

No. 408

AN ACT

To further amend the act, approved the fifth day of December, one thousand nine hundred thirty-six (1937, Pamphlet Laws 2897), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties." by defining and re-defining certain terms; by further providing for the submission of reports by the department to the Governor concerning the administration and operation of the act, by providing for the selection of certain personnel on a civil service basis, by providing for the disposition of obsolete files and records and for the admissibility of copies of such records in evidence, for reciprocal arrangements with foreign governments, for modification of the manner in which contribution rates are determined and redetermined, for modification of the manner in which reports are filed and contributions paid, for modification of the provisions with respect to eligibility for benefits and the amount thereof, by conferring upon the department the right of appeal, by eliminating appeal filing fees, and by making further provisions for the prosecution of fraud and for recoupment of benefit payments.

"Unemployment
Compensation
Law."

Subsections (u), (w) and (x) of section 4, act of December 5, 1936 (1937, P. L. 2897), as last amended by act of May 23, 1949, P. L. 1738, and subsection (z.5), said act, as added by act of May 26, 1949, P. L. 1854, further amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections (u), (w) and (x) of section four of the act, approved the fifth day of December, one thousand nine hundred thirty-six (1937, Pamphlet Laws 2897), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and

prescribing penalties," as last amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1738), and subsection (z.5) of said act, as added by the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1854), are hereby further amended to read as follows:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * * * *

(u) ["Unemployment"] "*Unemployed*"—An individual shall be deemed unemployed (I) with respect to any week (i) during which he performs no services for which remuneration is paid or payable to him and (ii) with respect to which no remuneration is paid or payable to him, or (II) with respect to any week of less than his full-time work if the remuneration paid or payable to him with respect to such week is less than his weekly benefit rate: Provided, That for the purposes of this subsection, (i) vacation pay and similar payments, whether or not legally required to be paid, and (ii) wages in lieu of notice, separation allowances, dismissal wages and similar payments, which are legally required to be paid, shall be deemed [in accordance with rules and regulations of the department, remuneration paid or payable with respect to the week or weeks for which such payments are made] *remuneration paid or payable with respect to such period as shall be determined by rules and regulations of the department.*

* * * * *

(w) A "Valid Application for Benefits" means an application for benefits, on a form prescribed by the department, which is filed by an individual, as of a day not included in the benefit year previously established by such individual, who (1) *has been separated from his work or who during the week commencing on such day has worked less than his full time due to lack of work and has earned less than the maximum weekly benefit amount and (2) is qualified under the provisions of section four hundred and one (a), (b) and (d).*

(x) "Wages" means all remuneration, (including the cash value of mediums of payment other than cash), paid by an employer to an individual with respect to his employment, except that the term "wages" shall not include:

(1) That part of the remuneration which is in excess of the first three thousand dollars (\$3000) paid to an individual by each of his employers during a calendar year: Provided, That an employer may take credit under this subsection for remuneration which *his prede-*

cessor-in-interest has paid to an individual during the same calendar year with respect to employment: And provided also, That an employer may take credit under this subsection for remuneration which he or his predecessor-in-interest has paid to an individual in the same calendar year on which contributions have been required and paid by such employer under an unemployment compensation law of another state, but no such credit may be taken for remuneration which has been paid by another employer to such individual, whether or not contributions have been paid thereon by such other employer under this act or under any state unemployment compensation law. Remuneration in excess of three thousand dollars (\$3000) excluded from the definition of wages under the provisions of this subsection may not be considered in determining the compensation rights of any individual under this act, and in determining such rights the first three thousand dollars (\$3000) of remuneration on which contributions are payable shall be considered as paid only in the calendar quarter or quarters in which such amount was actually paid: Provided, That no credit may be taken by an employer for any remuneration paid by his predecessor*-in-interest prior to the first day of January, one thousand nine hundred fifty-one.*

(2) [The amount of any payment made to, or on behalf of, an employe under a plan or system established by an employer which makes provision for his employes generally or for a class or classes of his employes, (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employe (I) has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (II) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit, either upon his withdrawal from the plan or system providing for such benefit, or upon termination of such plan or system or policy of insurance or of his employment with such employer.] *The amount of any payment made after December thirty-first, one thousand nine hundred fifty, (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any*

* "in-interest" omitted in original.

such payment), to or on behalf of an individual or any of his dependents under a plan or system established by an employer who makes provision generally for individuals performing service for it (or for such individuals generally and their dependents), or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (i) retirement, or (ii) sickness or accident disability, or (iii) medical or hospitalization expenses in connection with sickness or accident disability, or (iv) death.

(3) The payment by an employer (without deduction from remuneration of the employe) of the tax imposed upon an employe under section one thousand four hundred (1400) of the Federal Internal Revenue Code.

(4) Dismissal payments before the first day of January, one thousand nine hundred fifty-two, which the employer is not legally required to make.

(5) Payments made by an employer to employes while in the military or naval service of the United States and performing no services for the employer.

(6) Notwithstanding any other provisions of this subsection, wages shall include all remuneration for services with respect to which a tax is required to be paid under any Federal law imposing a tax against which credit may be taken for contributions to be paid into a state unemployment fund.

(7) The amount of any payment made after December thirty-first, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for him, (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment), on account of retirement.

(8) The amount of any payment on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability made after the thirty-first day of December, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employer.

(9) The amount of any payment made after the thirty-first day of December, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for it, or his beneficiary, (i) from or to a trust exempt from tax under section 165(a) of the Federal Internal Revenue Code at the time of such payment, unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (ii) under or to an annuity plan which

at the time of such payments meets the requirements of section 165(a) (3), (4), (5) and (6) of the Federal Internal Revenue Code.

* * * * *

(z.5) "Average Annual Payroll" means the average of the last three or five consecutive "annual payrolls" of any employer, *whichever is the lesser*.

Subsection (a) of section 201, said act, as so lettered by act of June 20, 1947, P. L. 721, amended.

Section 2. Subsection (a) of section two hundred one of said act, as so lettered by the act, approved the twentieth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 721), is hereby amended to read as follows:

Section 201. General Powers and Duties of Department.—(a) It shall be the duty of the department to administer and enforce this act through such employment service and public employment offices as have been or may be constituted in accordance with the provisions of this act and existing laws. It shall have power and authority to adopt, amend, and rescind such rules and regulations, require such reports from employers, employes, the board and from any other person deemed by the department to be affected by this act, make such investigations, and take such other action as it deems necessary or suitable. Such rules and regulations shall not be inconsistent with the provisions of this act, and shall be effective in the manner the department shall prescribe. The department shall submit to the Governor a biennial report covering the administration and operation of this act and shall make such recommendations for amendments to this act as it deems proper. *The department shall also prepare and present to the Governor, on or before the thirty-first day of December of each year, an actuarial evaluation of the financial operations of the unemployment compensation program, together with its findings and recommendations for developing and improving solvency of the fund and adjusting and regulating income and disbursements in the fields of contributions and benefits. Such report shall include the presentation of the current economic trends, statistics and analyses on which the evaluation is based.*

Subsection (e) of section 203, said act, as last amended by act of May 23, 1949, P. L. 1738, further amended.

Section 3. Subsection (e) of section two hundred three of said act, as last amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1738), is hereby further amended to read as follows:

Section 203. Unemployment Compensation Board of Review.—

* * * * *

(e) The Governor shall appoint and fix the compensation of such referees as may be deemed necessary with

power to take testimony in any appeals coming before the board. Such appointment shall be subject to the provisions of the act, approved the fifth day of August, one thousand nine hundred *and forty-one (Pamphlet Laws 752): *Provided, That any person who, on the first day of July, one thousand nine hundred fifty-one, was employed as a referee and as of said date shall have completed one or more years of satisfactory service in such position, may make application to the Civil Service Commission, prior to the first day of October, one thousand nine hundred fifty-one, for appointment as a referee under the regular classified service and, notwithstanding any provisions of said act or any other act to the contrary, upon finding by said commission that he or she possesses the minimum qualifications therefor, shall be so appointed. It shall be the duty of a referee, under the supervision, direction and administrative control of the board, to hear and decide disputes in accordance with the provisions of this act and to conduct such other and further hearings in connection with the foregoing as may be required by the board.*

Section 4. Section two hundred nine of said act, as added by the act, approved the twenty-third day of April, one thousand nine hundred forty-two (Pamphlet Laws 60), is hereby amended to read as follows:

Section 209, said act, as added by act of April 23, 1942, P. L. 60, amended.

Section 209. Obsolete Files, Records, etc.—[The provisions of section five hundred twenty-four of the Administrative Code of 1929, as amended, to the contrary notwithstanding, the department may with the approval of the Executive Board discard such files of correspondence, reports, records or other papers compiled or accumulated in the administration of this act as it shall deem to be obsolete: *Provided, That contribution reports of employers shall be retained for a period of two years from **the date of filing.] The department may cause to be made such summaries, compilations, photographs, duplications or reproductions of any records, reports, or transcripts thereof, as it may deem advisable for the effective and economical preservation of the information contained therein; and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceedings under this act if the original record or records would have been admissible therein.*

The provisions of section five hundred twenty-four of the Administrative Code of one thousand nine hundred

* "and" omitted in original.

** "the" omitted in original.

twenty-nine, as amended, to the contrary notwithstanding, the department may provide by regulation for the destruction, after reasonable periods, of any records, reports, transcripts, other papers in its custody, or reproductions thereof, the preservation of which is no longer necessary for the establishment of contribution liability or of benefit rights or for any other purpose necessary to the proper administration of this act, including any required audit thereof: Provided, That contribution reports of employers shall be retained for a period of at least two years from the date of filing.

Said act amended by adding, after section 209, a new section 210.

Section 5. Said act is hereby amended by adding, after section two hundred nine, a new section to read as follows:

Section 210. Reciprocal Arrangements with Foreign Governments.—To the extent permissible under the laws and Constitution of the United States, the department is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under this law or under a similar law of such government, and to enter into arrangements of the character provided in this section with the agency of a foreign government administering an unemployment compensation law.

Subsections (a), (b), (c), (d), (e), (f) and (j) of section 301, said act, as last amended by act of May 26, 1949, P. L. 1854, further amended.

Section 6. Subsections (a), (b), (c), (d), (e), (i) and (j) of section three hundred one of said act, as last amended by the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1854), are hereby further amended to read as follows:

Section 301. Contributions by Employers; Experience Rating.—

(a) Each employer shall pay contributions with respect to the calendar year one thousand nine hundred [forty-nine] *fifty-one*, and each calendar year thereafter, at a rate equal to two and seven-tenths per centum of wages paid by him for employment: Provided, however, That such rate shall be adjusted between a minimum rate of [five-tenths] *three-tenths* of one per centum and a maximum rate of two and seven-tenths per centum in accordance with the following provisions of this section, [if, with respect to the adjustment of rate for the year one thousand nine hundred forty-nine, the employer has paid contributions under this act for one or more quar-

ters in each of the five calendar years immediately preceding such year; and with respect to the adjustment of rates for the year one thousand nine hundred fifty, and thereafter], *as hereby amended*, if the employer has paid contributions under this act for one or more quarters in each of the three twelve-month periods ending on the computation date for the year for which the rate is applicable, and has also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such three twelve-month periods: And provided further, however, That no employer's rate of contribution for any calendar year shall be less than two and seven-tenths per centum, unless all his contributions due on wages paid to the end of the second calendar quarter of the preceding calendar year, together with interest and penalties due thereon, have been paid by the thirty-first day of July of such preceding calendar year, except that an employer who has timely filed an appeal as provided in subsection (e) of this section and who has been determined ineligible to receive a reduced rate solely on the basis that he has not paid all contributions, interest and penalties within the time limits as required in this subsection, shall have his rate redetermined and shall not be considered ineligible under this subsection if payment of such delinquent contributions, interest and penalties is made within thirty days after the department has notified the employer of the reason for his ineligibility for rate reduction in response to the appeal filed by the employer under subsection (e).

* * * * *

(b) Each employer with respect to any period prior to the first day of January, one thousand nine hundred [forty-nine] *fifty-one*, shall be liable for contributions in accordance with the provisions of this act applicable to each period in effect prior to such date, and for these purposes such provisions shall remain in force and effect.

(c) The rate of contribution payable by an employer entitled to an adjustment as herein provided shall be as follows:

(A) When, as of the computation date, there is a credit balance in such employer's reserve account, which balance shall include (1) contributions with respect to the period ending on the computation date and paid on or before July thirty-one immediately following such computation date, (2) benefits paid on or before computation date, and shall also include any voluntary pay-

ments made in accordance with subsection (g) of section 302 of this act, his contribution rate shall be as set forth in the following table:

[Employer Percentage

(Each Percentage Shown Includes the Fractional Percentages Between Such Percentage and the Immediately Higher Percentage)

State Percentage ...	9 or More		8	7	6	5	4	Less Than	
	8	7						4	4
9.1% or more	.5	.7	1.0	1.5	2.0	2.5	2.7	2.7	2.7
8.9 and less than 9.1	.5	.7	1.2	1.7	2.2	2.7	2.7	2.7	2.7
8.7 and less than 8.9	.5	.9	1.4	1.9	2.4	2.7	2.7	2.7	2.7
8.5 and less than 8.7	.6	1.1	1.6	2.1	2.6	2.7	2.7	2.7	2.7
8.3 and less than 8.5	.8	1.3	1.8	2.3	2.7	2.7	2.7	2.7	2.7
8.1 and less than 8.3	1.0	1.5	2.0	2.5	2.7	2.7	2.7	2.7	2.7
7.9 and less than 8.1	1.2	1.7	2.2	2.7	2.7	2.7	2.7	2.7	2.7
7.7 and less than 7.9	1.4	1.9	2.4	2.7	2.7	2.7	2.7	2.7	2.7
7.5 and less than 7.7	1.6	2.1	2.6	2.7	2.7	2.7	2.7	2.7	2.7
7.3 and less than 7.5	1.8	2.3	2.7	2.7	2.7	2.7	2.7	2.7	2.7
7.1 and less than 7.3	2.0	2.5	2.7	2.7	2.7	2.7	2.7	2.7	2.7
6.9 and less than 7.1	2.2	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7
6.7 and less than 6.9	2.4	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7
6.5 and less than 6.7	2.6	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7
Less than 6.5	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7

Each Employer Percentage Shown Includes the Fractional Percentage Between Such Percentage and the Immediately Higher Percentage

Fund Balance	10 or More		9.5	9	8.5	8	7.5	7	6.5	6	5.5	5	4.5	4	Less Than	
	9.5	9													4	4
(A)	.5	.5	.5	.6	.7	.9	1.0	1.3	1.5	1.8	2.0	2.3	2.5	2.7	2.7	2.7
(B)	.6	.6	.7	.8	.9	1.1	1.2	1.5	1.7	2.0	2.2	2.5	2.7	2.7	2.7	2.7
(C)	.7	.8	.9	1.0	1.1	1.3	1.4	1.7	1.9	2.2	2.4	2.7	2.7	2.7	2.7	2.7

As used in the foregoing table, the term "Employer Percentage" means the ratio of the balance in an employer's reserve account to his average annual payroll, and the term ["State Percentage"] "Fund Balance" means the [ratio of the] balance, [as of July thirty-first immediately following such computation date,] in the *Pennsylvania Unemployment [Trust] Compensation Fund* [to the credit of the Commonwealth of Pennsylvania,] *at the end of any calendar quarter* as recorded on the records of the department [to the aggregate average annual payrolls of all employers].

An employer's rate of contribution on wages paid during each calendar quarter shall be the rate specified in the column beneath his "Employer Percentage" which is on the horizontal line opposite—

(1) *Fund Balance (A)*, if the balance at the end of the immediately preceding calendar quarter was not less than four hundred twenty million dollars (\$420,000,000); or,

(2) *Fund Balance (B)*, if the balance at the end of the immediately preceding calendar quarter was not less than three hundred forty million dollars (\$340,000,000); or,

(3) *Fund Balance (C)*, if the balance at the end of the immediately preceding calendar quarter was not less than two hundred fifty million dollars (\$250,000,000): Provided, That if the balance at the end of the immediately preceding calendar quarter was less than two hundred fifty million dollars (\$250,000,000) or one and one-half times the highest amount paid out for compensation less any refunds during any twelve (12) consecutive months within the last one hundred twenty (120) consecutive months, whichever amount is greater, then all employers' rates of contribution on wages paid during the next calendar quarter shall be two and seven-tenths per centum: And provided further, That if the balance at the end of the immediately preceding calendar quarter was equal to or in excess of six hundred seventy million dollars (\$670,000,000), then the rate of contribution on wages paid during the next calendar quarter for any employer having an "Employer Percentage" of four per centum or more shall be two-tenths of one per centum less than the rate of contribution specified in the column beneath his "Employer Percentage" which is on the horizontal line opposite *Fund Balance (A)* in the foregoing table: And provided further, however, That in no case shall the rate of any employer exceed two and seven-tenths per centum or be less than [five-tenths] three-tenths of one per centum.

(d) *Successor-in-interest*. Where an employer, subsequent to the thirtieth day of June, one thousand nine hundred and forty-nine, transfers his or its organization, trade or business, in whole or in part, to a successor-in-interest, such successor-in-interest may, prior to the end of the calendar year subsequent to the calendar year in which the transfer occurred, make application for transfer of the whole, or appropriate part, of the experience record of the preceding employer to the successor-in-interest, including credit for the years during which contributions were paid by the preceding employer: Provided, however, Where such transfer involves only a part of such organization, trade or business of the preceding employer, the department shall transfer the appropriate part of such experience record of the preceding employer only if such preceding employer has joined in such application and has filed with the depart-

ment such supporting schedules or other information with respect to such experience record as the department may require. If the application for such transfer is filed in accordance with the rules and regulations of the department [and within the time limits prescribed therein], the department may allow such transfer only if *all contributions, interest and penalties owing by the predecessor have been or are paid [it] and the department* finds that the employment experience of the preceding employer with respect to the organization, trade or business, or part thereof, as the case may be, which has been transferred, may be considered indicative of the future employment experience of the successor-in-interest. In the event of a part transfer of an employer's organization, trade or business, only such portion of the experience record of the preceding employer as such employer's wages for the last calendar year's annual payroll of the organization, trade or business transferred bears to his total annual payroll for such last calendar year, shall be transferred, and credit shall be given to the successor-in-interest only for the years during which contributions were paid by the preceding employer with respect to that part of the organization, trade or business transferred. A transfer of a reserve account balance, in whole or in part, having been applied for and approved by the department, the preceding employer [thereafter] shall not be entitled to consideration for an adjusted rate *for the calendar year following the date of transfer and for subsequent calendar years*, based upon his reserve account balance which has been thus transferred.

A preceding employer or successor-in-interest who, prior to the transfer, was an employer during the calendar year in which the transfer occurred, shall not have his rate of contribution adjusted under the provisions of this subsection for the remainder of such year. A successor-in-interest who, prior to the transfer, was not an employer during the calendar year in which the transfer occurred and who has made application for a transfer which has been approved by the department, as provided herein, and who, together with his predecessor, has paid contributions for the period required under subsection (a) of section three hundred one with respect to the organization, trade or business, or part thereof, which has been transferred, shall be assigned the same rate of contribution as the preceding employer for the remainder of such year, after which his rate of contribution shall be determined on the basis of the balance in the reserve account which has been combined with any other reserve account which such successor-in-interest may have acquired.

(e) (1) The department, at least once during each calendar quarter, shall furnish each employer with a notice showing the amount of compensation paid during the preceding calendar quarter and charged to such employer's account, including the names of the claimants, the weeks for which compensation was paid, and the amount of compensation charged. All questions involving the eligibility of a claimant to receive compensation [shall be] *which have been resolved with notice to the employer* as provided under **the provisions of section five hundred one of this act shall remain final*, and such eligibility may not be directly contested by an employer under the provisions of this section. *However, any determination of eligibility or allowance of benefits as to which the employer was not furnished notice under the provisions of section five hundred one of this act shall become final, unless a protest contesting such determination is filed by the employer with the department within one hundred twenty (120) days from the date of the mailing of notice under the provisions of this subsection. Where such protest has been filed, the department shall proceed in accordance with the provisions of section five hundred one and furnish the employer with notice of its determination or allowance.* The clerical accuracy of the notice provided under the provisions of this subsection may not be contested by an employer in connection with any future appeal by the employer from the rate of contribution assigned to him, unless within [sixty] *one hundred and twenty* days from the date of mailing of such notice, the employer files with the department a protest in writing contesting the clerical accuracy of such notice and setting forth in detail the item or items to which exception is taken and the reasons therefor. Such period of [sixty] *one hundred and twenty* days may be extended with the approval of the department upon written application by the employer filed prior to the expiration of such period.

(2) The department shall promptly notify each employer of his rate of contribution for the calendar year, determined as provided in this section. The determination of the department of the employer's rate of contribution shall become conclusive and binding upon the employer, unless within [thirty] *one hundred and twenty* days after the mailing of notice thereof to the employer's last known post office address *or prior to the expiration of the calendar year to which the notice relates whichever is the greater period* the employer files an application for review and redetermination, setting forth his reasons therefore: [Provided, That subject to the provisions of subsection (j) of this section, the department at any time, on its own motion, may adjust an

* "the provisions of" omitted in original.

employer's contribution rate if it finds that such rate is incorrect.]

Provided, That if the department finds that because of an error of the department it has notified an employer that his rate of contribution is more than the rate to which he is entitled, the department shall, subject only to the time limitation prescribed in section 311 for the allowance of refunds to employers, adjust the rate of contribution. The department may, if it deems the reasons set forth by the employer insufficient to change the rate of contribution, deny the application, otherwise it shall grant the employer a fair hearing. The employer shall be promptly notified of the denial of his application or of the department's redetermination, both of which shall become final and conclusive within thirty days after the mailing of notice thereof to the employer's last known post office address, unless the employer shall appeal by petition from the action of the department to the Court of Common Pleas of Dauphin County within such time.

(i) For purposes of determining whether or not an employer has paid contributions in order to be eligible for consideration for an adjusted rate, an employer who shall have served in the active military or naval service of the United States, at any time after the sixteenth day of September, one thousand nine hundred and forty, and prior to the termination of [the present war] *World War II*, and who shall have been discharged or released from active service under conditions other than dishonorable shall be deemed to have paid contributions under this act during any fiscal year ending on the thirtieth day of June, any part of which is included in such period of military or naval service: *Provided, That he has actually paid contributions under this act for one or more quarters in either the fiscal year ending on the thirtieth day of June in which he entered such military service or in the immediately preceding fiscal year ending on the thirtieth day of June. The provisions of this section shall be operative insofar as applicable with respect to an employer who shall have served in the active military or naval service of the United States at any time after the twenty-fourth day of June, one thousand nine hundred and fifty, and prior to the termination of the present state of emergency.*

(j) If the department finds that it has erroneously notified an employer that his rate of contribution is less than the rate to which he is entitled, he shall be notified of the revision of his rate and he shall be required to make payment of additional contributions on the basis of the revised rate: *Provided, That no such additional contribution shall be required unless the employer is notified of his revised rate not later than [one year from the end] December thirty-first of the calendar year to*

which the rate is applicable, unless the department finds that the employer has directly or indirectly contributed to the error. No interest shall be required to be paid in connection with such additional contributions if they are paid within thirty (30) days from the date that the employer is notified of his revised rate.

Section 7. Subsection (f) of section three hundred two of said act, as added by the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1854), is hereby amended to read as follows:

Subsection (f)
of section 302,
said act, as
added by act of
May 26, 1949,
P. L. 1854,
amended.

Section 302. Establishment and Maintenance of Employer's Reserve Accounts.—The department shall establish and maintain for each employer a separate employer's reserve account in the following manner:

* * * * *

(f) Subsequent to June thirtieth, one thousand nine hundred forty-nine, such account shall be charged with all compensation, by even dollars, paid to each individual who received from such employer wage credits constituting the base of such compensation, in the proportion that such wage credits with such employer bears to the total wage credits received by such individual from all employers: Provided, That [no compensation shall be charged to such account under the provisions of this subsection (f), if a charge has been made under any other provision of this section to such account with respect to the wages of the compensated employe upon which such compensation was based] *if the department finds that such individual was separated from his most recent work for such employer due to being discharged for willful misconduct connected with such work, or due to his voluntarily leaving such work without good cause attributable to his employment, thereafter no compensation paid to such individual with respect to any week of unemployment occurring subsequent to such separation, which is based upon wages paid by such employer with respect to employment prior to such separation, shall be charged to such employer's account under the provisions of this subsection (f); provided, such employer has filed a notice with the department in accordance with its rules and regulations. The findings and determinations of the department under this subsection (f) shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation. The provisions of this subsection (f) as hereby amended shall become effective with respect to charges arising out of any benefit year which commences after the thirtieth day of September, one thousand nine hundred fifty-one.*

Section 8. Section three hundred three of said act is hereby repealed.

Section 303, said
act, repealed.

Section 309.1, said act, as added by act of April 23, 1942, P. L. 60, and as last amended by act of June 30, 1947, P. L. 1186, further amended.

Section 9. Section three hundred nine point one of said act, as added by the act, approved the twenty-third day of April, one thousand nine hundred forty-two (Pamphlet Laws 60), and as last amended by the act, approved the thirtieth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1186), is hereby further amended to read as follows:

Section 309.1. Compromises.—Where the department is satisfied (1) that the employer is unable to make payment in full of contributions, interest and penalties imposed upon him by the law, or that it would be inequitable to require the payment in full of delinquent interest, and (2) that the employer has acted in good faith, the secretary is hereby authorized, to compromise delinquent interest and penalties due on any contribution, and, in the case of any employer that has been adjudged a bankrupt or for whom a receiver has been appointed *or a deceased employer for whom an executor or administrator has been designated*, to compromise the principal of any delinquent contribution as well as interest and penalties thereon: Provided, That any compromise of a total delinquent amount in excess of one thousand dollars shall require the approval of the Attorney General.

Section 309.2, said act, as added by act of April 22, 1949, P. L. 727, amended.

Section 10. Section three hundred nine point two of said act, as added by the act, approved the twenty-second day of April, one thousand nine hundred forty-nine (Pamphlet Laws 727), is hereby amended to read as follows:

Section 309.2. Limitations Upon Enforcement of Payment of Contributions, Interest and Penalties.—Notwithstanding any other provisions of this act to the contrary, [contributions, interest and penalties shall not be deemed to be due and payable, under the provisions of this act, more than four years after the end of the calendar year in which the wages were paid with respect to which liability for the payment of such contributions, interest or penalties, as the case may be, was based, and] *no legal action for the collection [thereof] of contributions, interest and penalties shall be instituted after the expiration of [such four-year period] four years from the end of the calendar year in which the wages were paid with respect to which liability for the payment of such contributions, interest or penalties, as the case may be, was based*, unless prior to the expiration of such four-year period and with respect thereto (1) an assessment proceeding shall have been instituted pursuant to the provisions of section three hundred four of this act, or (2) an action shall have been instituted pursuant to the provisions of section three hundred nine of this act, or (3) a lien shall have been entered pursuant to the provisions of section three hundred eight point one of

this act: Provided, That the provisions of this section shall not apply where an employer by willful failure or refusal to file a report with the department or to include in any report all wages which he has paid, or otherwise, has attempted to avoid or reduce liability for the payment of contributions.

Section 11. Section three hundred ten of said act, as amended by the act, approved the twenty-third day of April, one thousand nine hundred forty-two (Pamphlet Laws 60), is hereby further amended to read as follows:

Section 310, said act, as amended by act of April 23, 1942, P. L. 60, further amended.

Section 310. Priorities Under Legal Dissolutions and Distributions.—In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this Commonwealth, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions or installments thereof, or interest thereon, then or thereafter due shall be paid in full prior to all other claims except taxes, claims arising under The Workmen's Compensation Act of one thousand nine hundred fifteen, and its amendments and supplements, and claims for wages of not more than two hundred and fifty dollars to each claimant earned within six months of the commencement of the *proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension, proposal, or composition under the Federal Bankruptcy Act of one thousand eight hundred ninety-eight, as amended, contributions and interest then or thereafter due shall be entitled to such priority as are now or may hereafter be granted to taxes due a state under the said Federal Bankruptcy Act or its amendments.

No sheriff, receiver, trustee, assignee, master, or other officer shall sell the property or franchises of any corporation or similar entity, unincorporated association, co-partnership, or individual, without first filing with the Department of Labor and Industry, not less than ten (10) days prior to such sale, a statement containing the following information: (a) name or names of the plaintiff or party at whose instance or upon whose account the sale is made; (b) the name of the corporation or similar entity, unincorporated association, co-partnership, or individual whose property or franchise is to be sold; (c) the time and place of sale; and (d) the nature of the property to be sold and the location of the same.

Section 12. Section three hundred eleven of said act, as last amended by the act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1145), is hereby further amended to read as follows:

Section 311, said act, as last amended by act of May 29, 1945, P. L. 1145, further amended.

* "proceedings" in original.

Section 311. Refunds and Adjustments.—If any individual or organization shall make application for refund or credit of any amount paid as contribution, interest or penalties, under this act, and the department shall determine that such amount, or any portion thereof, was erroneously collected, the department may at its discretion either allow a credit therefor, without interest, in connection with subsequent contribution payments or shall refund from the Unemployment Compensation Fund, without interest, the amount erroneously paid: Provided, That an amount equal to any refund or credit of interest and penalties allowed, as provided herein, shall be transferred from the Special Administration Fund to the Unemployment Compensation Fund, irrespective of whether such interest or penalties were paid into the Unemployment Compensation Fund or into the Special Administration Fund. No refund or credit shall be allowed with respect to a payment as contributions, interest or penalties, unless an application therefor shall be made on or before, whichever of the following dates shall be the later: (a) one year from the date on which such payment was made, or (b) four years from the [last day] *reporting due date* of the reporting period with respect to which such payment was made. For a like cause and within the same period, a refund may be so made or a credit allowed on the initiative of the department.

An amount paid as contribution, interest or penalties shall not be deemed to have been erroneously collected within the meaning of this section if such amount was collected under and pursuant to a notice of contribution rate or a notice of assessment which, because of the applicant's failure to file a timely appeal therefrom, shall have become binding and final against the applicant under the provisions of this act: Provided, That nothing contained herein shall be construed as prohibiting the department from granting, within the period prescribed herein, a refund of contribution, interest or penalties erroneously collected due to an error of the department.

Section 401, said act, as last amended by act of May 23, 1949, P. L. 1738, further amended.

Section 13. Section four hundred one of said act, as last amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1738), is hereby further amended to read as follows:

Section 401. Qualifications Required to Secure Compensation.—Compensation shall be payable to any employe who is or becomes unemployed, and who—

(a) Has, within his base year, been paid wages for employment equal to not less than thirty (30) times his weekly benefit rate;

(b) Has registered for work at, and thereafter con-

tinued to report at, an employment office in accordance with such regulations as the secretary may prescribe, except that the secretary may by regulation waive or alter either or both of the requirements of this clause as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of the act: Provided, however, That no such regulation shall conflict with section four hundred and one (c) of this act;

(c) Has made a valid application for benefits with respect to the benefit year for which compensation is claimed and has made a claim for compensation in the proper manner and on the form prescribed by the department;

(d) Is able to work and available for suitable work; [and]

(e) Has been unemployed for a waiting period of one week.

No week shall be counted as a week of unemployment for the purposes of this subsection, (1) unless it occurs within the benefit year which includes the week with respect to which such employe claims compensation, or (2) if compensation has been paid or is payable with respect thereto, or (3) unless the employe was eligible for compensation with respect thereto under all other provisions of this section and was not disqualified with respect thereto under section 402 (a), (b), (d), (e) and (f); and

(f) *Has, subsequent to his voluntarily leaving work without good cause or to his discharge or suspension from work for willful misconduct connected with his work, been paid remuneration for services in an amount equal to or in excess of eight (8) times his weekly benefit rate.*

Section *14. Subsections (d), (e) and (f) of section four hundred four of said act, as last amended by the act, approved the fourteenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1355), are hereby **further amended to read as follows:

Section 404. Rate and Amount of Compensation.— Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to the first day of [July] *October*, one thousand nine hundred [forty-nine] *fifty-one*, shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years.

* * * * *

Subsections (d), (e) and (f) of section 404, said act, as last amended by act of May 14, 1949, P. L. 1355, further amended

* "15" in original.

** "further" omitted in original.

(d) [Each] *Notwithstanding any other provisions of this section, each* eligible employe who is unemployed with respect to any week *ending subsequent to the effective date of this act* shall be paid with respect to such week compensation in an amount equal to his weekly benefit rate less (1) that part of the remuneration, if any, paid or payable to him with respect to such week which is in excess of [three dollars (\$3.00);] *five dollars (\$5.00) and (2) the amount of any pension or retirement payment paid or payable to him with respect to such week from any fund, annuity or insurance which is financed in whole or in part by payments or premiums paid by a base year employer.* [such] Such compensation, if not a multiple of one dollar (\$1.00), shall be computed to the next higher multiple of one dollar (\$1.00): Provided, That if at the end of any calendar quarter the balance in the Unemployment Trust Fund to the credit of Pennsylvania is less than one and one-half times the highest amount paid out for compensation less any refunds during any twelve consecutive months, the maximum amount of compensation payable to any employe for a week of unemployment ending during the next calendar quarter shall not be in excess of twenty dollars (\$20).

(e) Any otherwise eligible employe shall be entitled during his benefit year to an amount equal to his weekly benefit rate multiplied by the number which appears at the top of a column under "PART C", to be ascertained by locating on the same horizontal line *on which his weekly benefit rate appears the [interval which includes] *maximum amount which does not exceed* the total wages paid to him during his base year: Provided, That if at the end of any calendar quarter the balance in the Unemployment Trust Fund to the credit of Pennsylvania is less than one and one-half times the highest amount paid out for compensation less any refunds during any twelve consecutive months, no employe shall be paid compensation with respect to weeks of unemployment ending during the next calendar quarter in an amount which, together with any amounts previously paid with respect to the same benefit year, would be in excess of twenty times the employe's weekly benefit rate or four hundred dollars (\$400), whichever is the lesser.

(f) For purposes of this section and of section four hundred one (a), wages paid with respect to employment performed under Shipping Articles shall be considered as having been paid in the respective calendar quarters in which the services of the employe were being performed.

* "In" in original.

TABLES SPECIFIED FOR THE DETERMINATION
OF RATE AND AMOUNT OF BENEFITS

(Section 404 Pennsylvania Unemployment
Compensation Law)

[PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Base Year Wages			
		9	10	11	12
\$60-212	\$8	\$240-265	\$266-293	\$294-321	\$322-349
213-237	9	270-298	299-330	331-361	362-393
238-262	10	300-332	333-367	368-402	403-437
263-287	11	330-365	366-403	404-442	443-480
288-312	12	360-398	399-440	441-482	483-524
313-337	13	390-431	432-476	477-522	523-567
338-362	14	420-464	465-513	514-562	563-611
363-387	15	450-498	499-550	551-603	604-655
388-412	16	480-531	532-587	588-643	644-699
413-437	17	510-564	565-624	625-683	684-743
438-462	18	540-598	599-661	662-724	725-787
463-487	19	570-632	633-698	699-765	766-831
488-512	20	600-665	666-735	736-805	806-875
513-537	21	630-698	699-771	772-845	846-918
538-562	22	660-731	732-808	809-885	886-962
563-587	23	690-764	765-845	846-925	926-1006
588-612	24	720-798	799-882	883-966	967-1050
613 or more	25	750-831	832-918	919-1006	1007-1093

PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Base Year Wages			
		13	14	15	16
\$60-212	\$8	\$350-377	\$378-405	\$406-433	\$434-461
213-237	9	394-424	425-456	457-487	488-519
238-262	10	438-472	473-507	508-542	543-577
263-287	11	481-519	520-557	558-596	597-634
288-312	12	525-566	567-608	609-650	651-692
313-337	13	568-613	614-658	659-704	705-749
338-362	14	612-660	661-709	710-758	759-807
363-387	15	656-708	709-760	761-813	814-865
388-412	16	700-755	756-811	812-867	868-923
413-437	17	744-802	803-862	863-921	922-981
438-462	18	788-850	851-913	914-976	977-1039
463-487	19	832-898	899-964	965-1031	1032-1097
488-512	20	876-945	946-1015	1016-1085	1086-1155
513-537	21	919-992	993-1065	1066-1139	1140-1212
538-562	22	963-1039	1040-1116	1117-1193	1194-1270
563-587	23	1007-1086	1087-1167	1168-1247	1248-1328
588-612	24	1051-1134	1135-1218	1219-1302	1303-1386
613 or more	25	1094-1181	1182-1268	1269-1356	1357-1443

PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Base Year Wages			
		17	18	19	20
\$60-212	\$8	\$462-489	\$490-517	\$518-545	\$546-573
213-237	9	520-550	551-582	583-613	614-645
238-262	10	578-612	613-647	648-682	683-717
263-287	11	635-673	674-711	712-750	751-788
288-312	12	693-734	735-776	777-818	819-860
313-337	13	750-795	796-840	841-886	887-931
338-362	14	808-856	857-905	906-954	955-1003
363-387	15	866-918	919-970	971-1023	1024-1075
388-412	16	924-979	980-1035	1036-1091	1092-1147
413-437	17	982-1040	1041-1100	1101-1159	1160-1219
438-462	18	1040-1102	1103-1165	1166-1228	1229-1291
463-487	19	1098-1164	1165-1230	1231-1297	1298-1363
488-512	20	1156-1225	1226-1295	1296-1365	1366-1435
513-537	21	1213-1286	1287-1359	1360-1433	1434-1506
538-562	22	1271-1347	1348-1424	1425-1501	1502-1578
563-587	23	1329-1408	1409-1489	1490-1569	1570-1650
588-612	24	1387-1470	1471-1554	1555-1638	1639-1722
613 or more	25	1444-1531	1532-1618	1619-1706	1707-1793

PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Base Year Wages			
		21	22	23	24
\$60-212	\$8	\$574-601	\$602-629	\$630-657	\$658 or more
213-237	9	646-676	677-708	709-739	740 or more
238-262	10	718-752	753-787	788-822	823 or more
263-287	11	789-827	828-865	866-904	905 or more
288-312	12	861-902	903-944	945-986	987 or more
313-337	13	932-977	978-1022	1023-1068	1069 or more
338-362	14	1004-1052	1053-1101	1102-1150	1151 or more
363-387	15	1076-1128	1129-1180	1181-1233	1234 or more
388-412	16	1148-1203	1204-1259	1260-1315	1316 or more
413-437	17	1220-1278	1279-1338	1339-1397	1398 or more
438-462	18	1292-1354	1355-1417	1418-1480	1481 or more
463-487	19	1364-1430	1431-1496	1497-1563	1564 or more
488-512	20	1436-1505	1506-1575	1576-1645	1646 or more
513-537	21	1507-1580	1581-1653	1654-1727	1728 or more
538-562	22	1579-1655	1656-1732	1733-1809	1810 or more
563-587	23	1651-1730	1731-1811	1812-1891	1892 or more
588-612	24	1723-1806	1807-1890	1891-1974	1975 or more
613 or more	25	1794-1881	1882-1968	1969-2056	2057 or more]

PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Minimum Base Year Wages						
		13	14	15	16	17	18	19
\$120-262	\$10	300	333	368	403	439	476	514
263-287	11	330	367	404	443	483	524	565
288-312	12	360	400	441	484	527	571	616
313-337	13	390	433	478	524	571	619	668
338-362	14	420	467	515	564	615	667	719
363-387	15	450	500	551	605	659	714	770
388-412	16	480	533	588	645	703	762	822
413-437	17	510	567	625	685	747	810	873
438-462	18	540	600	662	725	791	857	924
463-487	19	570	633	699	766	835	905	976
488-512	20	600	667	735	806	879	952	1027
513-537	21	630	700	772	846	922	1000	1078
538-562	22	660	733	809	887	966	1048	1130
563-587	23	690	767	846	927	1010	1095	1181
588-612	24	720	800	882	967	1054	1143	1232
613-637	25	750	833	919	1008	1098	1190	1284
638-662	26	780	867	956	1048	1142	1238	1335
663-687	27	810	900	993	1088	1186	1286	1386
688-712	28	840	933	1029	1128	1230	1333	1438
713-737	29	870	967	1066	1169	1274	1381	1489
738 or more	30	900	1000	1103	1209	1318	1429	1541

PART A HIGHEST QUARTERLY WAGES	PART B WEEKLY BENEFIT RATE	PART C Minimum Base Year Wages						
		20	21	22	23	24	25	26
\$120-262	\$10	551	588	625	661	696	729	760
263-287	11	606	647	687	727	765	802	836
288-312	12	661	706	750	793	835	875	912
313-337	13	716	765	812	859	904	948	988
338-362	14	771	824	875	925	974	1020	1064
363-387	15	826	882	937	991	1043	1093	1140
388-412	16	882	941	1000	1057	1113	1166	1216
413-437	17	937	1000	1062	1124	1183	1239	1292
438-462	18	992	1059	1125	1190	1252	1312	1368
463-487	19	1047	1118	1187	1256	1322	1385	1444
488-512	20	1102	1176	1250	1322	1391	1458	1520
513-537	21	1157	1235	1312	1388	1461	1531	1596
538-562	22	1212	1294	1375	1454	1530	1603	1673
563-587	23	1267	1353	1437	1520	1600	1676	1749
588-612	24	1322	1412	1500	1586	1670	1749	1825
613-637	25	1377	1471	1562	1652	1739	1822	1901
638-662	26	1433	1529	1625	1718	1809	1895	1977
663-687	27	1488	1588	1687	1784	1878	1968	2053
688-712	28	1543	1647	1750	1851	1948	2041	2129
713-737	29	1598	1706	1812	1917	2017	2114	2205
738 or more	30	1653	1765	1875	1983	2087	2187	2281

Section 407, said act, as added by act of April 23, 1942, P. L. 60, and as last amended by act of May 29, 1945, P. L. 1145, further amended.

Section 15. Section four hundred seven of said *act, as added by the act, approved the twenty-third day of April, one thousand nine hundred forty-two (Pamphlet Laws 60), and as last amended by the act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1145), is hereby further amended to read as follows:

Section 407. Compensation to Members of the Armed Forces.—An individual who shall have served in the active military or naval service of the United States at any time after the sixteenth day of September, one thousand nine hundred and forty, and prior to the termination of [the present war] *World War II*, or who shall have served in the active military or naval service of the United States at any time after the twenty-fourth day of June, one thousand nine hundred fifty, and prior to the termination of the present emergency, and who shall have been discharged or released from active service under conditions other than dishonorable, after active service of ninety days or more, or by reason of an injury or disability incurred in service in line of duty, shall be entitled to payment of compensation [as provided in section four hundred **and four (c), (d) and (e) with respect to an employe who has been paid wages during his base year of one thousand three hundred **and sixty-six dollars (\$1366) or more, and whose highest quarterly wages during such base year have been four hundred **and eighty-eight dollars (\$488), or more] *in the maximum amount and for the maximum duration provided in this act*: Provided, That, (a) such individual (i) was employed in employment as defined in section 4 (1) at some time during the one-year period immediately preceding the date on which he entered active military or naval service, (ii) makes application for benefits under the provisions of this section in the proper manner and on the form prescribed by the department, (iii) makes claim for compensation in the proper manner and on the form prescribed by the department with respect to employes making claim for compensation under the provisions of other sections of this act, (iv) is qualified under the provisions of section four hundred **and one (b), (d) and (e), (v) is not ineligible under the provisions of section four hundred **and two, and (vi) has exhausted all rights to which he may be entitled under [Title V of the Act of Congress known as the "Servicemen's Readjustment Act of 1944"] *the provisions of any act of Congress which provide for the payment of compensation with respect to unemployment: And provided further, That any amount*

* "as" in original.

** "and" omitted in original.

of compensation paid by reason of the provisions of this section shall not be charged against any employer;

(b) All claims for compensation filed pursuant to the provisions of this section shall be with respect to weeks ending within the two-year period immediately following the date of such individual's discharge or release from active military or naval service;

(c) The maximum amount of compensation payable to an individual under the provisions of this section as amended shall be reduced by the amount of compensation, if any, which has been paid, or is payable, to such individual under the provisions of this section prior to the effective date of this amendment;

(d) No individual who is entitled to compensation under the provisions of this section shall be entitled to compensation under any other provisions of this act with respect to wages paid prior to the date he entered active military or naval service; and

(e) [No compensation shall be paid under the provisions of this section with respect to weeks ending on a day more than five years subsequent to the termination of the present war] *With respect to claims for compensation based upon active military or naval service subsequent to the sixteenth day of September, one thousand nine hundred forty, and prior to the termination of World War II, no compensation shall be paid under the provisions of this section with respect to weeks ending on the day more than five years subsequent to the termination of World War II. With respect to claims for compensation based upon active military or naval service subsequent to the twenty-fourth day of June, one thousand nine hundred fifty, and prior to the termination of the present state of emergency, no compensation shall be paid under the provisions of this section with respect to weeks ending on a day more than five years subsequent to the termination of the present state of emergency.*

Section 16. Section five hundred two of said act, as last amended by the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1854), is hereby further amended to read as follows:

Section 502. Decision of Referee; Further Appeals and Reviews.—Where an appeal from the determination or revised determination, as the case may be, of the department is taken, a referee shall, after affording the parties *and the department* reasonable opportunity for a fair hearing, affirm, modify, or reverse such findings of fact and the determination or revised determination, as the case may be, of the department as to him shall appear just and proper. The parties *and the department* shall be duly notified of the referee's decision, and the

Section 502, said act, as last amended by act of May 26, 1949, P. L. 1854, further amended.

reasons therefor, which shall be deemed the final decision of the board, unless within ten days after the date of such decision the board acts on its own motion, or upon application, permits any of the parties *or the department* to institute a further appeal before the board. A memorandum of testimony of any hearing before any referee shall be made and be preserved for a period of two years. [Notwithstanding any other provisions of this act to the contrary, with any appeal or further appeal filed by an employer with the board, the employer shall be required to pay a filing fee in an amount which, under rules and regulations adopted by the board, shall be determined to be reasonably representative of the costs incident to such appeal: Provided, That such fee shall be refunded if the claimant is finally denied benefits or awarded benefits in an amount less than the amount of the award from which the appeal was taken. Such fees shall be deposited in the Special Administration Fund, and all refunds as provided herein shall be made from such fund.]

Section 504, said act, as amended by act of April 23, 1942, P. L. 60, further amended.

Section 17. Section five hundred four of said act, as amended by the act, approved the twenty-third day of April, one thousand nine hundred forty-two (Pamphlet Laws 60), is hereby further amended to read as follows:

Section 504. Powers of Board Over Claims.—The board shall have power, on its own motion, or on appeal, to remove, transfer, or review any claim pending before, or decided by, a referee, and in any such case and in cases where a further appeal is allowed by the board from the decision of a referee, may affirm, modify, or reverse the determination or revised determination, as the case may be, of the department or referee on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. When any claim pending before a referee is removed or transferred to the board, the board shall afford the parties *and the department* reasonable opportunity for a fair hearing. The parties *and the department* shall be duly notified of the board's final decision and the reasons therefor. A complete record shall be kept of each case heard before the board. All testimony at any hearing before the board, whether on appeal or otherwise, shall be taken by a reporter, but need not be transcribed unless the disputed claim is further appealed.

Section 510, said act, amended.

Section 18. Section five hundred ten of said act is hereby amended to read as follows:

Section 510. Appeals to Superior Court.—An appeal to the Superior Court may be taken by *the department* or by any party claiming to be aggrieved, but only after [he] *such appellant* has exhausted [his] *its* remedies before the board. In any such appeal the board shall be

made the party defendant. Every appeal to the Superior Court must be taken within thirty days after the decision of the referee or board becomes final. The appeal shall be by petition and shall state the grounds upon which a judicial review is sought. A copy of such appeal petition shall be served upon a member or agent of the board, and sufficient additional copies shall be left with the board to enable the board to furnish a copy to every party in interest in the proceeding who has not joined in the appeal. The board shall file an answer in the Superior Court within thirty days after the petition has been served on it, and shall at the same time file with the court certified copies of all documents and papers, a record of all testimony taken and all findings of facts and decisions thereon. The board may also, in its discretion, certify to such court questions of law involved in any decision by it.

In any appeal to the Superior Court the findings of the board or referee, as the case may be, as to the facts, if supported by the evidence and in the absence of fraud, shall be conclusive, and in such cases the jurisdiction of the court shall be confined to questions of law, and such cases shall be given precedence over all other civil cases except cases arising under The Workmen's Compensation Act of one thousand nine hundred fifteen, and its amendments and supplements.

Section 19. Sections six hundred one point one and seven hundred two of said act, as last amended by the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1854), are hereby further amended to read as follows:

Sections 601.1 and 702, said act, as last amended by act of May 26, 1949, P. L. 1854, further amended.

Section 601.1. Special Administration Fund.—There is hereby created a special fund, separate and apart from all public moneys or funds of this Commonwealth, to be known as the Special Administration Fund. Under rules and regulations adopted by the department, interest and penalties collected from employers under the provisions of this act [and fees incident to appeals, as provided in section five hundred two,] may be paid into the Special Administration Fund. Such rules and regulations may provide for determining in any manner which payments of interest and penalties are to be paid into the Special Administration Fund and which payments of interest and penalties are to be paid into the Unemployment Compensation Fund. There shall also be deposited in the Special Administration Fund moneys as provided in subsection (b) of section two hundred one of this act. The moneys in this fund shall be used for the payment of costs of administration which are found not to have been properly and validly chargeable against Federal grants or other funds received for or

in the Administration Fund and also for the purposes authorized in subsection (b) of section two hundred one of this act. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, Federal funds which would in the absence of said moneys be available to finance expenditures for the administration of this act. Nothing in this section shall prevent said moneys from being used as a revolving fund to cover expenditures necessary and proper under the law for which Federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The State Treasurer shall make payment of obligations from the Special Administration Fund as herein provided, upon requisition of the secretary and certification by him that no other funds are available or can properly be used to finance such expenditures. The moneys in this fund are hereby specifically made available to replace any moneys received pursuant to section three hundred and two of the Federal Social Security Act, as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of this act and are available for such replacement, whether or not such moneys were expended or the obligations covering such expenditures were incurred prior or subsequent to the enactment of this amendment. The moneys in this fund shall be continuously available for expenditure in accordance with the provisions of this section, and shall not lapse at any time or be transferred to any other fund except as herein provided and as provided under [sections] section three hundred eleven [and five hundred two], wherein an amount equal to any refund or credit of interest or penalties shall be transferred from the Special Administration Fund to the Unemployment Compensation Fund.

Section 702. Limitation of Fees.—No employer or employe shall be charged fees of any kind in any proceeding under this act by the department, the board, or any of its officers or agents [, except as provided in section five hundred two]. Any individual claiming compensation in any proceeding before the department, the board, or referee may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive any greater fee for such services than is approved by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than fifty dollars nor more than five hundred dollars, or be imprisoned for not more than six months, or both.

Section 20. Section eight hundred one of said act, as last amended by the act, approved the thirtieth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1186), is hereby further amended to read as follows:

Section 801, said act, as last amended by act of June 30, 1947, P. L. 1186, further amended.

Section 801. False Statements and Representations to Obtain or Increase Compensation.—Whoever makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any compensation or other payment under this act or under an employment security law of any other state or of the Federal Government or of a foreign government, either for himself or for any other person, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than twenty nor more than fifty dollars, or shall be sentenced to imprisonment for not longer than thirty days, or both, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

Section 21. Section eight hundred four of said act, as last amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1738), is hereby further amended to read as follows:

Section 804, said act, as last amended by act of May 23, 1949, P. L. 1738, further amended.

Section 804. Recovery and Recoupment of Compensation.—Any person who by reason of his fault has received any sum as compensation under this act to which he was not entitled shall be liable to repay to the Unemployment Compensation Fund to the credit of the Compensation Account a sum equal to the amount so received by him. Such sum shall be collectible (a) in the manner provided in this act for the collection of past due contributions, or (b) by deduction from any future compensation payable to the claimant under this act: *Provided, That no administrative or legal proceedings for the collection of such sum shall be instituted after the expiration of six years following the end of the benefit year with respect to which such sum was paid.*

Any person who other than by reason of his fault has received with respect to a benefit year any sum as compensation under this act to which he was not entitled shall not be liable to repay such sum but shall be liable to have such sum deducted from any future compensation payable to him with respect to such benefit year, or the one-year period immediately following such benefit year: *Provided, however, That no recoupment from future compensation shall be had if such recoupment would be inequitable or unconscionable. In determining whether or not recoupment from future compensation would be inequitable or unconscionable, the claimant's financial worth shall not be considered.*

The claimant and other affected parties shall be notified in writing of the department's determination to deduct any sum from future compensation under this section, and such determination shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation.

Transition Provisions

Transition provision.

Section 22. After the rate of contribution for each employer has been computed for the calendar year one thousand nine hundred fifty-one, under the provisions of section three hundred one of this act, as hereby amended, an employer whose rate so computed is less than the rate computed for him in accordance with the provisions of this act in effect prior to the effective date of this amendment shall pay contributions with respect to the calendar year one thousand nine hundred fifty-one at the lesser rate.

Further transition provision.

Section 23. Notwithstanding any other provision of this act or of the act amended by this act, the excess of any contribution paid by any employer with respect to the calendar year one thousand nine hundred fifty-one over the amount determined by the application of his rate of contribution for such year computed under the provisions of section three hundred one of this act, as hereby amended, shall be deemed to have been erroneously paid and shall be allowed by the department as a credit, without interest, in connection with subsequent payments of contributions by such employer.

Inconsistent acts repealed.

Section 24. All acts or parts of acts inconsistent herewith are hereby repealed.

Act effective October 1, 1951.

Section 25. This act shall become effective on the first day of October, one thousand nine hundred fifty-one, and shall apply in the determination of the rates of contributions for the calendar year one thousand nine hundred fifty-one and thereafter.

Applicability.

APPROVED—The 29th day of September, A. D. 1951.

JOHN S. FINE

No. 409

AN ACT

To further amend the title and section one of the act, approved the third day of May, one thousand nine hundred and nine (Pamphlet Laws 424), entitled, as amended, "An act providing that in all counties of the first, second, third, fourth, fifth and sixth class, advertisements and notices, required by law or rules of court to be published in newspapers of general circulation, unless dispensed with by special order of court, shall be