

# TABLE OF CONTENTS

## CHAPTER 1 – SCOPE OF VOLUME II OF THIS *MANUAL*

#1.00	INTRODUCTION	1-1
#1.01	Legislative Amendments	1-1
#1.02	Scope of Volume I and Volume II of this <i>Manual</i>	1-2
#1.03	Scope of Volumes I and II in Relation to Benefits for Injured Workers	1-3
#1.10	The Persons Covered by the <i>Act</i>	1-5
#1.20	The Conditions under which Compensation is Payable	1-5
#1.30	The Type and Amount of Compensation	1-6
#1.40	Charging of Claims Costs	1-6
#2.00	WORKERS' COMPENSATION BOARD	1-6
#2.10	Jurisdiction over Claims Adjudication	1-6
#2.20	Application of the <i>Act</i> and Policies	1-7
NOTES		1-9

## CHAPTER 2 – WORKERS AND EMPLOYERS COVERED BY THE *ACT*

#3.00	INTRODUCTION	2-1
#4.00	EXEMPTIONS AND EXCLUSIONS FROM COVERAGE	2-1
#5.00	COVERAGE OF WORKERS	2-1
#6.00	DEFINITIONS OF "WORKER" AND "EMPLOYER"	2-2
#6.10	Nature of Employment Relationship	2-2
#6.20	Voluntary and Other Workers Who Receive No Pay	2-3
#7.00	SPECIFIC INCLUSIONS IN DEFINITION OF WORKER	2-3
#7.10	Coverage for Volunteer Firefighters	2-3
#8.00	ADMISSION OF WORKERS, EMPLOYERS, AND INDEPENDENT OPERATORS	2-6
#8.10	Federal Government Employees	2-6

## CHAPTER 3 – COMPENSATION FOR PERSONAL INJURY

#12.00	INTRODUCTION	3-1
#13.00	PERSONAL INJURY	3-1

#13.10	Distinction Between an Injury and Disease	3-1
#13.12	Disablement from Vibrations	3-3
#13.20	Psychological Impairment	3-3
#13.30	Mental Stress	3-3
#13.40	Infectious Agent or Disease Exposures	3-6
#14.00	ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT	3-8
#14.10	Presumption	3-9
#14.20	Occurrence or Non-Occurrence of a Specific Incident	3-10
#15.00	NATURAL CAUSES	3-11
#15.10	Worker Has Pre-existing Deteriorating Condition	3-11
#15.15	Firefighters and Heart Injury	3-12
#15.20	Injuries Following Motions at Work	3-13
#15.30	Recurring Temporary Disabilities	3-16
#15.40	Ganglia	3-16
#15.50	Herniae	3-17
#15.51	Prior Compensable and Non Compensable Herniae	3-18
#15.60	Shoulder Dislocations	3-19
#16.00	UNAUTHORIZED ACTIVITIES	3-19
#16.10	Intoxication or Other Substance Impairment	3-20
#16.20	Horseplay	3-21
#16.30	Assaults	3-22
#16.40	Injury While Doing Another Persons Job	3-22
#16.50	Emergency Actions	3-23
#16.60	Serious and Wilful Misconduct	3-24
#17.00	HAZARDS ARISING FROM NATURE	3-25
#17.10	Insect Bites	3-25
#17.20	Plant Stings	3-25
#17.30	Frostbite, Sunburn and Heat Exhaustion	3-26
#17A.10	Commencement of Employment Relationship	3-26
#17A.20	Termination of Employment Relationship	3-27
#18.00	TRAVELLING TO AND FROM WORK	3-27

	#18.01	Entry to Employers Premises	3-27
#18.10		Road Leading to Employers Premises	3-28
	#18.11	Captive Road Doctrine	3-28
	#18.12	Special Hazards of Access Route	3-30
#18.20		Provision of Transportation by Employer	3-31
	#18.21	Provision of Vehicle by Employer	3-31
	#18.22	Payment of Travel Time and/or Expenses by Employer	3-32
#18.30		Journey to Work Also Has Employment Purpose	3-33
	#18.31	Worker On Call	3-33
	#18.32	Irregular Starting Points	3-33
	#18.33	Deviations From Route	3-35
#18.40		Travelling Employees	3-35
	#18.41	Personal Activities During Business Trips	3-36
	#18.42	Trips Having Business and Non-Business Purpose	3-37
#19.00		USE OF FACILITIES PROVIDED BY THE EMPLOYER	3-38
	#19.10	Bunkhouses	3-38
	#19.20	Parking Lots	3-39
	#19.30	Lunchrooms	3-40
	#19.31	Injury Results from Worker's Personal Property	3-41
	#19.40	Medical Facilities	3-41
	#19.41	Adverse Reactions to Inoculations or Injections	3-41
#20.00		EXTRA-EMPLOYMENT ACTIVITIES	3-42
	#20.10	Participation in Competitions	3-42
	#20.20	Recreational, Exercise or Sports Activities	3-43
	#20.30	Educational or Training Courses	3-46
	#20.40	Provision of Clothing and Equipment Required for Job	3-47

	#20.41	Injuries Resulting from Workers Clothing or Footwear	3-47
	#20.50	Fund Raising, Charitable or Other Similar Activities	3-48
#21.00		PERSONAL ACTS	3-48
	#21.10	Lunch, Coffee and Other Breaks	3-49
	#21.20	Vacations	3-50
	#21.30	Payment of Wages or Salary	3-51
	#21.40	Acts for Personal Benefit of Principals of Business	3-51
#22.00		COMPENSABLE CONSEQUENCES OF WORK INJURIES	3-52
	#22.10	Further Injury or Increased Disablement Resulting from Treatment	3-52
	#22.11	Disablement Caused by Unauthorized Surgery	3-53
	#22.12	Acceleration of Treatment	3-54
	#22.13	Activities at Home	3-54
	#22.14	Treatment Unrelated to Injury	3-54
	#22.15	Travelling To and From Treatment	3-55
	#22.20	Subsequent Injuries Occurring Otherwise than in the Course of Treatment	3-57
	#22.21	Activities on Board Premises or at Other Premises under Board Sponsorship	3-58
	#22.22	Suicide	3-59
	#22.23	Criminal Proceedings	3-59
	#22.30	Diseases or Other Conditions Resulting from Trauma	3-59
	#22.31	Multiple Sclerosis	3-60
	#22.32	Cancer	3-60
	#22.33	Psychological Problems	3-61
	#22.34	Alcoholism and Drug Dependency Problems	3-61
	#22.35	Pain and Chronic Pain	3-62

#23.00	REPLACEMENT AND REPAIR OF ARTIFICIAL APPLIANCES, EYEGASSES, HEARING AIDS, AND DENTURES – SECTION 21(8)	3-64
#23.10	Meaning of Authority in Section 21(8)	3-65
#23.20	Appliances Covered by Section 21(8)	3-65
#23.30	Meaning of Damaged or Broken under Section 21(8)	3-65
#23.40	Meaning of Accident under Section 21(8)	3-66
#23.50	Meaning of Corroboration in Section 21(8)	3-67
#23.60	Meaning of Fault in Section 21(8)	3-69
#23.70	Compensation Payable under Section 21(8)	3-70
#24.00	FEDERAL GOVERNMENT EMPLOYEES	3-70
	NOTES	3-72
 <b>CHAPTER 4 – COMPENSATION FOR OCCUPATIONAL DISEASE</b>		
#25.00	INTRODUCTION	4-1
#25.10	Legislative Requirements	4-1
#26.00	THE DESIGNATION OR RECOGNITION OF AN OCCUPATIONAL DISEASE	4-2
	#26.01 Recognition by Inclusion in Schedule B	4-3
	#26.02 Recognition under Section 6(4.2)	4-4
	#26.03 Recognition by Regulation of General Application	4-4
	#26.04 Recognition by Order Dealing with a Specific Case	4-6
#26.10	Suffers from an Occupational Disease	4-8
#26.20	Establishing Work Causation	4-8
	#26.21 Schedule B Presumption	4-8
	#26.22 Non-Scheduled Recognition and Onus of Proof	4-10
#26.30	Disabled from Earning Full Wages at Work	4-12
#26.50	Natural Degeneration of the Body	4-13
	#26.55 Aggravation of a Disease	4-13
#26.60	Amending Schedule B	4-14

#27.00	ACTIVITY-RELATED SOFT TISSUE DISORDERS OF THE LIMBS	4-15
#27.10	ASTDs Recognized by Inclusion in Schedule B	4-16
#27.11	Bursitis	4-17
#27.12	Tendinitis and Tenosynovitis	4-19
#27.13	Hand-Arm Vibration Syndrome (HAVS)	4-22
#27.14	Hypothenar Hammer Syndrome	4-25
#27.20	Tendinitis/Tenosynovitis and Bursitis Claims Where No Presumption Applies	4-25
#27.30	ASTDs Recognized by Regulation	4-28
#27.31	Epicondylitis	4-29
#27.32	Carpal Tunnel Syndrome	4-29
#27.33	Other Peripheral Nerve Entrapments and Stenosing Tenovaginitis	4-31
#27.34	Disablement from Vibrations	4-31
#27.35	Unspecified or Multiple-Tissue Disorders	4-31
#27.40	Risk Factors	4-32
#28.00	CONTAGIOUS DISEASES	4-38
#28.10	Scabies	4-40
#29.00	RESPIRATORY DISEASES	4-41
#29.10	Acute Respiratory Reactions to Substances with Irritating or Inflammatory Properties	4-41
#29.20	Asthma	4-42
#29.30	Bronchitis and Emphysema	4-44
#29.40	Pneumoconioses and Other Specified Diseases of the Lungs	4-45
#29.41	Silicosis	4-45
#29.42	Meaning of Disabled from Silicosis	4-46
#29.43	Exposure to Silica Dust Occurring Outside the Province	4-47
#29.45	Pneumoconiosis	4-47

	#29.46	Asbestosis	4-47
	#29.47	Diffuse Pleural Thickening or Fibrosis and Benign Pleura Effusion	4-47
	#29.48	Mesothelioma	4-48
	#29.50	Presumption Where Death Results from Ailment or Impairment of Lungs or Heart	4-48
#30.00		CANCERS	4-49
	#30.10	Bladder Cancer	4-49
	#30.20	Gastro-intestinal Cancer	4-52
	#30.50	Contact Dermatitis	4-53
	#30.70	Heart Conditions	4-55
#31.00		HEARING LOSS	4-55
	#31.10	Date of Commencement of Section 7	4-57
	#31.20	Amount and Duration of Noise Exposure Required by Section 7	4-57
	#31.30	Application for Compensation under Section 7	4-58
	#31.40	Amount of Compensation under Section 7	4-59
	#31.50	Compensation under Section 7	4-61
	#31.60	Reopenings of Section 7 Pension Decisions	4-62
	#31.70	Compensation for Non-Traumatic Hearing Loss under Section 6	4-63
	#31.80	Commencement of Permanent Disability Periodic Payments under Sections 6 and 7	4-64
	#31.90	Assessment of Permanent Disability Awards for Traumatic Hearing Loss under Section 5(1)	4-65
#32.00		OTHER MATTERS	4-65
	#32.10	Psychological/Emotional Conditions	4-65
	#32.15	Alcoholism	4-65
	#32.50	“Date of Injury” for Occupational Disease	4-66
	#32.55	Time Limits and Delays in Applying for Compensation	4-66
	#32.56	Applicants Who File Within Three Years	4-67

	#32.57	Applicants Who File Beyond Three Years	4-67
	#32.58	Newly Recognized Occupational Diseases	4-68
	#32.59	Discretion to Pay Compensation	4-70
#32.80		Federal Government Employees	4-71
	#32.85	Meaning of “Industrial Disease” under Government Employees Compensation Act	4-71
NOTES			4-72

## **CHAPTER 5 – WAGE-LOSS BENEFITS**

#33.00		INTRODUCTION	5-1
#34.00		TEMPORARY TOTAL DISABILITY PAYMENTS	5-1
	#34.10	Meaning of Temporary Total	5-1
		#34.11 Selective/Light Employment	5-2
		#34.12 Worker in Receipt of Permanent Disability Award	5-4
	#34.20	Minimum Amount of Compensation	5-5
	#34.30	Commencement of Payment	5-5
		#34.31 Worker Continues to Work After Injury	5-6
		#34.32 Strike or Other Lay-Off on Day Following Injury	5-6
	#34.40	Pay Employer Claims	5-7
		#34.41 Vacation Pay	5-8
		#34.42 Termination Pay	5-8
	#34.50	Duration of Wage-Loss Payments	5-9
		#34.51 Other Factors Prevent Return to Employment	5-9
		#34.52 Workers Undergoing Educational or Training Program	5-10
		#34.53 Termination at a Future Date	5-12

	#34.54	When is the Worker's Condition Stabilized	5-13
	#34.60	Payment Procedures	5-14
#35.00		TEMPORARY PARTIAL DISABILITY PAYMENTS	5-15
	#35.10	Meaning of Temporary Partial	5-15
	#35.11	Procedure for Determining Whether Worker is Temporarily Partially Disabled	5-15
	#35.20	Amount of Payment	5-17
	#35.21	Suitable Occupation	5-19
	#35.22	Calculation of Earnings for Workers with Two Jobs	5-21
	#35.23	Minimum Amount of Compensation	5-21
	#35.24	Workers Engaged in Own Business	5-21
	#35.30	Duration of Temporary Disability Benefits	5-22
	#35.40	Manner of Payment	5-24

NOTES			5-25
-------	--	--	------

## **CHAPTER 6 – PERMANENT DISABILITY AWARDS**

#36.00		INTRODUCTION	6-1
	#36.10	Transitional Provisions for Permanent Disability Awards (see Chapter 1, policy item #1.03)	6-1
	#36.20	Canada Pension Plan Disability Benefits	6-1
	#36.21	Confirmation of CPP Disability Payments	6-2
	#36.22	Determination of the Amount of a CPP Disability Benefit that is Attributed to the Compensable Work Injury	6-2
	#36.23	Deduction of Lump Sum Payments of CPP Disability Benefits	6-3
	#36.24	Deduction of CPP Disability Benefits in Cases of Minimum Compensation	6-3
#37.00		PERMANENT TOTAL DISABILITY	6-4
	#37.10	Commencement of Permanent Total Disability Payments	6-4

#37.20	Minimum Amount of Compensation	6-5
#37.21	Statutory Minimum Application	6-5
#37.30	Reopening Claims	6-5
#38.00	COMPENSATION FOR PERMANENT PARTIAL DISABILITY	6-5
#39.00	SECTION 23(1) ASSESSMENT	6-6
#39.01	Decision-Making Procedure under Section 23(1)	6-7
#39.02	Chronic Pain	6-8
#39.10	Permanent Disability Evaluation Schedule	6-11
#39.11	Age Adaptability Factor	6-12
#39.12	Enhancement	6-12
#39.13	Devaluation	6-13
#39.20	Amputations of Arms or Legs	6-14
#39.21	Amputation of Digits of The Hand	6-15
#39.30	Restrictions of Movement in Arms or Legs	6-15
#39.31	Finger Restrictions	6-16
#39.32	Thumb Restrictions	6-16
#39.40	Sensory Losses	6-16
#39.41	Loss of Taste and/or Smell	6-17
#39.42	Visual Acuity	6-17
#39.43	Sexual and Reproductive Function	6-18
#39.44	Assessment of Awards for Hand-Arm Vibration Syndrome	6-19
#39.50	Non-Scheduled Awards	6-21
#39.60	Minimum Award	6-22
#39.61	Injury Prior to March 18, 1943	6-22
#39.62	Injury Prior to January 1, 1965	6-22
#40.00	SECTION 23(3) ASSESSMENT	6-23
#40.01	Decision-Making Procedure under the Section 23(3) Method	6-25
#40.10	Section 23(3) Assessment Formula	6-26
#40.12	Suitable Occupation	6-27

	#40.13	Measurement of Earnings Loss	6-28
	#40.14	Provision of Employability Assessments	6-30
	#40.32	Worsening or Improvement of Disability	6-30
#41.00		DURATION OF PERMANENT DISABILITY PERIODIC PAYMENTS	6-30
#42.00		PAYMENT OF PERMANENT DISABILITY AWARDS	6-32
	#42.10	Commencement of Periodic Payments	6-32
	#42.12	Retroactive Awards	6-33
	#42.20	Permanent Disability Award Adjustments	6-34
#43.00		DISFIGUREMENT	6-34
	#43.10	Requirements for Award	6-34
	#43.20	Amount of Award	6-36
#44.00		PROPORTIONATE ENTITLEMENT	6-41
	#44.10	Meaning of Already Existing Disability	6-41
	#44.20	Temporary Disability and Health Care Benefits	6-42
	#44.30	Permanent Disability	6-42
	#44.31	Application of Proportionate Entitlement	6-43
#45.00		LUMP SUMS AND COMMUTATIONS	6-44
	#45.10	Permanent Disability Periodic Payment Categories/Lump Sum Awards	6-44
	#45.20	Criteria for Allowing or Disallowing a Commutation	6-45
	#45.21	Death of Worker Prior to Award under Category A in Policy Item #45.10	6-47
	#45.30	Types of Commutations Permitted	6-47
	#45.40	Purpose of Commutations	6-48
	#45.41	Paying Off Debts	6-48
	#45.42	Investments	6-49

	#45.43	Starting a Business	6-49
	#45.44	Education	6-49
	#45.45	Buying a Home	6-50
#45.50		Decision-Making Procedures	6-50
#45.60		Amount Paid on Commutations	6-51
	#45.61	Calculation of Lump-sum Payment or Commutation	6-51
#46.00		REVIEW OF OLD PENSIONS UNDER SECTION 24	6-52
	#46.01	Claims to Which Section 24 Applies	6-52
	#46.02	Calculation of Benefits under Section 24	6-54
	#46.03	Maximum and Minimum Periodic Payments under Section 24	6-56
	#46.04	Date when New Periodic Payments Commence under Section 24	6-56
	#46.05	Reapplication under Section 24	6-57
	#46.10	Reinstatement of Commuted Pensions under Section 26	6-57
	#46.11	Computation of Twelve Per Cent Disability	6-57
	#46.12	Purpose of Section 26 Already Achieved	6-58
	#46.13	Term Pensions	6-59
	#46.14	Rate of New Periodic Payments	6-59
	#46.15	Cost of Living Adjustment After Reinstatement	6-61
	#46.16	Commutation of New Periodic Payments	6-62
		NOTES	6-63
<b>CHAPTER 7 – PROTECTION OF AND DEDUCTIONS FROM BENEFITS</b>			
#47.00		INTRODUCTION	7-1
#47.10		ACTIONS BY EMPLOYERS	7-1
	#47.11	Agreements to Waive or Forego Benefits	7-1

	#47.20	Contributions from Workers to Employer	7-2
#48.00		ASSIGNMENTS, CHARGES OR ATTACHMENTS OF COMPENSATION	7-2
	#48.10	Solicitors' Liens	7-2
	#48.20	Money Owing by Worker to Other Agencies	7-3
		#48.21 Employment Insurance	7-3
		#48.22 Social Assistance Payments	7-4
		#48.23 Requirements to Pay	7-5
	#48.30	Worker Not Supporting Dependents	7-6
	#48.40	Overpayments/Money Owed to the Board	7-6
		#48.41 When Does an Overpayment of Compensation Occur?	7-7
		#48.42 Recovery Procedures for Overpayments	7-8
		#48.43 Recovery of Overpayments on Reopenings or New Claims	7-9
		#48.44 Deduction of Overpayments from Permanent Disability Awards	7-10
		#48.45 Deduction of Overpayments from Vocational Rehabilitation Payments	7-10
		#48.46 Reviews and Appeals on Overpayments	7-11
		#48.47 Waiver of Overpayment Recoveries	7-11
		#48.48 Unpaid Assessments	7-12
	#48.50	Payment to Widow or Widower Free from Debts of Deceased	7-12
#49.00		INCAPACITY OF A WORKER	7-12
	#49.10	Worker Receiving Custodial Care in Hospital	7-13
		#49.11 Meaning of Custodial Care in Hospital or Elsewhere in Section 35(5)	7-14
		#49.12 Nature of the Board's Authority under Section 35(5)	7-14
		#49.13 Application of Section 35(5) in Cases of Temporary Disability	7-14

	#49.14	Application of Section 35(5) in Cases of Permanent Disability	7-16
	#49.15	Application of Section 35(5) on a Change of Circumstances	7-18
	#49.20	Imprisonment of Worker	7-18
	#49.30	Payment of Public Trustee and Committee Fees	7-20
#50.00		INTEREST	7-20
#51.00		COST OF LIVING ADJUSTMENTS TO PERIODIC PAYMENTS	7-22
	#51.20	Dollar Amounts in the <i>Act</i>	7-23
		NOTES	7-26

## **CHAPTER 8 – COMPENSATION ON THE DEATH OF A WORKER**

C8-52.00	Introduction
C8-53.00	Meaning Of "Dependant" And Presumptions of Dependency
C8-53.10	Meaning of "Child" or "Children"
C8-53.20	Meaning of "Federal Benefits"
C8-54.00	Funeral and Other Death Expenses
C8-55.00	Lump Sum Payment
C8-56.00	Calculation of Compensation – Widow or Widower with Children
C8-56.10	Calculation of Compensation – Widow or Widower with No Children
C8-56.20	Calculation of Compensation – Spouse Separated from Deceased Worker
C8-56.30	Calculation of Compensation – Common-Law Relationships
C8-56.40	Calculation of Compensation – Children
C8-56.50	Calculation of Compensation – Foster Parents
C8-56.60	Calculation of Compensation – Other Dependants and Dependent Parents
C8-56.70	Calculation of Compensation – Persons with a Reasonable Expectation of Pecuniary Benefit
C8-57.00	Recalculation of Compensation on a Change in Circumstances
C8-58.00	Apportionment of Compensation
C8-59.00	Death of More Than One Worker
C8-60.00	Enemy Warlike Action

C8-61.00	Special or Novel Cases	
C8-61.10	Interest Payment Arising from the Application of Section 19(2)	
C8-62.00	Proof of Existence of Dependants	
C8-63.00	Death of a Commercial Fisher	

## **CHAPTER 9 – AVERAGE EARNINGS**

#64.00	INTRODUCTION	9-1
#65.00	GENERAL RULE FOR DETERMINING SHORT-TERM AVERAGE EARNINGS	9-1
	#65.01 Variable Earnings	9-2
	#65.02 Worker with Two Jobs	9-4
	#65.03 Fishers	9-4
	#65.04 Provisional Rate	9-5
	#65.05 Workers Participating in Non-Board Sponsored Return to Work Programs	9-6
#66.00	GENERAL RULE FOR DETERMINING LONG-TERM AVERAGE EARNINGS	9-7
#67.00	EXCEPTIONS TO THE GENERAL RULES FOR DETERMINING AVERAGE EARNINGS	9-8
	#67.10 Casual Pattern of Employment	9-8
	#67.20 Personal Optional Protection	9-10
	#67.30 Workers with No Earnings	9-11
	#67.31 Volunteer Workers Admitted by the Board under Section 3(5)	9-12
	#67.32 Volunteer Firefighters and Ambulance Drivers and Attendants	9-12
	#67.33 Sisters in Catholic Institutions	9-13
	#67.34 Emergency Services Workers	9-13
	#67.40 Apprentice or Learner	9-13
	#67.50 Workers Employed with their Employer for Less than 12 Months	9-15
	#67.60 Exceptional Circumstances	9-16
#68.00	COMPOSITION OF AVERAGE EARNINGS	9-19
	#68.10 Extraordinary or Irregular Wage Payments	9-19

	#68.11	Overtime	9-19
	#68.12	Severance or Termination Pay	9-19
	#68.13	Salary Increases	9-19
#68.20		Employment Benefits	9-20
	#68.21	Benefit Plans	9-20
	#68.22	Room and Board	9-20
	#68.23	Special Expenses or Allowances	9-21
#68.30		Strike Pay	9-21
#68.40		Employment Insurance Payments	9-22
#68.50		Property Value Losses	9-22
#68.60		Payments in Respect of Equipment	9-22
	#68.61	Workers Deducting Business and/or Equipment Expenses	9-22
	#68.62	Fishers	9-25
#68.70		Payments to Substitutes	9-27
#68.80		Government Sponsored Work Programs	9-27
#68.90		Principals – Composition of Earnings	9-28
#69.00		MAXIMUM AMOUNT OF AVERAGE EARNINGS	9-28
	#69.10	Deduction of Permanent Disability Periodic Payments from Wage Loss	9-30
	#69.11	Permanent Disability Award Cash Awards and Term Permanent Disability Awards	9-30
#70.00		AVERAGE EARNINGS ON REOPENED CLAIMS	9-31
	#70.10	Disability Occurring Within Three Years of Injury	9-31
	#70.20	Reopenings Over Three Years	9-32
	#70.30	Permanent Disability Awards	9-38
#71.00		AVERAGE NET EARNINGS	9-39
	#71.10	Short-term Average Net Earnings	9-39
	#71.20	Long-term Average Net Earnings	9-40
	#71.30	Insufficient Information	9-42
	#71.40	Adjustments	9-42

NOTES 9-44

**CHAPTER 10 – MEDICAL ASSISTANCE**

#72.00	INTRODUCTION	10-1
#73.00	RIGHT OF WORKER TO HEALTH CARE BENEFITS	10-1
	#73.01	Assessment of Services and Personal Supports Prior to Retirement 10-1
	#73.10	Prior to Adjudication 10-2
	#73.20	Duration of Medical Assistance 10-2
	#73.30	Suspended Claims 10-2
	#73.40	Approved Health Care Plans/ <i>Canada Shipping Act</i> 10-2
	#73.50	Out-of-Province Treatment 10-3
	#73.51	Injury Outside the Province 10-3
	#73.52	Worker Injured Near the Provincial Border 10-3
	#73.53	Worker Leaves the Province to Obtain Specialized Treatment 10-3
	#73.54	Worker Voluntarily Leaves the Province 10-4
#74.00	PHYSICIANS AND QUALIFIED PRACTITIONERS	10-4
	#74.10	General Position of Physicians and Qualified Practitioners 10-4
	#74.20	Chiropractors 10-5
	#74.21	Duration of Treatment 10-5
	#74.22	Scope of Chiropractic Treatment 10-6
	#74.23	Examination by the Board 10-8
	#74.24	Consultation with Another Chiropractor 10-8
	#74.25	Physiotherapy 10-8
	#74.26	Belts and Back Supports 10-8
	#74.27	X-rays 10-9
	#74.30	Dentists 10-9
	#74.40	Naturopathic Physicians 10-10

	#74.50	Selection of Physician or Qualified Practitioner	10-10
	#74.60	Concurrent Treatment	10-12
#75.00		HEALTH CARE RENDERED BY PERSONS OTHER THAN PHYSICIANS OR QUALIFIED PRACTITIONERS	10-13
	#75.10	Physiotherapists	10-13
		#75.12 Physiotherapy Given Privately	10-13
	#75.20	Nursing Services	10-14
	#75.30	Dental Mechanics	10-14
	#75.40	Health Spas and Public Swimming Pools	10-15
#76.00		HOSPITALS AND OTHER INSTITUTIONS	10-15
	#76.10	In-patient Treatment	10-15
	#76.20	Short Stay Patients	10-15
	#76.30	Private Hospitals	10-15
	#76.40	Laboratory Procedures	10-16
	#76.50	Application of Compensation to Worker's Maintenance in Hospital	10-16
#77.00		DRUGS, APPLIANCES, AND OTHER SUPPLIES	10-16
	#77.10	General Position	10-16
	#77.20	Types of Supplies and Appliances	10-17
		#77.21 Eyeglasses	10-17
		#77.22 Hearing Aids	10-18
		#77.23 Artificial Limbs	10-18
		#77.24 Medical Equipment	10-19
		#77.25 Boots and Shoes	10-19
		#77.26 Belts and Braces	10-19
		#77.27 Home and Vehicle Modifications	10-20
		#77.28 Medical Supplies for Paraplegics and Quadriplegics	10-20
		#77.29 Miscellaneous Items	10-20
	#77.30	The Prescription of Narcotics and Other Drugs of Addiction	10-21
#78.00		DIRECTION, SUPERVISION, AND CONTROL OF HEALTH CARE	10-22

#78.10	Direction, Supervision, and Control of Treatment	10-22
	#78.11 Authorization of Elective Surgery	10-23
	#78.12 Worker Engages in Insanitary or Injurious Practices	10-25
	#78.13 Worker Refuses to Submit to Medical Treatment	10-26
	#78.14 Acupuncture	10-27
#78.20	Examinations and Consultations	10-27
	#78.21 Examination at the Board	10-27
	#78.22 Consultation with Specialists	10-28
	#78.23 Psychiatric Treatment and Consultation	10-29
	#78.24 Failure to Attend, or Obstruction of, Examination	10-29
#78.30	Fees or Remuneration	10-30
	#78.31 Adjudication of Health Care Benefits Accounts	10-31
	#78.32 Reversal of Decision on Review or Appeal	10-32
	#78.33 Form Fees	10-33
#79.00	CLOTHING ALLOWANCES	10-33
#80.00	PERSONAL CARE EXPENSES OR ALLOWANCES	10-34
	#80.10 Levels of Personal Care Allowances	10-35
	#80.20 Amounts Payable at Each Level	10-36
	#80.30 Payment Procedure	10-36
	#80.40 Worker Requires Institutional Care	10-37
#81.00	INDEPENDENCE AND HOME MAINTENANCE ALLOWANCE	10-37
#82.00	TRANSPORTATION ALLOWANCES	10-39
	#82.10 Eligibility for Transportation	10-39
	#82.11 Worker Bypasses Nearby Medical Facilities	10-41
	#82.20 Amount of Reimbursement	10-42

	#82.30	Manner of Payment	10-44
	#82.40	Transportation Provided by the Employer	10-44
	#82.50	Flight Changes	10-44
#83.00		SUBSISTENCE ALLOWANCES	10-45
	#83.10	Eligibility for Subsistence	10-45
		#83.11 Travelling Companions	10-46
		#83.12 Visits Home by Worker	10-47
		#83.13 Income Loss	10-47
	#83.20	Rates of Subsistence	10-48
	#84.20	Right of Eligible Workers to Choose Own Accommodation	10-49
#84A.00		HOMEMAKERS SERVICES	10-49
		NOTES	10-51

## **CHAPTER 11 – VOCATIONAL REHABILITATION**

C11-85.00	Principles and Goals
C11-86.00	Eligibility Criteria
C11-86.10	Referral Guidelines
C11-87.00	Process
C11-88.00	Nature and Extent of Programs and Services
C11-88.10	Work Assessments
C11-88.20	Work Site and Job Modification
C11-88.30	Job Search Assistance
C11-88.40	Training-on-the-Job
C11-88.50	Formal Training
C11-88.60	Business Start-ups
C11-88.70	Legal Services
C11-88.80	Preventative Rehabilitation
C11-88.90	Relocation
C11-89.00	Employability Assessments - Temporary Partial Disability and Permanent Partial Disability
C11-89.10	Income Continuity
C11-90.00	Spinal Cord and Other Severe Injuries

C11-91.00 Vocational Assistance for Surviving Spouses and Dependents  
of Deceased Workers

## **CHAPTER 12 – CLAIMS PROCEDURES**

#92.00	INTRODUCTION	12-1
#93.00	RESPONSIBILITIES OF CLAIMANTS	12-1
#93.10	Report to Employer	12-1
#93.11	Procedure for Reporting	12-2
#93.12	Failure to Report	12-2
#93.20	Application for Compensation	12-3
#93.21	Time Allowed for Submission of Application	12-3
#93.22	Application Made Out of Time	12-4
#93.23	Adjudication without an Application	12-7
#93.25	Signature on an Application for Compensation	12-8
#93.26	Obligation to Provide Information	12-8
#93.30	Medical Treatment and Examination	12-10
#93.40	Working While Receiving Wage-Loss Benefits	12-10
#94.00	RESPONSIBILITIES OF EMPLOYERS	12-10
#94.10	Report to the Board	12-10
#94.11	Form of Report	12-11
#94.12	What Injuries Must Be Reported	12-11
#94.13	Commencement of the Obligation to Report	12-12
#94.14	Adjudication and Payment without Employer's Report	12-13
#94.15	Penalties for Failure to Report	12-13
#94.20	Employer or Supervisor Must Not Attempt to Prevent Reporting	12-15
#95.00	RESPONSIBILITIES OF PHYSICIANS/QUALIFIED PRACTITIONERS	12-16
#95.10	Form of Reports	12-17
#95.20	Reports by Specialist	12-17

	#95.30	Failure to Report	12-17
		#95.31 Payment of Wage-Loss without Medical Reports	12-18
	#95.40	Obligation to Advise and Assist Worker	12-19
#96.00		THE ADJUDICATION OF COMPENSATION CLAIMS	12-19
	#96.10	Policy of the Board of Directors	12-20
		#96.21 Preliminary Determinations	12-22
		#96.22 Suspension of Claim	12-24
	#96.30	Disability Awards Decision-Making Procedures	12-24
#97.00		EVIDENCE	12-26
	#97.10	Evidence Evenly Weighted	12-27
	#97.20	Presumptions	12-27
	#97.30	Medical Evidence	12-28
		#97.31 Matter Requiring Medical Expertise	12-28
		#97.32 Statement of Worker about His or Her Own Condition	12-29
		#97.33 Statement by Lay Witness on Medical Question	12-29
		#97.34 Conflict of Medical Opinion	12-30
		#97.35 Termination of Benefits	12-31
	#97.40	Disability Awards	12-31
	#97.50	Rumours and Hearsay	12-32
	#97.60	Lies	12-32
#98.00		INVESTIGATION OF CLAIMS	12-32
	#98.10	Powers of the Board	12-32
		#98.11 Powers of Officers of the Board	12-33
		#98.12 Examination of Books and Accounts of Employer	12-33
		#98.13 Medical Examinations and Opinions	12-34
	#98.20	Conduct of Inquiries	12-34
		#98.21 Place of Inquiry	12-35
		#98.22 Failure of Worker to Appear	12-35
		#98.23 Representation	12-35

	#98.24	Presence of Employer	12-35
	#98.25	Oaths	12-36
	#98.26	Witnesses and Other Evidence	12-36
	#98.27	Cross-examination	12-36
#99.00		DISCLOSURE OF INFORMATION	12-37
	#99.10	Disclosure of Issues Prior to Adjudication	12-38
	#99.20	Notification of Decisions	12-39
	#99.21	Notification of Rights of Review and Appeal	12-41
	#99.22	Procedure for Handling Complaints or Inquiries About a Decision	12-41
	#99.23	Unsolicited Information	12-42
	#99.24	Notification of Permanent Disability Awards	12-44
	#99.30	Disclosure of Claim Files	12-44
	#99.31	Eligibility for Disclosure	12-45
	#99.32	Provision of Copies of File Documents	12-45
	#99.33	Personal Inspection of Files	12-46
	#99.34	Disclosure	12-46
	#99.35	Complaints Regarding File Contents	12-47
	#99.40	Tape Recordings of Interviews	12-47
	#99.50	Disclosure to Public or Private Agencies	12-48
	#99.51	Legal Matters	12-48
	#99.52	Other Workers Compensation Boards	12-49
	#99.53	Government of Canada	12-49
	#99.54	Canada Pension Plan	12-49
	#99.55	Ministry of Housing and Social Development	12-49
	#99.56	Police	12-50
	#99.57	<i>Government Employees Compensation Act</i>	12-50
	#99.60	Information to Other Board Departments	12-50

	#99.70	Media Enquiries or Contacts	12-50
	#99.80	Insurance Companies	12-51
	#99.90	Disclosure for Research or Statistical Purposes	12-51
#100.00		REIMBURSEMENT OF EXPENSES	12-51
	#100.10	Claimants	12-52
	#100.12	Claims or Review Inquiries	12-52
	#100.13	Medical Review Panels	12-53
	#100.14	Amount of Expenses	12-53
	#100.15	Worker Resides Outside the Province	12-54
	#100.20	Employers	12-54
	#100.30	Witnesses and Interpreters	12-54
	#100.40	Fees and Expenses of Lawyers and Other Advocates	12-55
	#100.50	Expenses Incurred in Producing Evidence	12-55
	#100.60	Decision on Expenses	12-56
	#100.70	The Awarding of Costs	12-56
	#100.71	Application for Costs by Dependant	12-57
	#100.72	What Costs May Be Awarded?	12-58
	#100.73	Decisions on Applications for Costs	12-58
	#100.75	Implementation of Review or Appeal Decision Directing Reassessment or Redetermination	12-58
	#100.80	Payment of Claims Pending Appeals	12-59
	#100.81	Appeals to the Review Division – New Claims	12-59
	#100.82	Appeals to the Workers’ Compensation Appeal Tribunal – Reopening of Old Claims	12-60
	#100.83	Implementation of Review Division Decisions	12-60
NOTES			12-63

## **CHAPTER 13 – REVIEWS AND APPEALS**

C13-100.00 General

C13-101.00 Review Division – Practices And Procedures

C13-102.00 Workers' Compensation Appeal Tribunal

## **CHAPTER 14 – CHANGING PREVIOUS DECISIONS**

C14-101.01 General

C14-102.01 Reopenings

C14-103.01 Reconsiderations

C14-104.01 Fraud and Misrepresentation

C14-105.01 Reviews

## **CHAPTER 15 – ADVICE AND ASSISTANCE**

#109.00	INTRODUCTION	15-1
	#109.10 Workers' Advisers	15-1
	#109.20 Employers' Advisers	15-2
	#109.30 Ombudsman	15-2
	NOTES	15-3

## **CHAPTER 16 – THIRD PARTY/OUT-OF-PROVINCE CLAIMS**

#110.00	INTRODUCTION	16-1
#111.00	THIRD PARTY CLAIMS	16-1
	#111.10 Injury Caused by Worker or Employer	16-1
	#111.11 Employer or Worker Partly at Fault	16-2
	#111.20 Injury Not Caused by Worker or Employer	16-2
	#111.21 Competence to Make Election	16-3
	#111.22 Form of Election	16-3
	#111.23 Election Not to Claim Compensation	16-3
	#111.24 Election to Claim Compensation	16-4
	#111.25 Pursuing of Subrogated Actions by the Board	16-5

	#111.26	Failure to Recover Damages	16-7
	#111.30	Meaning of "Worker" and "Employer" under Section 10	16-7
	#111.50	Federal Government Employees	16-7
#112.00	INJURIES OCCURRING OUTSIDE THE PROVINCE		16-8
	#112.10	Claimant is Working Elsewhere than in the Province	16-8
	#112.11	Meaning of Working in Section 8	16-9
	#112.12	Residence and Usual Place of Employment	16-10
	#112.13	Employment of the Worker out of the Province has Immediately Followed Employment by the same Employer within the Province and has Lasted less than Six Months	16-11
	#112.20	Claimant is Working in the Province	16-12
	#112.30	Workers Also Entitled to Compensation in Place of Injury	16-12
	#112.31	Occupational Disease	16-13
	#112.40	Federal Government Employees	16-13
	NOTES		16-14

## **CHAPTER 17 – CHARGING OF CLAIM COSTS**

#113.00	INTRODUCTION		17-1
	#113.10	Investigation Costs	17-2
	#113.20	Occupational Diseases	17-2
	#113.21	Silicosis and Pneumoconiosis	17-4
	#113.22	Hearing-Loss Claims	17-4
	#113.30	Interjurisdictional Agreements	17-5
#114.00	PROVISIONS RELIEVING CLASS OF COSTS OF CLAIM		17-6
	#114.10	Transfer of Costs from One Class to Another	17-6
	#114.11	The Amount of Compensation Awarded Must Be Substantial	17-7

	#114.12	Serious Breach of Duty of Care of Another Employer Must Have Caused or Substantially Contributed to Injury	17-7
	#114.13	Discretion of the Board	17-8
#114.20		Depletion or Extinction of Industries or Classes	17-8
#114.30		Disasters or Other Circumstances which Unfairly Burden a Rate Group	17-8
#114.40		Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability	17-9
	#114.41	Relationship Between Sections 5(5) and 39(1)(e)	17-15
	#114.42	Application of Section 39(1)(e) to Occupational Diseases	17-16
#115.00		PROVISIONS CHARGING INDIVIDUAL EMPLOYERS	17-16
	#115.10	Failure to Register as an Employer at the Time of Injury	17-16
	#115.11	Procedure for Applying Section 47(2)	17-17
	#115.30	Experience Rating Cost Exclusions	17-18
	#115.31	Injuries or Aggravations Occurring in the Course of Treatment or Rehabilitation	17-20
	#115.32	Claims Involving a Permanent Disability Award and a Fatality	17-21
	NOTES		17-22

## **CHAPTER 18 – RETIREMENT BENEFITS**

C18-116.00	Establishment of Amounts Set Aside and Contributed
C18-116.10	Payment of Retirement Benefits
C18-116.20	Management of Funds Set Aside and Contributed
C18-116.30	Retirement Services and Personal Supports

	<b>Page</b>
1 - Index of Retired Decisions from Volumes 1 – 6 (Decisions No. 1-423) of the <i>Workers' Compensation Reporter</i>	A1-1
2 - Occupational Diseases Listed in Schedule B - #26.01 section 6(4)	A2-1
3 - This Appendix has been Deleted	A3-1
4 - Permanent Disability Evaluation Schedule - #39.10	A4-1
5 - Formulae for Recalculating Pensions Under Section 24 – Policy Item #46.02	A5-1
6 - Maximum Fines for Committing Offences Under the <i>Act</i>	A6-1
Part 1 –section 77(2) - #47.20, #74.10, #94.15, #95.30, #98.12 and #99.00	A6-1
Part 2 – section 13(2) - #94.20	A6-1
Part 3 – section 71(8) - #98.11	A6-2
7 - This Appendix has been deleted	A7-1