

reasonable excuse, to give, or cause to be given within a reasonable time, information thereof to the employer, or some person in charge of the particular work in connection with which the injury was sustained, or some person occupying the position of superintendent or foreman of the employer, unless he was aware that the employer, or such person so in charge of the work, or such superintendent or foreman, a ready knew of the same defect or negligence; Provided, however, that such workman shall not, by reason only of his continuing in the employment of the employer, with knowledge of the defect, negligence, act or omission, be deemed to have voluntarily incurred the risk of the injury.

6. The amount of compensation recoverable under this Act shall not exceed either such sum as is found to be equivalent to the estimated earnings during three years preceding the injury of a person in the same grade employed during those years in the like employment within this Province, or the sum of fifty hundred dollars, whichever is larger; and such compensation shall not be subject to any deduction or abatement, by reason, or on account, or in respect of any matter or thing whatsoever, except as is specially provided in Section 9 of this Act.

7. Subject to the provisions of Sections 10 and 11, an action under this Act for the recovery of compensation for an injury shall not be maintainable against the employer of the workman, unless notice that injury has been sustained is given within twelve weeks, and the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within two months of the time of death. Provided always that in case of death, the want of such notice shall be no bar to the maintenance of such action if the Judge is of opinion that there was reasonable excuse for such want of notice.

8. Notwithstanding anything in this Act contained, an action under any of the provisions of this Act to secure compensation for injuries to a workman may be maintained against the legal personal representatives of a deceased employer.

9. There shall be deducted from any compensation awarded to any workman or representatives of a workman, or person claiming by, under or through a workman, in respect to any cause of action arising under this Act, any penalty or damages, or part of a penalty or damages which may in pursuance of any other Act, either of the Parliament of Canada, or of the Legislature of New Brunswick, have been paid to such workman, representatives, or persons in respect of the same cause of action; and where an action has been brought under this Act by any workman, or the representatives of any workman, or any persons claiming by or under or through such workman for compensation in respect of any cause of action arising under this Act, and payment has not previously been made of any penalty or damages, or part of a penalty or damages under any such Act, in respect to the same cause of action, such workman, representatives or persons shall not, so far as the Legislature of this Province has power to enact, be entitled thereafter to receive, in respect to the same cause of action, any such penalty or damages under any such last mentioned Act.

10.—(1) Notice in respect of any injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or if there is more than one employer, upon one of such employers.

(2) The notice may be served by delivering the same to, or at the residence or place of business of the person on whom it is to be served.

(3) The notice may also be served by post, by a registered letter addressed to the person on whom it is to be served, at his last known place of residence, or place of business, and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post, and in proving the service of such notice it shall be sufficient proof that the notice was properly addressed and registered.

(4) Where the employer is a body of persons, corporate or unincorporate, notice shall be served by delivering the same at, or by sending it by post in a registered letter addressed to the office of such employer, or, if there be more than one office, at any one of such offices.

(5) The want or insufficiency of the notice required by this section, or by section 7 of this Act, shall not be a bar to the maintenance of an action for the recovery of compensation for the injury, if the court or judge before whom such action is tried, or in case of appeal, if the court hearing the appeal, is of opinion that there was reasonable excuse for the want or insufficiency, and that the defendant has not been thereby prejudiced in his defence.

(6) A notice under this section shall be deemed sufficient if in the form in the schedule hereto, or to the like effect.

11. If the defendant in any action against an employer for compensation for an injury sustained by a workman in the course of his employment intends to rely for a defence on the want of notice, or the insufficiency of notice, or on the ground that he was not the employer of the workman injured, he shall, not less than seven days before the hearing of the action, give notice to the plaintiff of his intention to rely on that defence, and the court may, in its discretion, and upon such terms and conditions as are just, order and allow an adjournment of the trial for the purpose of enabling such notice to be given; and, subject to any such terms and conditions, any notice given pursuant to, and in compliance with, the order in that behalf, shall, as to such action and for all the purposes thereof be held to be a notice given under and in accordance with sections 7 and 10 of this Act.

12. In any action brought under this Act, the declaration shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed, and where the injury of which the plaintiff complains has arisen by reason of the negligence, act or omission of any person in the service of the defendant, the declaration shall give a reliable description of such person.

13. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for an injury.

(a.) Unless, for such workman entering into or making such contract or agreement, there was other consideration than that of his being taken into or continued in the employment of the defendant; nor

(b.) Unless such other consideration was, in the opinion of the court or judge before whom such action is tried, ample and adequate; nor

(c.) Unless, in the opinion of the court or judge, such contract or agreement in view of such other consideration, was not on the part of the workman improvident, but was just and reasonable; and the burden of proof in respect to such other consideration and of the same being ample and adequate, and that the contract was just and reasonable, and was not improvident, shall in all cases rest upon the defendant.

14. Where the injury was caused by the personal negligence or wilful act of the employer (or of some person for whose act or default the employer is responsible) nothing in this Act shall affect any civil liability of the employer, but in that case, the workman may, at his option, either claim compensation under this Act, or take the same proceedings as were open to him immediately preceding the passing of this Act, but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of, and in the course of the employment, both independently of and also under this Act.

15. A defendant may by notice to the opposite party, to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability for any alleged negligence, act or omission as set forth or contained in the plaintiff's declaration or particulars of claim in the action, and after such notice given the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted.

16. Where the time for doing any act, taking any proceeding, or giving any notice under, or required by this Act, expires on a holiday, such act or proceeding or notice shall, so far as regards the time of doing, taking or giving the same, be held to be duly and sufficiently done, taken or given, if done, taken or given on the next day thereafter which is not a holiday.

SCHEDULE.

(Section 7.)

FORM OF NOTICE.

To A. B. (here insert employer's address).

or

To the..... Company (or as the case may be).

Take notice that on the..... day of..... 19... C. D. (insert address of injured person,) a workman in your employment, sustained personal injury (add of which he died, if such is the case,) and that such injury was caused by (state shortly the cause of the injury, e. g., the fall of a beam).

(Date).

Yours, etc.,

X. Y.

IN THE CHARLOTTE COUNTY PROBATE COURT

To the Sheriff of the County of Charlotte, or any Constable of the said County.—GREETING:

WHEREAS Arthur W. Hickson and Archibald C. Calder, the Executors named in the last Will and Testament of Robert Limond, late of Campobello, in the County of Charlotte, have by their petition dated the seventeenth day of March instant, and presented to this Court, and now filed with the Registrar of this Court, prayed that the last Will and Testament may be proved in solemn form:

You are therefore required to cite the following next of kin, devisees and legatees of the said Robert Limond, deceased, namely, Arthur W. Hickson and Archibald C. Calder, the Executors and Petitioners aforesaid, John Limond, Andrew Steven Limond, Adam Boyd Limond, David Limond, Edwin Limond, Alice Limond and Lena James, heirs at law and next of kin of the said Robert Limond, deceased, and legatees under the last Will and Testament of the said deceased; Limond Taylor, Alice B. Hickson, Arthur W. Hickson and Archibald C. Calder, being legatees and devisees under the said Will of the said deceased, and all others whom it may concern, to appear before me at a Court of Probate to be held in and for the County of Charlotte, at the office of the Judge of Probate in the Town of Saint Andrews, on THURSDAY the ninth day of JULY next, at the hour of eleven of the clock in the forenoon, to attend and take such part with regard to the proving of such last Will and Testament in solemn form as they may see fit, with full power to oppose such last Will and Testament if so proved, or otherwise, as they and every of them may deem right, the petitioners affirming the validity of the said Will and Testament.

Given under my hand and Seal of the said Probate Court, this twenty-sixth day of March, A. D. 1903.

[L.S.]

MELVILLE N. COCKBURN,

151ns

Judge of Probate for Charlotte County.

JAS. G. STEVENS, Jr., Registrar of Probate for Charlotte County.

Advertisements for the Gazette are required to be forwarded by Mail to R. W. L. TIBBIS, King's Printer, on TUESDAY, in order to be in time for Wednesday's issue.