

any person interested in non-testamentary property or among the respective interests created by any non-testamentary instrument, the court, in its discretion, may assess against such property or interests an equitable share of the expenses incurred in connection with the determination and apportionment of the tax. If the fiduciary cannot recover the tax apportioned against a person benefited, such an unrecovered amount shall be charged in such manner as the orphans' court may determine.

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE

No. 328

AN ACT

Amending the act of February 28, 1956 (P. L. 1154), entitled, as amended, "An act relating to the administration and distribution of incompetents' estate, both as to real and personal property, and the procedure relating thereto; including the disposition of such estates or portions thereof and the determination of title thereto without the appointment of a guardian in certain cases; the appointment, bond, removal and discharge of guardians of such estates, their powers, duties and liabilities, the rights of persons dealing with * such guardians, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning the determination of incompetency and the powers, duties and liabilities of foreign guardians; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and the common pleas court relating to incompetents' estates," including the person of an incompetent within the provisions of the act and providing for appointment of a coguardian or succeeding guardian.

Incompetents'
Estates Act
of 1955.

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

Title, subsection (a), section 301, and subsections (a) and (c), section 302, act of February 28, 1956, P. L. 1154, reenacted and amended July 11, 1957, P. L. 794, further amended.

Section 1. The title, subsection (a) of section 301 and subsections (a) and (c) of section 302, act of February 28, 1956 (P. L. 1154), known as the "Incompetents' Estates Act of 1955," reenacted and amended July 11, 1957 (P. L. 794), are amended to read:

New title.

AN ACT

Relating to the administration and distribution of incompetents' [estate] *estates*, both as to real and personal property, *and the appointment of guardians of the persons of incompetents*, and the procedure relating

* "the" in original.

thereto; including the disposition of such estates or portions thereof and the determination of title thereto without the appointment of a *guardian in certain cases; the appointment, bond, removal and discharge of guardians of such estates, their powers, duties and liabilities, the rights of persons dealing with such guardians, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning the determination of incompetency and the powers, duties and liabilities of foreign guardians; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and the common pleas court relating to incompetents' estates.

Section 301. Petition and Hearing.—

(a) Resident. The court, upon petition and a hearing at which good cause is shown, may find a person domiciled in the Commonwealth to be incompetent and appoint a guardian or guardians of his *person or* estate. The petitioner may be the alleged incompetent's spouse, a relative, a creditor, a debtor or any person interested in the alleged incompetent's welfare. Notice of the petition and hearing shall be given in such manner as the court shall direct to **the alleged incompetent, to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incompetent if he died intestate at that time, and to such other parties as the court may direct. The alleged incompetent shall be present at the hearing unless (1) the court is satisfied, upon the presentation of positive testimony, that because of his physical or mental condition his welfare would not be promoted by his presence; or (2) it is impossible for him to be present because of his absence from the Commonwealth. It shall not be necessary for the alleged incompetent to be represented by a guardian ad litem in the proceeding.

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Section 302. County of Appointment.—

(a) Resident Incompetent. A guardian of the *person or* estate of an incompetent may be appointed by the court of the county in which the incompetent is domiciled.

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(c) Exclusiveness of Appointment. When a court has appointed a guardian of an incompetent's *person or* estate pursuant to subsections (a) or (b), no other court shall appoint a similar guardian for the incompetent within the Commonwealth.

* "guradian" in original.
 ** "be" in original.

Act amended by adding a new section 304.

Section 2. The act is amended by adding, after section 303, a new section to read:

Section 304. To Fill Vacancy Coguardian.—The court, after such notice to parties in interest as it shall direct, may appoint a succeeding guardian to fill a vacancy in the office of guardian or may appoint a coguardian of the estate of a person found to be incompetent without a hearing.

Sections 321 and 322 of the act, amended July 11, 1957, P. L. 794, further amended.

Section 3. Sections 321 and 322 of the act, amended July 11, 1957 (P. L. 794), are amended to read:

Section 321. Grounds for Removal.—The court shall have exclusive power to remove a guardian when—

(1) He is wasting or mismanaging the estate, is or is likely to become insolvent, or has failed to perform any duty imposed by law; or

(2) He has been adjudged incompetent; or

(3) He has become unable to discharge the duties of his office because of sickness or physical or mental incapacity and his disability is likely to continue to the injury of the *incompetent or his estate*; or

(4) He has removed from the Commonwealth or has ceased to have a known place of residence therein without furnishing such security or additional security as the court shall direct; or

(5) For any other reason, the interests of the *incompetent or his estate* are likely to be jeopardized by his continuance in office; or

(6) The incompetent of whose *person or estate* he is guardian is adjudged competent.

Section 322. Procedure for and Effect of Removal.—

The court on its own motion may, and on the petition of any party in interest alleging adequate grounds for removal shall, order the guardian to appear and show cause why he should not be removed, or when necessary to protect the [right of] *rights of the incompetent or his creditors or parties in interest*, may summarily remove him. Upon removal the court may appoint a substituted guardian and may, by summary attachment of the person or other appropriate orders, provide for the security and delivery of the assets of the estate, together with all books, accounts and papers relating thereto. Any guardian summarily removed under the provisions of this section may apply, by petition, to have the decree of removal vacated and to be reinstated, and, if the court shall vacate the decree of removal and reinstate him, it shall thereupon make any orders which may be appropriate to accomplish the reinstatement.

Section 4. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE

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No. 329

AN ACT

Relating to the payment of wages or compensation for labor or services; providing for regular pay days; conferring powers and duties upon the Department of Labor and Industry, including powers and duties with respect to the civil collection of wages; providing civil and criminal penalties for violations of the act; providing for their collection and disposition and providing for additional civil damages.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Wage Payment and Collection Law.”

Wage Payment
and Collection
Law.

Section 2. Definitions.—As used in this act—

(1) “Employer” includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this Commonwealth and any agent or officer of any of the above-mentioned classes employing any person in this Commonwealth.

(2) “Wages” includes all amounts at which the labor or service rendered is recompensed whether the amount is fixed or ascertained on a time, task, piece, commission or other method of calculation.

(3) “Check” means a draft drawn on a bank and payable on demand.

(4) “Secretary” means the Secretary of Labor and Industry.

(5) “Department” means the Department of Labor and Industry.

Section 3. Regular Payday.—Every employer shall pay all wages due to his employes on regular paydays designated in advance by the employer. Overtime wages may be considered as wages earned and payable in the next succeeding pay period. All wages earned in any pay period shall be due and payable within the number of days after the expiration of said pay period as provided in a written contract of employment or, if not so specified, within the standard time lapse customary in the trade or within 15 days from the end of such pay period. The wages shall be paid in lawful money of the