

No. 355

AN ACT

Amending the act of June twenty-one, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," changing provisions relating to liability of employers and benefits and persons entitled thereto, changing certain rules of evidence and regulating practice and procedure authorizing commutation of certain awards, providing for certain subrogation rights and the fixing of certain fees, prescribing penalties, making an appropriation and generally clarifying and changing the provisions of the act.

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

The Pennsylvania
Occupational
Disease Act.

Section 1. The hereinafter designated sections and parts of sections of the act of June twenty-one, one thousand nine hundred thirty-nine (Pamphlet Laws 566), known as "The Pennsylvania Occupational Disease Act," are amended, or added, to read:

Act of June 21,
1939, P. L. 566,
amended or
added.

Section 104.

Section 104. The term "employe," as used in this act, is declared to be synonymous with servant, and includes all natural persons who perform services, except agricultural services or domestic services performed in a private home, for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in the worker's own home, or on other premises not under the control or management of the employer. *Every executive officer of a corporation elected or appointed in accordance with the charter and by-laws of the corporation, except elected officers of the Commonwealth or any of its political subdivisions, shall be an employe of the corporation.*

Employe.

Addition of New Subsection (n) to Section 108.

Section 108. The term "occupational disease," as used in this act, shall mean only the following diseases:

* * * * *

All other occupational diseases.

(n) *All other occupational diseases (1) to which the claimant is exposed by reason of his employment, and (2) which are peculiar to the industry or occupation, and (3) which are not common to the general population. For the purposes of this clause, partial loss of hearing due to noise shall not be considered an occupational disease.*

New Section 109.

Disease resulting solely from military activities not compensable.

Section 109. No compensation shall be paid for any occupational disease if, during hostile attacks on the United States, disability or death of an employe results solely from military activities of the armed forces of the United States or from military activities or enemy sabotage of a foreign power.

Section 301, Clause (2) of Subsection (a) and Subsection (g)

Amended August 24, 1953 (P. L. 1389), Subsections (a) and (e)

Amended January 2, 1952 (P. L. 1811), and Subsection (c)

Amended May 14, 1949 (P. L. 1379).

Agreement.

Section 301. (a) When employer and employe shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for disability or death of such employe, caused by occupational disease, arising out of and in the course of his employment, shall be paid by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article, but—

Negligence no bar.

Disability or death caused by employe's violation of law.

1. No compensation shall be paid when the disability or death is caused by the employe's violation of law, but the burden of proof of such fact shall be upon the employer.

Burden of proof.

Maximum compensation.

2. The maximum compensation payable under this article for disability, and death resulting from silicosis, anthraco-silicosis, or asbestosis shall not exceed the sum of [seven thousand five hundred dollars (7500)] *ten thousand dollars (\$10,000)*, which shall be full and complete payment for all disability, present or future, or for death from such occupational diseases arising out of employment by any and all employers in this Commonwealth.

(b) The right to receive compensation under this act shall not be affected by the fact that a minor is employed or is permitted to be employed in violation of the laws of this Commonwealth relating to the employment of minors, or that he obtained his employment by misrepresenting his age.

Minor employed.

(c) Compensation for the occupational diseases enumerated in this act shall be paid only when such occupational *disease is peculiar to the occupation or industry in which the employe was engaged and not common to the general population. Wherever compensable disability or death is mentioned as a cause for compensation under this act, it shall mean only compensable disability or death resulting from occupational disease and occurring within [three] *four* years after the date of his last employment in such occupation or industry.

Disease peculiar to the occupation or industry.

(d) Compensation for silicosis or anthraco-silicosis, and asbestosis, shall be paid only when it is shown that the employe has had an aggregate employment of at least [four] *two* years in the Commonwealth of Pennsylvania, during a period of [eight] *ten* years next preceding the date of disability, in an occupation having a silica or asbestos hazard.

In cases of silicosis, anthraco-silicosis and asbestosis.

(e) Compensation shall not be payable for partial disability due to silicosis, anthraco-silicosis, or asbestosis. Compensation shall be payable, as otherwise provided in this act, for total disability or death caused by silicosis, anthraco-silicosis, or asbestosis, or by silicosis, anthraco-silicosis, or asbestosis, when accompanied by active pulmonary tuberculosis.

Silicosis, anthraco-silicosis and asbestosis, total disability or death only.

(f) If it be shown that the employe, at or immediately before the date of disability, was employed in any occupation or industry in which the occupational disease is a hazard, it shall be presumed that the employe's occupational disease arose out of and in the course of his employment but this presumption shall not be conclusive.

Presumption disease caused by special hazard of industry.

(g) The employer liable for the compensation provided by this article shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease claimed, regardless of the length of time of such last exposure: Provided, That when a claimant alleges that disability or death was due to silicosis, anthraco-silicosis, asbestosis or any other occupational disease which developed to the point of disablement only after an exposure of five or more years, the only employer liable shall be the last employer in whose employment the employe was last exposed to the hazard of such occupational disease during a period of six months or more [after the effective date of this act]: And provided further, That in those cases where dis-

Which employer liable.

Proviso.

Further proviso.

* "diseases," in original.

Notice. ability or death is not conclusively proven to be the result of such last exposure, all compensation shall be paid by the Commonwealth. An exposure during a period of less than six months after the effective date of this act shall not be deemed an exposure. The notice of disability or death and claim shall be made to the employer who is liable under this subsection, his insurance carrier, if any, and the Commonwealth.

Payments in installments. (h) Except as hereinafter provided, all compensation payable under this article shall be payable in periodic installments, as the wages of the employe were payable before the accident.

Section 305.

Employer to insurer. Section 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the department from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the department, showing his financial ability to pay such compensation, whereupon the department, if the applicant establishes his financial ability, shall issue to the applicant a permit authorizing such exemption.

Self insurance. From a refusal of the department to issue such permit an appeal shall lie to the court of common pleas of Dauphin County. In any such appeal, the only question shall be whether the department abused its discretion in refusing such permit. The department shall establish a period of twelve calendar months, to begin and end at such times as the department shall prescribe, which shall be known as the annual exemption period. Unless previously revoked, all permits issued under this section shall expire and terminate on the last day of the annual exemption period for which they were issued. Permits issued under this act shall be renewed upon the filing of an application. The department may, from time to time, require further statements of the financial ability of such employer, and, if at any time such employer *appears no longer able to pay compensation, shall revoke its permit granting exemption, in which case the employer shall immediately subscribe to the State Workmen's Insurance Fund or insure his liability in any insurance company or mutual association or company, as aforesaid.

Permit.

Appeal on refusal.

Annual exemption period.

Renewal.

Revocation.

Effect.

Failure of employer to comply. [If any employer] *Any employer who fails to comply with the provisions of this section [such employer shall*

* "appear," in original.

be guilty of a misdemeanor, and, upon conviction thereof] for every such failure shall, *upon summary conviction before any official of competent jurisdiction*, be sentenced to pay a fine of not less than one hundred dollars or more than five hundred dollars, and costs of prosecution, or imprisonment for a period of not more than six months, or both [at the discretion of the court]. Every day's violation shall constitute a separate offense. It shall be the duty of the department to enforce the provisions of this section; and it shall investigate all violations that are brought to its notice and shall institute prosecutions for violations thereof. All fines recovered under the provisions of this section shall be paid [by the clerk of the court] to the department and by it paid into the State Treasury.

Penalty.

Enforcement

Disposition of fines.

Section 306, Subsections (a), (b), the Last Paragraph of Subsection (c), Subsections (d), and (f), Amended August 24, 1953 (P. L. 1389), Subsection (c) Amended January 2, 1952 (P. L. 1811).

Section 306. The following schedule of compensation is hereby established [for total disability resulting from occupational disease] subject to the limitations of section 301:

Schedule of compensation.

(a) For [the first seven hundred weeks after the seventh day of] total disability sixty-six and two-thirds per centum of the wages of the disabled employe as defined in section three hundred and nine, [but the compensation shall not be more than thirty-two dollars and fifty cents per week nor less than twenty-two dollars and fifty cents per week, and shall not exceed in the aggregate the sum of twenty thousand dollars: Provided, That if at the date when disability begins, the employe receives wages of less than twenty-two dollars and fifty cents per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than twelve dollars and fifty cents per week] *beginning after the seventh day of total disability, and payable for the duration of total disability, but the compensation shall not be more than thirty-seven dollars and fifty cents per week nor less than twenty-five dollars per week. If at the time when disability begins, the employe receives wages of twenty-five dollars per week or less, then he shall receive ninety per centum of the wages per week as compensation, but in no event less than fifteen dollars per week.* Nothing in this clause shall require payment of compensation after disability shall cease. [Should partial disability be followed by total disability, the period of seven hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.]

Total disability.

Partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c) sixty-six and two-thirds per centum of the difference between the wages of the disabled employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than [twenty-three dollars] *twenty-seven dollars and fifty cents* per week. This compensation shall be paid during the period of such partial disability [not, however, beyond three hundred and fifty weeks after the seventh day of disability] *except as provided in clause (e) of this section, but not more than three hundred and fifty weeks*. Should total disability be followed by partial disability, the period of three hundred and fifty weeks [mentioned in this clause] shall *not* be reduced by the number of weeks during which compensation was paid for total disability. The term "earning power," as used in this section shall in no case be less than the weekly amount which the employe receives after disability begins, [and shall in no case] *and in those cases in which the employe works fewer than five days per week for reasons not connected with or arising out of the disability resulting from the injury shall not* be less than five times his actual daily wage as fixed by the day, hour, or by the output of the employe, and in no instance shall an employe receiving compensation under this section receive more in compensation and wages combined than a fellow employe in [similar] employment *similar to that in which the injured employe was engaged at the time of disability*.

Partial disability following total disability.

Earning power.

Schedule for loss or loss of use of members through occupational diseases.

(c) For all disability resulting from loss or loss of the use of members resulting from occupational disease, the compensation shall be exclusively as follows:

For the loss of a hand, sixty-six and two-thirds per centum of wages during one hundred and seventy-five weeks.

For the loss of a forearm, sixty-six and two-thirds per centum of wages during one hundred and ninety-five weeks.

For the loss of an arm, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a lower leg, sixty-six and two-thirds per centum of wages during one hundred and eighty weeks.

For the loss of a leg, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, sixty-six and two-thirds per centum of wages during one hundred and [twenty-five] *fifty* weeks.

For the complete loss of hearing in both ears, sixty-six and two-thirds per centum of wages during one hundred and [fifty] *eighty* weeks.

For the loss of a thumb, sixty-six and two-thirds per centum of wages during sixty weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of wages during thirty-five weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of wages during thirty weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, sixty-six and two-thirds per centum of wages during fifteen weeks.

[The loss of the first phalange of the thumb, or of any finger, shall be considered equivalent to the loss of one-half of such thumb, or finger, and shall be compensated at the same rate as for the loss of a thumb, or finger, but for one-half of the period provided for the loss of a thumb, or finger.

The loss of more than one phalange of a thumb, or finger, shall be considered equivalent to the loss of the entire thumb or finger.]

The loss of the first phalange of the thumb shall be considered the loss of the thumb. The loss of a substantial part of the first phalange of the thumb shall be considered the loss of one-half of the thumb.

The loss of any substantial part of the first phalange of a finger, or an amputation immediately below the first phalange for the purpose of providing an optimum surgical result shall be considered the loss of one-half of the finger. Any greater loss shall be considered the loss of the entire finger.

The loss of one-half of the thumb or a finger shall be compensated at the same rate as for the loss of a thumb or finger, but for one-half of the period provided for the loss of a thumb or finger.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

For the loss of a great toe, sixty-six and two-thirds per centum of wages during forty weeks.

For the loss of any other toe, sixty-six and two-thirds per centum of wages during sixteen weeks.

The loss of the first phalange of the great toe, or of any toe, shall be considered equivalent to the loss of one-half of such great toe, or other toe, and shall be compensated at the same rate as for the loss of a great

toe, or other toe, but for one-half of the period provided for the loss of a great toe or other toe.

The loss of more than one phalange of a great toe, or any toe, shall be considered equivalent to the loss of the entire great toe or other toe.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

Unless the board shall otherwise determine, the loss of both hands or both arms or both feet or both legs or both eyes shall constitute total disability, to be compensated according to the provisions of clause (a).

Amputation.

Amputation at the wrist shall be considered as the equivalent of the loss of a hand, and amputation at the ankle shall be considered as the equivalent of the loss of a foot. Amputation between the wrist and the elbow shall be considered as the loss of a forearm, and amputation between the ankle and the knee shall be considered as the loss of a lower leg. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, eye, finger or thumb, great toe or other toe, shall be considered as the equivalent of the loss of such hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe.

Healing period compensation.

End of healing period.

In addition to the payments hereinbefore provided for disabilities of the classes specified, any period of disability necessary and required as a healing period shall be compensated in accordance with the provisions of this subsection. The healing period shall end (I) when the claimant returns to employment without impairment in earnings, or (II) on the last day of the period specified in the following table whichever is the earlier:

For the loss of a hand, twenty weeks.

For the loss of a forearm, twenty weeks.

For the loss of an arm, twenty weeks.

For the loss of a foot, twenty-five weeks.

For the loss of the lower leg, twenty-five weeks.

For the loss of a leg, twenty-five weeks.

For the loss of an eye, ten weeks.

For the loss of hearing, ten weeks.

For the loss of a thumb or any part thereof, ten weeks.

For the loss of any other finger or any part thereof, six weeks.

For the loss of a great toe or any part thereof, twelve weeks.

For the loss of any other toe or any part thereof, six weeks.

This compensation shall not be more than [thirty-two] *thirty-seven* dollars and fifty cents per week nor less than [twenty-two dollars and fifty cents] *twenty-five* dollars per week: Provided, That if at the time of disability the employe receives wages of [less than twenty-two dollars and fifty cents] *twenty-five* dollars per week or less, then he shall receive [the full amount] *ninety per centum* of such wages per week as compensation, but in no event less than [twelve dollars and fifty cents] *fifteen* dollars per week. When an employe works during the healing period, his wages and earning power shall be as defined in this act, and he shall not receive more in wages and compensation combined than his wages at the time of disability as defined in section 309.

Rate of compensation.

Proviso.

(d) [The period of total disability mentioned in clause (a), three hundred and fifty weeks mentioned in clause (b), and the specific periods (or aggregate specific periods, as the case may be) mentioned in clause (c) shall begin to run seven days after disability begins and shall run concurrently.] *Where at the time of disability, the employe incurs other disabilities, separate from those which result in permanent disabilities enumerated in clause (c) of this section, the number of weeks for which compensation is specified for the permanent disabilities shall begin at the end of the period of temporary total disability which results from the other separate disability, but in that event the employe shall not receive compensation provided in clause (c) of this section for the specific healing period. In the event the employe incurs two or more permanent disabilities of the above enumerated classes compensable under clause (c) of this section, he shall be compensated for the largest single healing period rather than the aggregate of the healing periods.*

Coexistent permanent and temporary total disabilities.

(e) No compensation shall be allowed for the first seven days after disability begins, except as [hereinafter] provided in *this clause (e) and clause (f)* of this section. *If the period of disability lasts more than six weeks after disability begins, the employe shall also receive compensation for the first seven days of disability.*

First seven days.

(f) During the first [one hundred and twenty days] *six months* after disability begins, the employer shall furnish reasonable surgical and medical services, medicines, and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies, shall not exceed four hundred fifty dollars. If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employe may procure same and shall receive from the employer the reasonable cost thereof within the above limitations. In addition to the above service,

Surgical and medical services.

medicines, and supplies, hospital treatment, services, and supplies *and orthopedic appliances and prostheses* shall be furnished by the employer for the said period of [one hundred and twenty days] *six months*. *The board may order further medical, surgical and hospital services after the end of the six month period, if it is established that further care will result in restoring the disabled employe's earning power to a substantial degree. In each order the board shall specify the maximum period and the maximum costs of the treatment designed for the employe's rehabilitation.* The cost for such hospital treatment, service, and supplies, shall not in any case exceed the prevailing charge in the hospital for like services to other individuals. If the employe shall refuse reasonable surgical, medical, and hospital services, medicines, and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for disability or any increase in his disability shown to have resulted from such refusal: Provided, That the provisions of this section shall apply [in injuries] *to occupational diseases* where no loss of earning power occurs.

Refusal by employe.

(g) [Should the employe die as a result of the occupational disease, the period during which compensation shall be payable to his dependents, under section three hundred and seven of this article, shall be reduced by the period during which compensation was paid to him in his lifetime, under this section of this article. No reduction shall be made for the amount which may have been paid, or contracted to be paid, for medical and hospital services and medicines, nor for the expenses of the last sickness and burial.] Should the employe die from some other cause than the occupational disease, the liability for compensation shall cease.

Death from other cause.

Section 307, Amended August 24, 1953 (P. L. 1389).

Compensation in case of death of employe.

Section 307. In case of death resulting from occupational disease, compensation shall be computed on the following basis, and distributed to the following persons, subject to the limitations of section 301:

To child or children.

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or if there be no guardian, to such other persons as may be designated by the board as hereinafter provided, as follows:

(a) If there be one child thirty-two per centum of wages of deceased, but not in excess of [thirteen] *fifteen* dollars per week.

(b) If there be two children, forty-two per centum of wages of deceased, but not in excess of [seventeen dollars and fifty cents] *twenty dollars and twenty-five cents* per week.

(c) If there be three children, fifty-two per centum of wages of deceased, but not in excess of [twenty-two dollars] *twenty-five dollars and fifty cents* per week.

(d) If there be four children, sixty-two per centum of wages of deceased, but not in excess of [twenty-six] *thirty* dollars and fifty cents per week.

(e) If there be five children, sixty-four per centum of wages of deceased, but not in excess of [twenty-nine dollars and fifty cents] *thirty-four* dollars per week.

(f) If there be six or more children, sixty-six and two-thirds per centum of wages of deceased, but not in excess of [thirty-two] *thirty-seven* dollars and fifty cents per week.

2. To the widow or widower, if there be no children, fifty-one per centum of wages, but not in excess of [twenty dollars and fifty cents] *twenty-three dollars and seventy-five cents* per week.

To widow or widower, if no children.

3. To the widow or widower, if there be one child, sixty per centum of wages, but not in excess of [twenty-five dollars] *twenty-eight dollars and seventy-five cents* per week.

If one child.

4. To the widow or widower, if there be two children sixty-six and two-thirds per centum of wages, but not in excess of [twenty-nine dollars and fifty cents] *thirty-four* dollars per week.

If two children.

5. To the widow or widower, if there be three or more children sixty-six and two-thirds per centum of wages, but not in excess of [thirty-two] *thirty-seven* dollars and fifty cents per week.

If three or more children.

6. If there be neither widow, widower, nor children, entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of his death, thirty-two per centum of wages, but not in excess of [eleven dollars and fifty cents] *thirteen dollars and twenty-five cents* per week: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of his death, the compensation payable to such father or mother shall be fifty-two per centum of wages, but not in excess of [nineteen] *twenty-two* dollars per week.

To father or mother.

Provido.

Provido.

7. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, twenty-two per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of thirty-two per centum,

To brothers and sisters.

such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

Expense of burial.

8. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding four hundred and twenty-five dollars, which shall be paid by the employer or insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses).

When compensation shall be payable.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of eighteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include step children, adopted children, and children to whom he stood in loco parentis and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow the compensation of such widow shall continue, as hereinbefore provided, for one-third of the period during which compensation then remains payable to her: Provided, further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

Child and children.

Remarriage of widow.

Meretricious relationship.

Basis of compensation.

The wages upon which death compensation shall be based shall not in any case be taken to exceed [forty-nine dollars] *fifty-six dollars and twenty-five cents* per week, nor be less than [twenty-nine] *thirty-seven* dollars and fifty cents per week.

This compensation shall be paid during three hundred and fifty weeks and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred and fifty weeks until such child reaches the age of eighteen, at the rate of twenty-four and one-half per centum of wages, but not in excess of [nine dollars and forty cents] *ten dollars and seventy-five cents* per week, if there is one child; thirty-four and one-half per centum of wages, but not in excess of [thirteen] *fifteen* dollars per week, if there are two children; forty-five and one-half per centum of wages, but not in excess of [seventeen dollars and fifty cents] *twenty dollars and twenty-five cents* per week, if there are three children; fifty-seven per centum of wages, but not in excess of [twenty-two dollars] *twenty-five dollars and fifty cents* per week, if there are four children; sixty-two per centum of wages, but not in excess of [twenty-three dollars and fifty cents] *twenty-seven dollars* per week, if there be five children; and sixty-six and two-thirds per centum of wages, but not in excess of [twenty-six] *thirty* dollars and fifty cents per week, if there be six children or more.

When compensation shall be payable.

Payment to guardian.

The board may if the best interests of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a widow or a widower, on account of any child or children, *to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Account.

Bond.

Subsection (a) and (d) of Section 308, Subsection (a) Amended August 24, 1953 (P. L. 1389) and Subsection (d) Amended June 12, 1941 (P. L. 125).

Section 308. (a) When compensation is awarded because of disability or death caused by silicosis, anthracosilicosis, asbestosis, or any other occupational disease which developed to the point of disablement only after

Where payments jointly by employer and Commonwealth.

* "to" omitted in original.

an exposure of five or more years, the compensation for disability or death due to such disease shall, except as otherwise provided in subsection (g) of section 301, be paid jointly by the employer and the Commonwealth [in accordance with the following provisions: If disability begins between October 1, 1939, and September 30, 1941, both dates inclusive, the employer shall be liable for any pay fifty per centum of the compensation due and the Commonwealth fifty per centum thereof. Thereafter, depending upon the date when disability begins, the proportions of compensation for which the employer and the Commonwealth shall respectively become liable shall be: If disability begins between October 1, 1941, and September 30, 1943, the employer sixty per centum of the Commonwealth forty per centum; *if between October 1, 1943, and September 30, 1945, the employer seventy per centum and the Commonwealth thirty per centum; if between October 1, 1945, and September 30, 1947, the employer eighty per centum and the Commonwealth twenty per centum; if between October 1, 1947, and September 30, 1951, the employer ninety per centum and the Commonwealth ten per centum. If disability begins after September 30, 1951,] and the employer shall be liable for sixty per centum of the compensation due and the Commonwealth forty per centum.

* * * * *

Amounts payable
by employer and
Commonwealth
separately stated.

(d) In all agreements for the payment of compensation and all awards, the amount payable by the employer and the amount payable by the Commonwealth shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay under subsection (a) of this section, not to exceed the stated percentage of the maximum payable by the employer under section 301 (a) 2 of this act, or if section 301 (a) 2 be inapplicable, then under sections 306 and 307 of this act. A separate award shall be made against the Commonwealth for the balance of the compensation payable under said sections, which shall be payable out of appropriations made as aforesaid. *Nothing in this section shall prohibit the Commonwealth from entering into agreements to pay the compensation for which it is liable: Provided, however, That where compensation is payable under the provisions of subsection (a) of this section, the Commonwealth shall not enter into an agreement unless the employer is a party to the agreement: And provided further, That any such agreement shall contain facts sufficient to entitle the claimant to compensation and shall be accompanied by a supporting*

* "of" in original.

medical certificate. All such agreements shall be approved by the board or by a referee.

Section 309, Amended May 14, 1949 (P. L. 1379).

Section 309. Whenever in this article the term "wages" is used, it shall be construed to mean the average weekly wages of the employe ascertained as follows:

Wages construed as average weekly wages.

(a) If at the time of the disability the wages are fixed by the week, the amount so fixed shall be the average weekly wage.

Method of determining the average weekly wage.

(b) If at the time of the disability the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed, multiplied by twelve and divided by fifty-two.

(c) If at the time of the disability the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed, divided by fifty-two.

(d) If at the time of the disability the wages are fixed by the day, hour, or by the output of the employe, the average weekly wage shall be the wage most favorable to the employe, computed by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of thirteen consecutive calendar weeks in the fifty-two weeks immediately preceding the [accident] *disability*, or in case the employe receives wages monthly or semi-monthly, by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of three consecutive calendar months in the year immediately preceding the [accident] *disability*.

If the employe has been in the employ of employer less than thirteen calendar weeks, (or three calendar months if the employe receives wages monthly, or semi-monthly) immediately preceding the disability, his average weekly wage shall be computed under the foregoing paragraph, taking "total wages" for such purpose to be the amount he would have earned had he been so employed by employer the full thirteen calendar weeks, (or three calendar months) immediately preceding the disability, and had worked when work was available to other employes in a similar occupation, unless it be conclusively shown that, by reason of exceptional causes, such method of computation does not ascertain fairly the "total wages" of the employe so employed less than thirteen calendar weeks (or three calendar months).

(e) In occupations which are exclusively seasonal, and therefore cannot be carried on throughout the year,

the average weekly wage shall be taken to be one-fiftieth of the total wages which the employe has earned from all occupations during the twelve calendar months immediately preceding the disability, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employe, in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings.

The terms "average weekly wage" and "total wages," as used in this section, shall include board and lodging received from the employer, and when so received, the board shall be rated at [one dollar per day and board together with lodging shall be rated at] two dollars per day *if more than one meal is served, and one dollar per day if only one meal is served, and lodging shall be rated at one dollar and fifty cents per day. In employments in which employes customarily receive not less than one-third of their remuneration in tips or gratuities not paid by the employer, gratuities shall be added to the wages received at the rate of two dollars per day;* but such terms shall not include [gratuities received from the employer, or others, nor shall such terms include] amounts deducted by the employer under the contract of hiring for labor furnished, or paid for by the employer, and necessary for the performance of such contract by the employe; nor shall such terms include deductions from wages due the employer for rent, and supplies necessary for the employe's use in the performance of his labor.

Where the employe is working under concurrent contracts with two or more employers, and the defendant employer has knowledge of such employment prior to the disability, his wages from all such employers shall be considered as if earned from the employer liable for compensation.

If under clauses (a), (b), (c), (d) and (e) of this section the amount determined is less than if computed as follows, this computation shall apply, viz: divide the total wages earned by the employe during the last two completed calendar quarters with the same employer by the number of days he worked for such employer during such period multiplied by five.

The weekly wage upon which compensation shall be computed, shall be the wage earned by the employe in his last employment in the occupation or industry in which the occupational disease is a hazard.

Section 310.

Alien dependents
not residents of
United States.

Section 310. Alien widows, children [widowers] and parents, [brothers and sisters] not residents of the United States, shall [not] be entitled to [any] com-

compensation, but only to the amount of fifty per centum of the compensation which would have been payable if they were residents of the United States: Provided, That compensation benefits are granted residents of the United States under the laws of the foreign country in which the widow, children or parents reside. Alien widowers, brothers and sisters who are not residents of the United States shall not be entitled to receive any compensation. In no event shall any nonresident alien widow or parent be entitled to compensation in the absence of proof that the alien widow or parent has actually been receiving a substantial portion of his or her support from the decedent. Where transmission of funds in payment of any such compensation is prohibited by any law of the Commonwealth or of the United States to residents of such foreign country, then no compensation shall accrue or be payable while such prohibition remains in effect and, unless such prohibition is removed within six years from the date of death, all obligation to pay compensation under this section shall be forever extinguished.

In every instance where an award is made to alien widows, children or parents, not residents in the United States, the referee or the board shall, in the award, fix the amount of any fee allowed to any person for services in connection with presenting the claim, and it shall be a misdemeanor punishable by a fine of not more than five hundred dollars or imprisonment for not more than six months, or both, to accept any remuneration for the services other than that provided by the referee or board.

Section 311.

Section 311. Unless the employe or someone in his behalf, or some of the dependents or someone in their behalf, shall give notice of disability to the employer liable for compensation under this article, within [fourteen] *twenty-one* days after [the] *compensable* disability begins, no compensation shall be due until such notice be given, and unless such notice be given within [ninety] *one hundred and twenty* days after the beginning of *compensable* disability no compensation shall be allowed.

Notice to
employer of
disability.

Section 312.

Section 312. The notice referred to in section three hundred and eleven [hereof shall be substantially in the following form:

Form of notice.

To (name of employer).

You are hereby notified that (name of employe disabled), who was in your employment at (place), while engaged as (kind of employment) became disabled as the result of (name of occupational disease), on or

about the day of Anno Domini
, and that compensation will be claimed
 therefor.

Date; Signed

But not variation from this form shall be material if the notice be sufficient to inform the employer that a certain employe, by name, became disabled as the result of occupational disease, the character of which is described in ordinary language, in the course of his employment on or about the time specified.] *shall inform the employer that a certain employe became disabled as a result of the occupational disease, described in ordinary language, in the course of his employment on or about a specified time.*

Section 313.

Notices—how
served.

Section 313. [The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the employe was working, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or, if the employer be a corporation, either foreign or domestic, then upon the president, vice-president, secretary or treasurer thereof. Notice served upon any of said agents shall be notice to the employer.] *The notice referred to in sections three hundred and eleven and three hundred and twelve may be given to the immediate or other superior of the employe, to the employer, or any agent of the employer regularly employed at the place of employment of the disabled employe.*

Section 314.

Examination by
physician.

Section 314. At any time after disability begins, the employe, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employe shall refuse, upon the request of the employer, to submit to the examination by the physician or physicians selected by the employer, the board may, upon petition of the employer, order the employe to submit to an examination at a time and place set by it, and by the physician or physicians selected and paid by the employer, or by a physician or physicians designated by it and paid by the employer. [and if the employe shall, without reasonable cause or excuse, disobey or disregard such order, he shall be deprived of his right to compensation under this article.] The board may at any time

after such first examination, upon petition of the employer, order the employe to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate; and, in such case, the employer shall pay the fees and expenses of the examining physician or physicians, and the reasonable traveling expenses and loss of wages incurred by the employe in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employe to submit to such examination ordered by the board, either before or after an agreement or award, shall deprive him of the right to compensation, under this article, during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employe shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the board.

Section 315.

Section 315. In cases of disability all claims for compensation shall be forever barred, unless, within [one year after the] *sixteen months after compensable* disability begins, the parties shall have agreed upon the compensation payable under this article, or unless, within [one year after the] *sixteen months after compensable* disability begins, one of the parties shall have filed a petition as provided in article four hereof. In cases of death all claims for compensation shall be forever barred, unless, within [one year] *sixteen months* after the death, the parties shall have agreed upon the compensation payable under this article, or unless, within [one year] *sixteen months* after the death, one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of [one year] *sixteen months* from the time of the making of the most recent payment made prior to the date of filing such petition.

Time limit for filing claims for compensation in cases of disability.

When claims for compensation in cases of death must be filed; in varying cases.

Section 316.

Section 316. The compensation contemplated by this article may at any time be commuted by the board, at its then value when discounted at five per centum interest, with annual rests, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employe or the dependents of the deceased employe,

Commuted payments.

and that it will avoid undue expense or undue hardship to either party, or that such employe or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets: Provided, however, That unless the employer agrees to make such commutation, the board [shall] *may* require the employe or the dependents of the deceased employe to furnish proper indemnity safeguarding the employer's rights.

Indemnity for employer.

Section 319, Amended May 18, 1945 (P. L. 661).

Employer's right of subrogation.

Section 319. Where the compensable [injury] *disability* is caused in whole or in part by the act or omission of a third party, the employer shall be subrogated to the right of the employe, his personal representative, his estate or his dependents, against such third party for the balance of any sum recovered in litigation, or paid in compromise settlement, after subtraction of reasonable attorney's fees and other proper disbursements, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the *employe or to the dependents, and shall be treated as an advance payment by the employer on account of any future instalments of compensation.

Where an employe has received payments for the disability or medical expense resulting from a disability in the course of his employment, paid by the employer or an insurance company on the basis that the disability was not compensable under this act, in the event of an agreement or award for that disability, the employer or insurance company who made the payments shall be subrogated out of the agreement or award to the amount so paid, if the right to subrogation is agreed to by the parties or is established at the time of hearing before the referee or the board.

Subsection (a) of Section 320.

Illegal employment of minor.

Section 320. (a) If the employe is a minor, under the age of eighteen years, employed or permitted to work in violation of any provision of the laws of this Commonwealth relating to minors of such age, compensation, either in the case of disability or death of such employe, shall be one hundred and [ten] *fifty* per centum of the amount that would be payable to such minor if legally employed. The amount by which such compensation shall exceed that provided for in case of legal employment may be referred to as "additional compensation."

Disability or death.

* "employe" in original.

Section 413.

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an *existing* original or *existing* supplemental agreement, upon petition filed by either party with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement was [procured by the fraud, coercion, or other improper conduct of a party, or was founded upon a mistake of law or of fact: Provided, That an agreement can only be reviewed, modified, or set aside if a petition is filed with the board within one year after the date of the most recent payment of compensation made prior to the date of filing such petition] *in any material respect incorrect.*

Review and modification of agreements.

Provido.

The board or referee designated by the board, may, at any time, modify, reinstate, suspend, or terminate an original or supplemental agreement or an award, upon petition filed by either party with such board, upon proof that the disability of [an injured] *the* employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of date upon which it is shown that the disability of the employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: Provided, That an agreement or an award can only be reviewed, modified, or reinstated during the time such agreement or award has to run, if for a definite period; and no agreement or award shall be reviewed, or modified, or reinstated, unless a petition is filed with the board within [one year] *two years* after the date of the most recent payment of compensation made prior to the date of filing such petition. *Where compensation has been suspended because the employe's earnings are equal to or in excess of his wages prior to the disability payments under the agreement or award may be resumed at any time during the period for which compensation for partial disability is payable, unless it be shown that the loss of earnings does not result from the disability due to the exposure.*

Modification of agreement or award upon change of disability or status.

Powers of board or referee.

The board or referee to whom any such petition has been assigned may subpoena witnesses, hear evidence, make findings of fact, and award, or disallow compensation in the same manner and with the same effect and subject to the same right of appeal, as if such petition were an original claim petition.

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend

When petition a supersedeas.

the payment of compensation fixed in the agreement or by the award, in whole or to such extent as the facts alleged in the petition would if proved, require.

Section 416.

Filing answers to petitions.

Section 416. Within [ten] *twenty* days after a copy of any petition has been served upon any adverse party, he may file with the secretary of the board if the petition has been directed to be heard by the board, or with the referee if the petition has been assigned to a referee, an answer in the form prescribed by the board.

Proof of fact.

Every fact alleged in a *claim* petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any adverse party, or of all of them, to deny a fact so alleged shall not preclude the board or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact.

Section 417.

Hearing on petition.

Section 417. As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the board has been served upon the adverse parties thereto, the board shall fix a time and place for hearing the petition. If a petition be assigned to a referee, he shall, [twelve days after notice that such petition has been assigned to him, has been served upon the adverse parties] *as soon as practicable thereafter*, fix a time and a place for hearing the petition. [Such hearing shall not be less than seven nor more than fourteen days after the mailing of notice thereof by the referee.] The secretary of the board, if the petition has been directed to be heard by the board or by one or more of its members, or the referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, and shall serve upon the petitioner a copy of any answer of any adverse party.

Notice.

Secretary to serve notice.

Section 418.

Disposition of petitions heard by the board or referee.

Section 418. The board, if a petition is directed to be heard by it or by one or more of its members, or the referee to whom a petition is assigned for hearing may subpoena witnesses, order the production of books and other writings, and hear evidence, and shall make, in writing and as soon as may be after the conclusion of the hearing, such findings of fact, conclusions of law, and award or disallowance of compensation, or other order, as the petition and answers and the evidence produced before it or him and the provisions of this

act shall, in its or his judgment, require. The findings of fact made by the board in any petition heard by it or by one or more of its members or upon a hearing de novo shall be final, except as hereinafter provided, and the findings of fact made by a referee to whom a petition has been assigned or any question of fact has been referred under the provisions of section four hundred and nineteen shall be final, unless an appeal is taken as provided in this act, or unless the board shall, under the provisions of [section] sections four hundred and twenty-five or four hundred and twenty-six of this article, grant a hearing de novo or a rehearing.

Section 419.

Section 419. [(a)] The board may refer any question of fact arising under any petition, including a petition for commutation heard by it, to a referee to hear evidence and report to the board the testimony taken before him or such testimony and findings of facts thereon as the board may order. The board may refer any question of fact arising out of any petition assigned to a referee, to any other referee to hear evidence and report the testimony so taken thereon to the original referee.

Question of fact—testimony may be taken by referee.

[(b) The board or a referee, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make investigation of the facts set forth in the petition or answer.]

New Section 420.

Section 420. *The board or a referee, if it or he deem it necessary, may, of its or his own motion, either before, during or after any hearing, make an investigation of the facts set forth in the petition or answer. The board or referee with the consent of the board, may appoint one or more impartial physicians or surgeons to examine the claimant and report thereon, or he may employ the services of such other experts as shall appear necessary to ascertain the facts. The report of any physician, surgeon, or expert appointed by the board or by a referee shall be filed with the board or referee, as the case may be, and shall be a part of the record and open to inspection as such.*

Reference to medical board.

The board shall fix the compensation of such physicians, surgeons, and experts, which, when so fixed, shall be paid out of the sum appropriated to the Department of Labor and Industry.

The sum of fifty thousand dollars (\$50,000) is hereby appropriated to the Department of Labor and Industry for compensation payable by the Commonwealth under

An appropriation.

the provisions of this section for the biennium one thousand nine hundred fifty-five—one thousand nine hundred fifty-seven.

Section 422, Amended January 2, 1952 (P. L. 1811).

Board, its mem-
bers and referees
not bound by
technical rules of
evidence.

Section 422. The board, its members and the referees shall not be bound by the technical rules of evidence in conducting hearings and investigations, but all findings of fact shall be based only upon sufficient, competent evidence to justify them.

Testimony or
deposition may be
taken within or
outside the
Commonwealth.

If any party or witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the board or a referee, his or her testimony or deposition may be taken, within or without this Commonwealth, in such manner and in such form as the board may, by special order or general rule, prescribe. The records, kept by a hospital of the medical or surgical treatment given to an employe in such hospital, shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Hospital records.

Where any claim for compensation at issue before a referee involves five weeks or less of disability, either the employe or the employer may submit a certificate by any qualified physician as to the history, examination, treatment, diagnosis and cause of the condition, and the statements shall be admissible as evidence of medical and surgical matters therein stated, but such statements and certificates shall not be admissible in any subsequent proceedings.

Where an employer has furnished surgical and medical services or hospitalization in accordance with the provisions of subsection (f) of section 306, or where the employe has himself procured them, the employer or employe shall, upon request, in any pending proceeding be furnished with or have made available a true and complete record of the medical and surgical services and hospital treatment, including X-rays, laboratory tests, and all other medical and surgical data in the possession or under the control of the party requested to furnish or make available such data.

Section 426, Amended May 27, 1943 (P. L. 743).

Rehearing.

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth, other than Allegheny County, and in Allegheny County before the county court of Allegheny County, to which an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board has made an award or disallowance of compensation or other order or ruling,

or upon which the board has sustained or reversed any action of a referee; but such rehearing shall not be granted more than [one year] *eighteen months* after the board has made such award, disallowance, or order or ruling, or has sustained or reversed any action of the referee. If the board shall grant a rehearing of any petition from the board's action on which an appeal has been taken to and is pending in the court of common pleas or in the county court of Allegheny County, as the case may be, under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article.

Section 434.

Section 434. A final receipt, given by an employe or dependent entitled to compensation under a compensation agreement or award, shall be prima facie evidence of the termination of the employer's liability to pay compensation under such agreement or award: Provided, however, That the board, or a referee designated by the board, may, at any time within two years from the date to which [payment is made as evidenced by such final receipt] *payments have been made*, set aside a final receipt, upon petition filed with the board, if it be conclusively proved that [such receipt was procured by fraud, coercion, or other improper conduct of a party, or is founded upon mistake of law or of fact.] *all disability due to the occupational disease in fact had not terminated.*

Final receipt may
be set aside.

Section 501.

Section 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, or be valid or binding in any respect,

Claim for legal
service.

Approval of court.

unless the same be approved in writing by the judge presiding at the trial, or, in case of settlement without trial, by a judge of the common pleas court of the county in which the accident occurred.

Claim or agreement for legal services to be passed upon by board.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act, shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the board. Any such claim or agreement shall be filed with the department, which shall, as soon as may be, notify the person by whom the same was filed of the board's approval or disapproval thereof, as the case may be.

Lien.

After the approval as herein required, if the employer be notified in writing of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: *Provided, however, That where the employe's compensation is payable by the employer in periodical instalments, the board shall fix, at the time of approval, the proportion of each instalment to be paid on account of legal services and disbursements, and the board may, upon application made to it, commute the sum awarded for legal services and disbursements.*

Proviso.

Effective date.

Section 2. This act shall take effect in thirty days.

APPROVED—The 28th day of February, A. D. 1956.

GEORGE M. LEADER

No. 356

AN ACT

Amending the act of June two, one thousand nine hundred fifteen (Pamphlet Laws 736), entitled, as amended, "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," changing provisions relating to liability of employers and benefits and persons entitled thereto; changing