exceeding \$500,000.

Continuing offence

(2) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is guilty of a separate offence for each day on which the offence is committed or continued.

Liability of officers, directors and agents

(2.1) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable to the punishment provided for the offence under paragraph (1)(a), whether or not the corporation has been prosecuted or convicted.

Application of fines

(3) Every fine imposed under this Act shall, when collected, be paid over to the Board and shall form part of the Accident Fund.

40. The following is added after section 83:

False information

83.1. (1) Every person who is required, by or under this Act, to submit information to the Board, but who submits false information, is guilty of an offence.

Interference with claim

(2) Every employer, and every person acting on behalf of an employer, who prevents or attempts to prevent a worker from filing a claim for compensation under this Act is guilty of an offence.

TRANSITIONAL

Members deemed to have been appointed as directors

41. A person appointed as a member of the Board under subsection 2(2) of the *Workers' Compensation Act* (Northwest Territories) as it read immediately before the day this Act comes into force and who continues to hold office on that day, is deemed to have been appointed as a director of the Governance Council under subsection 3(1) of the *Workers' Compensation Act* (Northwest Territories) at the time this Act comes into force.

Policy

42. Policy established by the Board for the implementation of the *Workers' Compensation Act* that is in effect immediately before this Act comes into force is deemed to have been established by the Governance Council under subparagraph 3(15)(a)(i) of the *Workers' Compensation Act* at the time this Act comes into force.

President

43. The person who is employed in the position of president of the Board immediately before the day section 7 of this Act comes into force is deemed to have been appointed as the president under subsection 6(1) of the *Workers' Compensation Act* (Northwest Territories) at the time this Act comes into force.

Employees for conduct of business of appeals tribunal

44. A member of the staff of the Board who is employed for the conduct of the business of the appeals tribunal immediately before the day section 9 of this Act comes into force is deemed to have been appointed under subsection 7.2(2) of the *Workers' Compensation Act* (Northwest Territories) at the time this Act comes into force, and ceases to be a member of the staff of the Board.

Limitation period for dependant's claim if worker made claim

45. (1) Where a worker dies before the day section 16 of this Act comes into force but after making a claim to the Board, subsection 14(10) of the *Workers' Compensation Act*, as it read immediately before section 16 of this Act came into force, applies in respect of a claim by a dependant.

Limitation period for dependent's claim if worker did not make claim

(2) Where a worker dies before the day section 16 of this Act comes into force but without making a claim to the Board, subsection 14(11) of the *Workers' Compensation Act*, as it read immediately before section 16 of this Act came into force, applies in respect of a claim by a dependant.

COMMENCEMENT

Coming into force

46. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.