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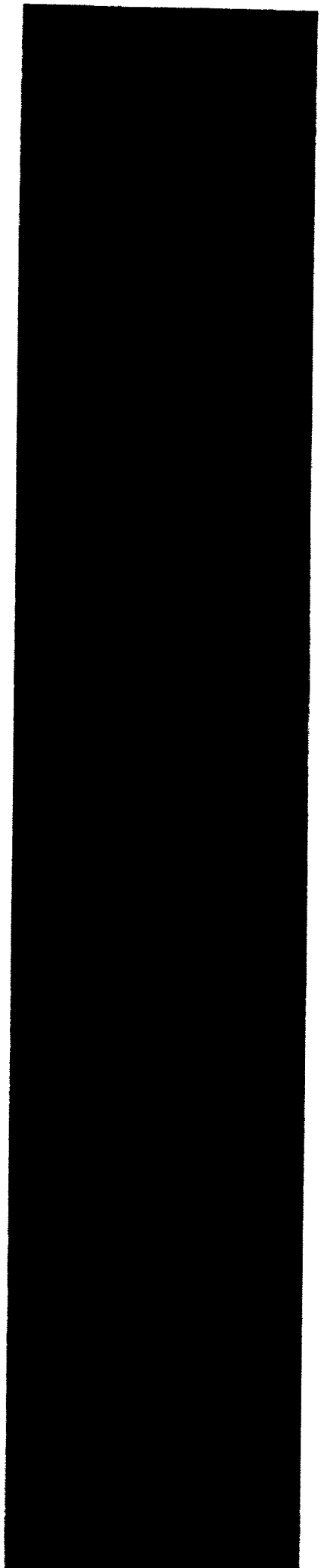


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LAWS

OF THE

STATE OF ILLINOIS

ENACTED BY THE

FIFTY-NINTH GENERAL ASSEMBLY

AT THE

FIRST SPECIAL SESSION

Begun and Held at the Capitol, in the City of Springfield, on the Twenty-eighth Day of October, A. D. 1935, and Adjourned Sine Die on the Sixth Day of March, A. D. 1936.



JAN 29 1942

[Printed by authority of the General Assembly of the State of Illinois.]

§ 19. This Act shall be known and may be cited as the "Health and Safety Act."

§ 20. That "An Act to provide for the health, safety and comfort of employees in factories, mercantile establishments, mills and workshops in this State, and to provide for the enforcement thereof, and to repeal an Act entitled, 'An Act to provide for the health, safety and comfort of employees in factories, mercantile establishments, mills and workshops in this State, and to provide for the enforcement thereof,' approved June 4, 1909," approved June 29, 1915, as amended, be and the same hereby is repealed, such repeal to take effect July 1, 1937; and that section 4 of "An Act in relation to employments creating poisonous fumes or dust in harmful quantities, and to provide for the enforcement thereof," approved June 29, 1915, be and the same hereby is repealed, such repeal to take effect October 1, 1936; and that "An Act providing for the reporting, compiling and publishing of information concerning accidents to and deaths by accident of employes," approved May 24, 1907, be and the same hereby is repealed, such repeal to take effect upon the passage of this Act.

§ 21. No repeal of any Act herein contained shall extinguish or in any way affect any right of action thereunder, existing at the time this Act takes effect.

APPROVED March 16, 1936.

OCCUPATIONAL DISEASES.

§ 1. Title of Act.
§ 2. Liability of employer.
§ 3. Right of action of employee.
§ 4. Employer election to pay compensation.
§ 5. Definition.
§ 6. Occupational disease defined.
§ 7. Compensation, resulting in death.
§ 8. Compensation, resulting in disability.
§ 9. Payment of compensation.
§ 10. Computing compensation.
§ 11. Application for adjustment of claim.
§ 12. Employee to submit to examination.
§ 13. Compensation not liable for.
§ 14. Compensation to commission, arbitrators, other employees.
§ 15. Jurisdiction of commission.
§ 16. Rules and orders of commission.
§ 17. Forms, records.
§ 18. Industrial commission to settle disputed question.
§ 19. Procedure of disputed questions.
§ 20. Industrial commission report.
§ 21. Compensation, not assignable, subject to lien attachment or garnishment.
§ 22. Fraudulent contract or agreement.
§ 23. Right to waive any provision of Act.
§ 24. Notice to employer for compensation.
§ 25. Length of time employee exposed—Employer liable.
§ 26. Provisions for employers to pay compensation.
§ 27. Associations and departments not affected.
§ 28. Liable for compensation.
§ 29. Procedure for compensation, where disablement or death not caused by negligence of employer or employees.
§ 30. Report to commission.
§ 31. Posting of notices.
§ 32. Penalty.
§ 33. Act repealed.
§ 34. Validity of Act.
§ 35. Effective date.

(HOUSE BILL No. 10. APPROVED MARCH 16, 1936.)

AN ACT *to promote the general welfare of the people of this State by providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment; providing for enforcement and administration thereof, and to repeal an Act and a part of a certain Act herein named.*

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

SECTION 1. This Act shall be known and may be cited as the "Workmen's Occupational Diseases Act".

§ 2. There shall be no liability of any employer for compensation or damages for or on account of any injury to health, disease, or death therefrom, other than for the compensation herein provided or for damages as provided in section 3 of this Act; provided that this section shall not affect any right to compensation under the "Workmen's Compensation Act".

§ 3. Where an employee in this State sustains injury to health or death by reason of a disease contracted or sustained in the course of the employment and proximately caused by the negligence of the employer, unless such employer shall have elected to provide and pay compensation as provided in section 4 of this Act, a right of action shall accrue to the employee whose health has been so injured for any damages sustained thereby; and in case of death, a right of action shall accrue to the widow of such deceased person, his lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support upon such deceased person, for a like recovery of damages for the injury sustained by reason of such death not to exceed the sum of ten thousand dollars ($10,000.00); provided, that violation by any employer of any effective rule or rules made by the industrial commission pursuant to the Health and Safety Act, enacted by the Fifty-ninth General Assembly at the third special session, or violation by the employer of any statute of this State, intended for the protection of the health of employees, shall be and constitute negligence of the employer within the meaning of this section; *provided further*, that every such action for damage for injury to the health shall be commenced within three (3) years after the last day of the last exposure to the hazards of the disease and that every such action for damages in case of death shall be commenced within one (1) year after the death of such employee and within five (5) years after the last day of the last exposure to the hazards of the disease: *Provided further*, that in any action to recover damages under this section, it shall not be a defense that the employee either expressly or impliedly assumed the risk of the employment, or that the contraction or sustaining of the disease or death was caused in whole or in part by the negligence of a fellow servant or fellow servants, or that the contraction or sustaining of the disease or death resulting was caused in whole or in part by the contributory negligence of the employee, where such contributory negligence was not wilful.

§ 4. (a) Any employer in this State may elect to provide and pay compensation according to the provisions of this Act, for disability or death resulting from occupational diseases, and such election, when effective, shall apply to all cases in which the last day of the last exposure as defined in this Act to the hazards of the occupational disease claimed upon shall have occurred on or after the effective date of such election, and shall relieve such employer of all liability under section 3 of this Act and all other liability with respect to injury to health or death therefrom by reason of any disease contracted or sustained in the course of the employment.

(b) Election by any employer, pursuant to paragraph (a) of this section, shall be made by filing notice of such election with the industrial commission. Such employer shall either furnish to his employees personally or post in a conspicuous place in the place of employment, a copy of such notice of his election.

(c) Every employer who has elected pursuant to paragraph (a) and (b) of this section to provide and pay compensation shall, from and after the effective date of such election be, remain and operate under all provisions of this Act except section 3 hereof, with respect to all his employees except those who have rejected in due time as provided in paragraph (d); *provided, however,* that on October 1, 1937, and on each October first for four years thereafter, any employer who shall have elected pursuant to paragraphs (a) and (b) of this section to provide and pay compensation under this Act, may elect not to provide and pay compensation under this Act by filing notice of such election not to provide and pay compensation under this Act with the industrial commission at least sixty days prior to the October first upon which such election is to be effective and by either giving to his employees personally or posting in a conspicuous place in the place of employment a copy of such notice of such election not to provide and pay compensation at least sixty days prior to such October first; and such election not to provide and pay compensation shall apply to all cases in which the last day of the last exposure, as defined in this Act, to the hazards of the disease claimed upon shall have occurred on or after the October first on which such election shall have become effective; *provided further* that any employer having elected, pursuant to this paragraph not to provide and pay compensation may at any time thereafter again elect pursuant to paragraphs (a) and (b) to provide and pay compensation, but having thus elected for the second time to provide and pay compensation such employer shall, from and after the effective date of such last said election, be, remain and operate under all provisions of this Act, except section 3 hereof, with respect to all employees except those who have rejected in due time as provided in paragraph (d) of this section, and such employer may not again withdraw.

(d) If any employer elects, pursuant to paragraphs (a) and (b) of this section, then every employee of such employer, who may be employed at the time of such election by such employer, shall be deemed to have accepted all the compensation provisions of this Act and shall be bound thereby unless within thirty (30) days after such election, he shall file a notice to the contrary with the industrial commission, whose duty it shall be immediately to notify the employer, and until such notice is given to the employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act; and every employee of such employer, hired after such employer's election, as a part of his contract of hiring shall be deemed to have accepted all of the compensation provisions of this Act, and shall have no right of rejection.

(e) The compensation herein provided for shall be the full, complete and only measure of the liability of the employer bound by election under this Act and such employer's liability for compensation and

medical benefits under this Act shall be exclusive and in place of any and all other civil liability whatsoever, at common law or otherwise, to any employee or his legal representative on account of damage, disability or death caused or contributed to by any disease contracted or sustained in the course of the employment.

§ 5. For the purposes of this Act:

The term "employer" as used in this Act shall be construed to be:

First—The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.

Second—Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written; provided, nothing contained herein shall be construed to apply to any work, employment or operations done, had or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise or lease land for any such purposes, or to any one in their employ or to any work done on a farm or country place, no matter what kind of work or service is being done or rendered.

The term "employee" as used in this Act, shall be construed to mean:

First—Every person in the service of the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation therein, under appointment or contract of hire, express or implied, oral or written, except any totally blind person, any official of the State, or of any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein and except any duly appointed member of the fire department in any city whose population exceeds five hundred thousand according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. *However*, any employee, his personal representative, widow, children, beneficiaries or heirs, who is, are or shall be entitled to receive a pension or benefit for or on account of disability or death arising out of or in the course of his employment from a pension or benefit fund to which the State or any county, town, township, incorporated village, school district, body politic, underwriters' fire patrol or municipal corporation therein is a contributor, in whole or in part, shall be entitled to receive only such part of such pension or benefit as is in excess of the amount of compensation recovered and received by such employee, his personal representative, widow, children, beneficiaries or heirs under this Act. *And, provided further*, that one employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, shall not be considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

Second—Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and minors

who, for the purpose of this Act, except section 3 hereof, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees, but not including any totally blind person or any person who is not engaged in the usual course of the trade, business, profession or occupation of his employer.

"Disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he claims compensation, or equal wages in other suitable employment; and "disability" means the state of being so incapacitated.

No compensation shall be payable for or on account of any occupational disease unless disablement, as herein defined, occurs within one (1) year after the last day of the last exposure to the hazards of the disease, except in cases of occupational disease caused by the inhalation of silica dust or asbestos dust and, in such cases, within three (3) years after the last day of the last exposure to the hazards of such disease.

§ 6. In this Act the term "Occupational Disease" means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the said diseases follow as an incident of an occupational disease as defined in this section.

A disease shall be deemed to arise out of the employment, only if there is apparent to the rational mind upon consideration of all the circumstances, a direct casual connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause, and which does not come from a hazard to which workmen would have been equally exposed outside of the employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

§ 7. The amount of compensation which shall be paid for an occupational disease sustained by the employee resulting in death shall be:

(a) If the employee leaves any widow, child or children whom he was under legal obligations to support at the time of his disablement, a sum equal to four times the average annual earnings of the employee, but not less in any event than two thousand five hundred dollars and not more in any event than four thousand dollars. *Provided,* that when an award has been made under this paragraph, where the deceased left at the time of his death a widow and one child under sixteen years of age him surviving, the compensation payments and death benefits to the extent the same were increased because of the existence of said child, insofar as some have not been paid, shall cease and become extinguished

when said child arrives at the age of eighteen years, if said child is physically and mentally competent at that time.

Any right to receive compensation hereunder shall be extinguished by the remarriage of a widow, if the deceased did not leave him surviving any child or children whom he was under legal obligations to support at the time of said disablement.

Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any parent, husband, child or children who at the time of disablement were totally dependent upon the earnings of the employee, then a sum equal to four times the average annual earnings of the employee, but not less in any event than two thousand five hundred dollars, and not more in any event than four thousand dollars. Any compensation payment other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves any parent or parents, child or children, who at the time of disablement were partially dependent upon the earnings of the employee, then such proportion of a sum equal to four times the average annual earnings of the employee as such dependency bears to total dependency, but not less in any event than one thousand dollars and not more in any event than three thousand seven hundred fifty dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amounts payable on death.

(d) If no amount is payable under paragraphs (a), (b), or (c) of this section and the employee leaves any grandparent, grandchild or grandchildren or collateral heirs dependent at the time of the disablement to the employee upon his earnings to the extent of fifty percentum or more of total dependency, then such proportion of a sum equal to four times the average annual earnings of the employee as such dependency bears to total dependency, but not more in any event than three thousand seven hundred fifty dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amounts payable on death.

(e) If no amount is payable under paragraphs (a), (b), (c) or (d) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses to be paid by the employer to the undertaker or to the person or persons incurring the expense of burial, and the further sum of three hundred dollars, which shall be paid within sixty days into a special fund, of which the State treasurer shall be ex-officio custodian, such special fund to be held and disbursed for the purposes hereinafter stated in paragraph (f) of section 8, either upon the order of the industrial commission or of a competent court. Said special fund shall be deposited the same as are State funds and any interest accruing thereon shall be added thereto every six months. It shall be subject to audit the same as State funds and accounts and shall be protected by the

when said child arrives at the age of eighteen years, if said child is physically and mentally competent at that time.

Any right to receive compensation hereunder shall be extinguished by the remarriage of a widow, if the deceased did not leave him surviving any child or children whom he was under legal obligations to support at the time of said disablement.

Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any parent, husband, child or children who at the time of disablement were totally dependent upon the earnings of the employee, then a sum equal to four times the average annual earnings of the employee, but not less in any event than two thousand five hundred dollars, and not more in any event than four thousand dollars. Any compensation payment other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves any parent or parents, child or children, who at the time of disablement were partially dependent upon the earnings of the employee, then such proportion of a sum equal to four times the average annual earnings of the employee as such dependency bears to total dependency, but not less in any event than one thousand dollars and not more in any event than three thousand seven hundred fifty dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amounts payable on death.

(d) If no amount is payable under paragraphs (a), (b), or (c) of this section and the employee leaves any grandparent, grandchild or grandchildren or collateral heirs dependent at the time of the disablement to the employee upon his earnings to the extent of fifty percentum or more of total dependency, then such proportion of a sum equal to four times the average annual earnings of the employee as such dependency bears to total dependency, but not more in any event than three thousand seven hundred fifty dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amounts payable on death.

(e) If no amount is payable under paragraphs (a), (b), (c) or (d) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses to be paid by the employer to the undertaker or to the person or persons incurring the expense of burial, and the further sum of three hundred dollars, which shall be paid within sixty days into a special fund, of which the State treasurer shall be ex-officio custodian, such special fund to be held and disbursed for the purposes hereinafter stated in paragraph (f) of section 8, either upon the order of the industrial commission or of a competent court. Said special fund shall be deposited the same as are State funds and any interest accruing thereon shall be added thereto every six months. It shall be subject to audit the same as State funds and accounts and shall be protected by the

general bond given by the State treasurer. It shall be considered always appropriated for the purposes of disbursements as provided in section 8, paragraph (f), of this Act, and shall be paid out and disbursed as therein provided and shall not at any time be appropriated or diverted to any other use or purpose; *provided,* that whenever any sum is paid into the said fund and subsequently it develops that compensation is payable under paragraphs (a), (b), (c) or (d) of this section, the industrial commission shall order the refund of any sum paid into the said fund, and the State treasurer as custodian of said fund shall immediately refund the sum paid to him in accordance with the order of the industrial commission upon receipt by him of a certified copy of said order.

The industrial commission shall, within ten days after the rendition of any award providing for payments into said special fund provided for in paragraph (e) of this section, mail a certified copy thereof to the State treasurer. If said award be not paid within thirty days after the date said award has become final, the State treasurer shall proceed to take judgment thereon in his own name as ex-officio custodian of said fund as is provided for other awards by this Act and take the necessary steps to collect said award. The industrial commission shall immediately, upon learning of any death because of which payments into said fund may become due under paragraph (e) of this section, notify the State treasurer thereof and the State treasurer, if payments be not made into said fund within sixty days following said death on account of which it may be due, shall within sixty days after the receipt of said notice institute proceedings in his own name before the industrial commission for the collection thereof, and in said proceedings the industrial commission may order the burial fund provided for in this Act paid to the person, corporation or organization who has paid or become liable for the payment of same. In all such proceedings so instituted by the State treasurer it shall not be a defense that notice of the disablement was not given the employer as provided in this Act or that the demand for payment was not made within six months or that written claim for compensation was not filed with the industrial commission within one year. Any person, corporation or organization who has paid or become liable for the payment of burial expenses of said deceased employee may in his or its own name institute proceedings before the industrial commission for the collection thereof. *Provided further,* that at no time shall there be paid into said special fund on account of any one death a sum to exceed three hundred dollars.

(f) All compensation, except for burial expenses provided in this section to be paid in case occupational disease results in death, shall be paid in installments equal to the percentage of the average earning as provided for in section 8 of this Act, at the same intervals at which the wages or earnings of the employees were paid; or if this shall not be feasible, then installments shall be paid weekly: *Provided,* such compensation may be paid in a lump sum upon petition as provided in section 9 of this Act.

(g) The compensation to be paid for occupational disease which results in death, as provided in this section, shall be paid to the persons who form the basis for determining the amount of compensation to be

paid by the employer, the respective shares to be in the proportion of their respective dependency at the time of the disablement on the earnings of the deceased: *Provided,* that the industrial commission or an arbitrator thereof may, in its or his discretion, order or award the payment to the parent or grandparent of a child for the latter's support the amount of compensation which but for such order or award would have been paid to such child as its share of the compensation payable, which order or award may be modified from time to time by the commission in its discretion with respect to the person to whom shall be paid the amount of said order or award remaining unpaid at the time of said modification.

The payments of compensation by the employer in accordance with the order or award of the industrial commission shall discharge such employer from all further obligation as to such compensation.

In a case where any of the persons who would be entitled to compensation is living at any place outside of the United States, then payment shall be made to the personal representative of the deceased employee. The distribution by such personal representative to the persons entitled shall be made to such persons and in such manner as the commission shall order.

(h) 1. Whenever in paragraph (a) of this section a minimum of two thousand five hundred dollars is provided, such minimum shall be increased in the following cases to the following amounts:

Three thousand dollars in case of one child under the age of 16 years at the time of the death of employee.

Three thousand one hundred dollars in case of two children under the age of 16 years at the time of the death of employee.

Three thousand two hundred dollars in case of three or more children under the age of 16 years at the time of the death of the employee.

2. Whenever four times the average annual earnings of the deceased employee as provided in paragraph (a) of this section amounts to more than two thousand five hundred dollars and to less than four thousand dollars, the amount so payable under said paragraph shall be increased as follows:

In case such employee left surviving him one child under the age of sixteen years the amount so payable shall be increased three hundred fifty dollars.

In case such employee left surviving him two children under the age of sixteen years the amount so payable shall be increased four hundred fifty dollars.

In case such employee left surviving him three or more children under the age of sixteen years the amount so payable shall be increased six hundred dollars.

3. Whenever in paragraph (a) of this section a maximum of four thousand dollars is provided, such maximum shall be increased in the following cases to the following amounts:

Four thousand four hundred fifty dollars in case of one child under the age of sixteen years at the time of the death of the employee.

Four thousand eight hundred dollars in case of two children under the age of sixteen years at the time of the death of the employee.

Five thousand five hundred dollars in case of three or more children under the age of sixteen years at the time of the death of the employee.

4. Whenever four times the average annual earnings of the deceased employee as provided in paragraph (a) of this section amounts to four thousand dollars and not more than four thousand four hundred dollars and the deceased employee left surviving him one child under the age of sixteen years the amount payable shall be four thousand four hundred dollars.

Whenever four times the average annual earnings of the deceased employee as provided in paragraph (a) of this section amounts to four thousand dollars and not more than four thousand seven hundred dollars and the deceased employee left surviving him two children under the age of sixteen years the amount payable shall be four thousand seven hundred dollars.

Whenever four times the average annual earnings of the deceased employee as provided in paragraph (a) of this section amounts to four thousand dollars and not more than five thousand dollars and the deceased employee left surviving him three or more children under the age of sixteen years the amount payable shall be five thousand dollars.

(i) In case the employee is under sixteen years of age at the time of the last day of the last exposure and is then illegally employed, the amount of compensation payable under paragraphs (a), (b), (c), (d) and (e) of this section shall be increased fifty percentum. *Provided, however,* that nothing herein contained shall be construed to repeal or amend the provisions of an Act concerning child labor, approved June 26, 1917, as subsequently amended relating to the employment of minors under the age of sixteen years.

(j) Whenever the dependents of a deceased employee are aliens not residing in the United States or Canada, the amount of compensation payable shall be limited to the beneficiaries described in paragraphs (a), (b) and (c) of this section and shall be fifty percentum of the compensation provided in paragraphs (a), (b) and (c) of this section except as otherwise provided by treaty.

§ 8. The amount of compensation which shall be paid to the employee for disability from an occupational disease not resulting in death shall be:

(a) In cases of silicosis, or silicosis complicated with tuberculosis, or asbestosis, or asbestosis complicated with tuberculosis, the employer shall provide the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter, limited, however to that which is reasonably required to cure or relieve from the effects of said diseases for a period not exceeding six months from date of disablement.

In all other cases, the employer shall provide the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter, limited, however to that which is reasonably required to effect a cure from the effects of the disease. The employee may in any case elect to secure his own physician, surgeon and hospital services at his own expense. Any occupational disease resulting in the amputation of an arm, hand, leg or foot, or the enucleation of any eye,

the employer shall furnish an artificial of any such member lost by occupational disease arising out of and in the course of the employment, and shall also furnish the necessary braces in all proper and necessary cases, provided, the furnishing by the employer of any such services or appliances shall not be construed to admit liability on the part of the employer to pay compensation, and the furnishing of any such services or appliances by the employer shall not be construed as the payment of compensation.

(b) If the period of temporary total incapacity for work lasts more than six working days, compensation equal to fifty percentum of the earnings, but not less than $7.50 nor more $15.00 per week, beginning on the eighth day of such temporary total incapacity and continuing as long as the temporary total incapacity lasts, but not after the amount of compensation paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the occupational disease, leaving heirs surviving as provided in said paragraph (a), section 7: *Provided,* that in the case where the temporary total incapacity for work continues for a period of more than thirty days from the day of the disablement, then compensation shall commence on the day after the disablement.

(c) For any serious and permanent disfigurement to the hand, head, face or neck, the employee shall be entitled to compensation for such disfigurement, the amount fixed by agreement or by arbitration in accordance with the provisions of this Act, which amount shall not exceed one-quarter of the amount of the compensation which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the occupational disease, leaving heirs surviving, as provided in said paragraph (a), section 7: *Provided,* that no compensation shall be payable under this paragraph where compensation is payable under paragraphs (d), (e) or (f) of this section: *And, provided further,* that when the disfigurement is to the hand, head, face or neck as a result of any occupational disease for which compensation is not payable under paragraphs (d), (e) or (f) of this section, compensation for such disfigurement may be had under this paragraph.

(d) If, after the disablement has been sustained, the employee as a result thereof becomes partially incapacitated from pursuing his usual and customary line of employment, he shall, except in the cases covered by the specific schedule set forth in paragraph (e) of this section, receive compensation, subject to the limitations as to time and maximum amounts fixed in paragraphs (b) and (h) of this section, equal to fifty percentum of the difference between the average amount which he earned before the last day of the last exposure and the average amount which he is earning or is able to earn in some suitable employment or business after the disablement.

(e) For disabilities in the following schedule, the employee shall receive compensation for the period of temporary total incapacity for work resulting from such occupational disease, in accordance with the provisions of paragraphs (a) and (b) of this section, for a period not to exceed sixty-four weeks, and shall receive in addition thereto compensation for a further period subject to limitations as to amounts as

in this section provided, for the specific loss herein mentioned, as follows, but shall not receive any compensation for such disabilities under any other provision of this Act.

1. For the loss of a thumb, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during seventy weeks.

2. For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during forty weeks.

3. For the loss of a second finger, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during thirty-five weeks.

4. For the loss of a third finger, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during twenty-five weeks.

5. For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during twenty weeks.

6. The loss of the first phalange of the thumb or of any finger, shall be considered to be equal to the loss of one-half of such thumb or finger and compensation shall be one-half of the amount above specified.

7. The loss of more than one phalange shall be considered as the loss of the entire finger or thumb; *provided, however,* that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

8. For the loss of a great toe, or for the permanent and complete loss of its use, fifty percentum of the average weekly wage during thirty-five weeks.

9. For the loss of each toe other than the great toe, or for the permanent and complete loss of its use, fifty percentum of the average weekly wage during twelve weeks.

10. The loss of the first phalange of any toe shall be considered to be the equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified.

11. The loss of more than one phalange shall be considered as the loss of the entire toe.

12. For the loss of a hand, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during one hundred and seventy weeks.

13. For the loss of an arm, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during two hundred and twenty-five weeks.

14. For the loss of a foot or the permanent and complete loss of its use, fifty percentum of the average weekly wage during one hundred and thirty-five weeks.

15. For the loss of a leg, or the permanent and complete loss of its use, fifty percentum of the average weekly wage during one hundred and ninety weeks.

16. For the loss of the sight of an eye, or for the permanent and complete loss of its use, fifty percentum of the average weekly wage during one hundred and twenty weeks.

16½. For the total and permanent loss of the hearing of one ear, fifty percentum of the average weekly wage during fifty weeks and for the total and permanent loss of hearing of both ears, fifty percentum of the average weekly wage during one hundred twenty-five weeks.

16¾. For the loss of a testicle, fifty percentum of the average weekly wage during fifty weeks, and for the loss of both testicles, fifty percentum of the average weekly wage during one hundred fifty weeks.

17. For the permanent partial loss of use of a member of sight of an eye, but not including the hearing of an ear, fifty percentum of the average weekly wage during that proportion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member or sight of eye.

17½. In computing the compensation to be paid to any employee who, before the disablement for which he claims compensation, had before that time sustained the loss by amputation or partial loss by amputation of any member, including hand, arm, thumb or fingers, leg, feet, or any toes, such loss or partial loss of any such member shall be deducted from any award made for the subsequent disablement, and for the permanent total loss of use or the permanent partial loss of use of any such member or the sight of an eye for which compensation has been paid then such loss shall be taken into consideration and deducted from any award for the subsequent disablement.

18. The specific case of loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, suffered by occupational disease, or the permanent and complete loss of use thereof, suffered by occupational disease, shall constitute total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this section: *Provided,* that these specific cases of total and permanent disability shall not be construed as excluding other cases: *Provided further,* that any employee who has previously in any manner suffered the loss or permanent and complete loss of the use of any of said members, and in a subsequent independent disablement loses another or suffers the permanent and complete loss of the use of any one of said members, the employer for whom the disabled employee was working at the time of the last day of the last exposure shall be liable to pay compensation only for the loss or permanent and complete loss of the use of the member occasioned by said last independent disablement.

19. In a case of specific loss under the provisions of this paragraph and the amount of which loss has been determined under the provisions of this Act, and the subsequent death of such employee from other causes that such occupational disease, leaving a widow and/or lineal dependents surviving before payment in full for such specific loss, then and in that event the balance remaining due for such specific loss shall be payable to such dependents, in the proportion which such dependency bears to total dependency.

(f) In case of complete disability, which renders the employee wholly and permanently incapable of work, compensation equal to fifty percentum of his earnings but not less than $7.50 nor more than $15.00

per week, commencing on the day after the disablement, and continuing until the amount paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the occupational disease, leaving heirs surviving as provided in said paragraph (a), section 7, and thereafter a pension during life annually, in the specific case of total and permanent disability equal to 12 percentum, and in other cases of total and permanent disability equal to 8 percentum, of the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the occupational disease, leaving heirs surviving, as provided in said paragraph (a), section 7. Such pension shall be paid monthly. *Provided,* any employee who receives an award under this paragraph and afterwards returns to work or is able to do so, and who earns or is able to earn as much as before the last day of the last exposure, payments under such award shall cease; if such employee returns to work, or is able to do so, and earns or is able to earn part but not as much as before the last day of the last exposure, such award shall be modified so as to conform to an award under paragraph (d) of this section: *Provided, further,* that if such award is terminated or reduced under the provisions of this paragraph, such employee shall have the right at any time within one year after the date of such termination or reduction to file a petition with the commission for the purpose of determining whether any disability exists as a result of the occupational disease and the extent thereof: *Provided, further,* that disability as enumerated in subdivision 18, paragraph (e) of this section shall be considered complete disability. If an employee who had previously in any manner incurred loss or the permanent and complete loss of use of one member, through the loss or the permanent and complete loss of the use of one hand, one arm, one foot, one leg, or one eye, incurs permanent and complete disability through the loss or the permanent and complete loss of the use of another member, he shall receive, in addition to the compensation payable by the employer and after such payments have ceased, an amount from the special fund provided for in paragraph (e) of section 7, which, together with the compensation payable from the employer in whose employ he was on the last day of the last exposure, will equal the amount payable for permanent and complete disability as provided in this paragraph of this section.

The custodian of said special fund provided for in paragraph (e) of section 7 shall be joined with the employer as a party respondent in the application for adjustment of claim. Said application for adjustment of claim shall state briefly and in general terms the approximate time and place and manner of the loss of the first member. The industrial commission shall mail a copy of said application to the custodian of said special fund and shall mail to said custodian all notices of hearing that are mailed to the employer and employee.

In its award the commission or the arbitrator shall specifically find the amount the employee shall be weekly paid, the number of weeks' compensation which shall be paid by the employer, the date upon which payments shall begin out of the fund provided for in paragraph (e) of section 7 of this Act, the length of time said weekly payments shall con-

tinue, the date upon which the pension payments shall commence and the monthly amount of said payments. A certified copy of said award and the judgment of any court of competent jurisdiction affirming same shall be, by the industrial commission, sent to the State treasurer by registered mail. It shall be the duty of the said State treasurer, thirty days after the date upon which payments out of said fund shall be commenced as provided in said award, and every month thereafter, to mail to the said employee direct, or at the option of said treasurer, to some bank in the county in which he resides for delivery to him, a check or draft payable out of said special fund, for all compensation accrued to that date at the rate fixed in said award. Said check or draft on the back thereof shall designate the style and docket number of the cause and the period of time for which it pays, and shall be accompanied by a duplicate receipt, on a form to be supplied by the industrial commission, which receipt shall be executed in duplicate by the employee and returned to the treasurer, who shall retain one thereof and shall mail one to the said industrial commission. Said draft, check or receipts shall be a full and complete acquittance to the said State treasurer for the payment out of said fund, and no other appropriation or warrant except the certified copy of said award and judgment of said court shall be necessary to warrant payment out of said fund. The said fund shall be always considered as appropriated for the purpose of making payments according to the terms of said awards.

(g) In case death occurs as a result of occupational disease before the total of the payments made equals the amount payable as a death benefit, then in case the employee leaves any widow, child or children, parents, grandparents, or other lineal heirs, entitled to compensation under section 7, the difference between the compensation for death and the sum of the payments made to the employee, shall be paid to the beneficiaries of the deceased employee, and distributed as provided in paragraph (f) of section 7, but in no case shall the amount payable under this paragraph be less than $500.00.

(h) In no event shall the compensation to be paid exceed fifty percentum of the average weekly wage, or exceed $15.00 per week in amount; nor, except in case of complete disability, as defined above, shall any payments extend over a period of more than eight years from the date of the disablement. In case an employee shall be mentally incompetent at the time when any right or privilege accrues to him under the provisions of this Act, a conservator or guardian may be appointed pursuant to law, and may, on behalf of such mental incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been mentally competent and had claimed or exercised said right or privilege; and no limitations of time by this Act provided shall run so long as said mentally incompetent employee is without a conservator or guardian.

(i) 1. All compensation provided for in paragraphs (b), (c), (d), (e) and (f) of this section, other than in case of pension for life, shall be paid in installments at the same intervals at which the wages or earnings of the employee were paid at the time of the last exposure, or if this shall not be feasible, then the installments shall be paid weekly;

all payments of compensation to be made not later than two weeks after the interval for which compensation is payable.

2. *Provided,* that any payments of compensation by the employer to an employee shall not be construed against the employer as admitting liability to pay compensation; and

3. *Provided, further,* that all compensation payments named and provided for in paragraphs (b), (c), (d), (e) and (f) of this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proven by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

(j) 1. Wherever in this section there is a provision for fifty percentum, such percentum shall be increased five percentum for each child of the employee, including children who have been legally adopted, under 16 years of age at the time of the disablement to the employee until such percentum shall reach a maximum of sixty-five percentum.

2. Wherever in this section a weekly minimum of $7.50 is provided, such minimum shall be increased in the following cases to the following amounts:

$11.00 in the case of an employee having one child under the age of 16 years at the time of the disablement of the employee;

$12.00 in case of an employee having two children under the age of 16 years at the time of the disablement of the employee;

$13.00 in case of an employee having three children under the age of 16 years at the time of the disablement of the employee;

$14.00 in case of an employee having four or more children under the age of 16 years at the time of the disablement of the employee.

3. Wherever in this section a weekly maximum of $15.00 is provided, such maximum shall be increased in the following cases to the following amounts:

$16.00 in case of an employee with two children under the age of 16 years at the time of the disablement of the employee.

$18.00 in case of an employee with three children under the age of 16 years at the time of the disablement of the employee.

$20.00 in case of an employee with four or more children under the age of 16 years at the time of the disablement of the employee.

(k) In case the employee is under sixteen years of age at the time of the last day of the last exposure and is illegally employed, the amount of compensation payable under paragraphs (b), (c), (d), (e) and (f) of this section shall be increased fifty percentum. *Provided, however,* that nothing herein contained shall be construed to repeal or amend the provisions of an Act concerning child labor, approved June 26, 1917, as subsequently amended relating to the employment of minors under the age of sixteen years.

§ 9. Any employer or employee or beneficiary who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the commission, asking that such compensation be so paid, and if, upon proper notice to the interested parties and a proper showing made before such commission or any member thereof, it appears to the best interest of the parties that such compensation be so paid, the

commission may order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three per centum per annum with annual rates: *Provided,* that in cases indicating complete disability no petition for a commutation to a lump sum basis shall be entertained by the commission until after the expiration of six months from the date of the disablement, and where necessary, upon proper application being made, a guardian, conservator or administrator, as the case may be, may be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this Act and liable to pay such compensation, may petition for the appointment of the public administrator, or a conservator, or guardian, where no legal representative has been appointed or is acting for such party or parties under disability.

Subject to the provisions herein above in this paragraph contained, where no dispute exists as to the fact that the occupational disease arose out of and in the course of the employment and where such disease results in death or in the amputation of any member or in the enucleation of an eye, then and in such case the arbitrator or commission may, upon the petition of either the employer or the employee, enter an award providing for the payment of compensation for such death or disability in accordance with the provisions of section 7 or paragraph (e) of section 8 of this Act.

§ 10. The basis for computing the compensation provided for in sections 7 and 8 of this Act shall be as follows:

(a) The compensation shall be computed on the basis of the annual earnings which the disabled person received as salary, wages or earnings if in the employment of the same employer continuously during the year next preceding the last day of the last exposure.

(b) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employee was employed at the time of the last day of the last exposure uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) If such person has not been engaged in the employment of the same employer for the full year immediately preceding the last day of the last exposure, the compensation shall be computed according to the annual earnings which persons of the same class in the same employment and same location, (or if that be impracticable, of neighboring employments of the same kind) have earned during such period.

(d) As to employees in employments in which it is the custom to operate throughout the working days of the year, the annual earnings, if not otherwise determinable, shall be regarded as 300 times the average daily earnings in such computation.

(e) As to employees in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number, if the annual earnings are not otherwise determinable, shall be used instead of 300 as a basis for computing the annual earn-

ings: *Provided,* the minimum number of days which shall be so used for the basis of the year's work shall be not less than 200.

(f) In the case of employees who earn either no wage or less than the earnings of adult day laborers in the same line of employment in that locality, the yearly wage shall be reckoned according to the average annual earnings of adults of the same class in the same (or if that is impracticable then of neighboring) employments.

(g) Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of his employment.

(h) In computing the compensation to be paid to any employee, who, before the disablement for which he claims compensation, was disabled and drawing compensation under the terms of this Act, the compensation for each subsequent disablement shall be apportioned according to the proportion of incapacity and disability caused by the respective disablements which he has suffered.

(i) To determine the amount of compensation for each installment period, the amount per annum shall be ascertained pursuant hereto, and such amount divided by the number of installment periods per annum.

§ 11. (a) Whenever, after the death of an employee, any party in interest files an application for adjustment of claim under this Act, and it appears that an autopsy may disclose material evidence as to whether or not such death was due to the inhalation of silica or asbestos dust, the industrial commission, upon petition of either party, may order an autopsy at the expense of the party requesting same, and if such autopsy is so ordered, the commission shall designate a competent pathologist to perform the same, and shall give the parties in interest such reasonable notice of the time and place thereof as will afford a reasonable opportunity to witness such autopsy in person or by a representative.

It shall be the duty of such pathologist to perform such autopsy as, in his best judgment, is required to ascertain the cause of death. Such pathologist shall make a complete written report of all his findings to the industrial commission (including laboratory results described as such, if any). The said report of the pathologist shall contain his findings on post-mortem examination and said report shall not contain any conclusion of the said pathologist based upon the findings so reported.

Said report shall be placed on file with the industrial commission, and shall be a public record. Said report, or a certified copy thereof, may be introduced by either party on any hearing as evidence of the findings therein stated, but shall not be conclusive evidence of such findings, and either party may rebut any part thereof.

(b) Where an autopsy has been performed at any time with the express or implied consent of any interested party, and without some opposing party, if known or reasonably ascertainable, having reasonable notice of and reasonable opportunity of witnessing the same, all evidence

obtained by such autopsy shall be barred upon objection at any hearing; provided, that this paragraph shall not apply to autopsies by a coroner's physician in the discharge of his official duties.

§ 12. An employee entitled to receive disability payments shall be required, if requested by the employer, to submit himself, at the expense of the employer, for examination to a duly qualified medical practitioner or surgeon selected by the employer, at any time and place reasonably convenient for the employee, either within or without the State of Illinois, for the purpose of determining the nature, extent and probable duration of the occupational disease and the disability therefrom suffered by the employee, and for the purpose of ascertaining the amount of compensation which may be due the employee from time to time for disability according to the provisions of this Act: *Provided,* an employer requesting such an examination, of an employee residing within the State of Illinois, shall pay in advance of the time fixed for the examination sufficient money to defray the necessary expense of travel by the most convenient means to and from the place of examination, and the costs of meals necessary during the trip, and if the examination or travel to and from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse him for such loss of wages upon the basis of his average daily wage. *Provided, however,* that such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided and paid for by the employee, if such employee so desires.

In all cases where the examination is made by a physician or surgeon engaged by the employer, and the employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination at the instance of the employer to deliver to the employee, or his representative, a statement in writing of the examination and findings to the same extent that said physician or surgeon reports to the employer and the same shall be an exact copy of that furnished to the employer, said copy to be furnished the employee, or his representative, as soon as practicable but not later than the time the case is set for hearing. Such delivery shall be made in person either to the employee or his representative, or by registered mail to either, and the receipt of either shall be proof of such delivery. If such physician or surgeon refuses to furnish the employee with such statement to the same extent as that furnished the employer, said physician or surgeon shall not be permitted to testifiy at the hearing next following said examination. If the employee refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this Act for such period. It shall be the duty of physicians or surgeons treating an employee who is likely to die, and treating him at the instance of the employer, to have called in another physician or surgeon to be designated and paid for by either the employee or by the person or persons who would become his beneficiary or beneficiaries, to make an examination before the death of such employee.

In all cases where the examination is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination at the instance of the employee, to deliver to the employer, or his representative, a statement in writing of the examination and findings to the same extent that said physician or surgeon reports to the employee and the same shall be an exact copy of that furnished to the employee, said copy to be furnished the employer, or his representative, as soon as practicable but not later than the time the case is set for hearing. Such delivery shall be made in person either to the employer, or his representative, or by registered mail to either, and the receipt of either shall be proof of such delivery. If such physician or surgeon refuses to furnish the employer with such statement to the same extent as that furnished the employee, said physician or surgeon shall not be permitted to testify at the hearing next following said examination.

§ 13. No compensation shall be payable under this Act for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under the "Workmen's Compensation Act."

§ 14. The members of the industrial commission, arbitrators and other employees whose duties require them to travel, shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their place of residence in the performance of their duties under this Act.

The secretary, or assistant secretary, of the commission shall furnish certified copies, under the seal of the commission, of any such records, files, orders, proceedings, decisions, awards and other documents on file with the commission as may be required. Certified copies so furnished by the secretary or assistant secretary shall be received in evidence before the commission or any arbitrator thereof, and in all courts, provided that the original of such certified copy is otherwise competent and admissible in evidence. The secretary or assistant secretary shall perform such other duties as may be prescribed from time to time by the commission.

The security supervisor, under the direction of the industrial commission, shall perform such duties as may be prescribed from time to time by the commission.

§ 15. The industrial commission shall have jurisdiction over the operation and administration of the compensation provisions of this Act, and said commission shall perform all the duties imposed upon it by this Act, and such further duties as may hereafter be imposed by law and the rules of the industrial commission not inconsistent therewith.

§ 16. The industrial commission shall make and publish rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed *prima facie* reasonable and valid; and the process and procedure before the commission shall be as simple and summary as reasonably may be. The commission upon application of

either party may issue *dedimus potestatem* directed to a commissioner, notary public, justice of the peace or any other officer authorized by law to administer oaths, to take the depositions of such witness or witnesses as may be necessary in the judgment of such applicant. Such *dedimus potestatem* may issue to any of the officers aforesaid in any state or territory of the United States. When the deposition of any witness resident of a foreign country is desired to be taken, the *dedimus* shall be directed to and the deposition taken before a consul, vice consul or other authorized representative of the government of the United States of America, whose station is in the country where the witness whose deposition is to be taken resides; *provided,* that in countries where the government of the United States has no consul or other diplomatic representative, then depositions in such case shall be taken through the appropriate judical authority of that country; or where treaties provide for other methods of taking depositions, then the same may be taken as in such treaties provided. The commission shall have the power to adopt necessary rules to govern the issue of such *dedimus potestatem.* The commission, or any member thereof, or any arbitrator designated by said commission shall have the power to administer oaths, subpoena and examine witnesses, to issue subpoenas *duces tecum,* requiring the production of such books, papers, records and documents as may be evidence of any matter under inquiry, and to examine and inspect the same and such places or premises as may relate to the question in dispute. Said commission, or any member thereof, or any arbitrator designated by said commission, shall on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records and documents as shall be designated in said applications, *providing, however,* that the parties applying for such subpoena shall advance the officer and witness fees provided for in suits pending in the Circuit Court. Service of such subpoenas shall be made by any sheriff or constable or other person. In case any person refuses to comply with an order of the commission or subpoenas issued by it or by any member thereof, or any arbitrator designated by said commission or to permit an inspection of places or premises, or to produce any books, papers, records, or documents, or any witness refuses to testify to any matters regarding which he may be lawfully interrogated, the county court of the county in which said hearing or matter is pending, on application of any member of the commission or any arbitrator designated by the commission, shall compel obedience by attachment proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court or refusal to testify therein.

The records kept by a hospital, certified to as true and correct by the superintendent or other officer in charge, showing the medical and surgical treatment given an employee in such hospital, shall be admissible without any further proof as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

The commission at its expense shall provide a stenographer to take the testimony and record of proceedings at the hearings before an arbitrator, committee of arbitration, or the commission and said steno-

grapher shall furnish a transcript of such testimony or proceedings to either party requesting it, upon payment to him therefor of ten cents per one hundred words for the original and eight cents per one hundred words for each copy of such transcript.

The commission shall have the power to determine the reasonableness and fix the amount of any fee of compensation charged by any person, including attorneys, physicians, surgeons and hospitals, for any service performed in connection with this Act, or for which payment is to be made under this Act or rendered in securing any right under this Act.

§ 17. The commission shall cause to be printed and shall furnish free of charge upon request by any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this Act, and the performance of the duties of the commission; it shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of election under this Act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file a notice of election, and the date of the filing thereof; and such other notices as may be required by this Act; and records in which shall be recorded all proceedings, orders and awards had or made by the commission, or by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the commission. The commission, in its discretion, may destroy all papers and documents except notices of election and waivers which have been on file for more than five years where there is no claim for compensation pending, or where more than two years have elapsed since the termination of the compensation period.

§ 18. All questions arising under this Act, if not settled by agreement of the parties interested therein, shall, except as otherwise provided, be determined by the industrial commission.

§ 19. Any disputed questions of law or fact shall be determined as herein provided.

(a) It shall be the duty of the industrial commission upon notification that the parties have failed to reach an agreement, to designate an arbitrator; *provided,* that if the compensation claimed is for a partial permanent or total permanent incapacity or for death, then the dispute may, at the election of any party, be determined by a committee of arbitration consisting of three members, which election for determination by a committee shall be made by any petitioner filing with the commission his election in writing with the petition or by any other party filing with the commission his election in writing within five days of notice to him of the filing of the petition, and thereupon it shall be the duty of the industrial commission upon any of the parties having filed such election for a committee of arbitration as above provided, to notify the parties to appoint their respective representatives on the committee of arbitration. The commission shall designate an arbitrator to act as chairman, and if either side, whether by mere omission or because of disagreement among parties on that side, fails to appoint its member on the committee within seven days after notification as above provided,

the commission shall appoint a person to fill the vacancy and notify the parties to that effect. The party filing his election for a committee of arbitration shall with his election deposit with the commission the sum of twenty dollars, to be paid by the commission to the arbitrators selected by the parties as compensation for their services as arbitrators and upon a failure to deposit as aforesaid, the election shall be void and the determination shall be by an arbitrator designated by the commission. The members of the committee of arbitration appointed by either side or one appointed by the commission to fill a vacancy by reason of the failure of one of the parties to appoint, shall not be a member of the commission or an employee thereof.

(1) The application for adjustment of claim filed with the industrial commission shall state;

(a) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(b) The general nature and character of the illness or disease claimed.

(c) The name and address of the employer by whom employed on the last day of the last exposure and if employed by any other employer after such last exposure and before disablement the name and address of such other employer or employers.

(d) In case of death, the date and place of death.

(e) Amendments to applications for adjustment of claim which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the industrial commission or an arbitrator thereof, in their discretion, and in the exercise of such discretion, they may in proper cases order a trial *de novo*; such amendment shall relate back to the date of the filing of the original application so amended.

(f) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under this Act and it is subsequently discovered, at any time before final disposition of such cause, that the claim for disability or death which was the basis for such application should properly have been made under the Workmen's Compensation Act, then the provisions of section 19, paragraph (a-1) of the Workmen's Compensation Act having reference to such application shall apply.

Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the Workmen's Compensation Act and it is subsequently discovered, at any time before final disposition of such cause that the claim for injury or death which was the basis for such application should properly have been made under this Act, then the application so filed under the Workmen's Compensation Act may be amended in form, substance or both to assert claim for such disability or death under this Act and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this Act. When such amendment is submitted, further or additional evidence may be heard by the arbitrator or industrial commission when deemed necessary; *provided,* that nothing in this section contained shall be construed to be or permit a waiver of any provisions

of this Act with reference to notice or demand, but notice or demand if given shall be deemed to be a notice or a demand under the provisions of this Act if given within the time required herein.

(b) The arbitrator or committee of arbitration shall make such inquiries and investigations as he or they shall deem necessary and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute and hear such proper evidence as the parties may submit. The hearings before the arbitrator or committee of arbitration shall be held in the vicinity where the last exposure occurred, after ten days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record. The arbitrator or committee of arbitration may find that the disabling condition is temporary and has not yet reached a permanent condition and may order the payment of compensation up to the date of the hearing, which award shall be reviewable and enforceable in the same manner as other awards, and in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, but shall be conclusive as to all other questions except the nature and extent of said disability. The decision of the arbitrator or committee of arbitration shall be filed with the industrial commission, which commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed, and unless a petition for review is filed by either party within fifteen days after the receipt by said party of the copy of said decision and notification of time when filed, and unless such party petitioning for a review shall within twenty days after the receipt by him of the copy of said decision, file with the commission either an agreed statement of the facts appearing upon the hearing before the arbitrator or committee of arbitration, or if such party shall so elect, a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the industrial commission and in the absence of fraud shall be conclusive: *Provided,* that such industrial commission or any member thereof may grant further time not exceeding thirty days, in which to petition for such review or to file such agreed statement or transcript of evidence. Such agreed statement of facts or correct transcript of evidence, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the transcript of evidence it shall be authenticated by the signature of the arbitrator designated by the commission.

(c) The industrial commission may appoint, at its own expense, a duly qualified, impartial physician to examine the employee and report to the commission. The fee for this service shall not exceed five dollars and traveling expenses, but the commission may allow additional reasonable amounts in extraordinary cases.

(d) If any employee shall persist in insanitary or injurious practices which tend either to imperil or retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the commission may, in its discretion, reduce or suspend the compensation of any such employee.

(e) If a petition for review and agreed statement of facts or transcript of evidence is filed, as provided herein, the industrial commission shall promptly review the decision of the arbitrator or committee of arbitration and all questions of law or fact which appear from the said statement of facts or transcript of evidence, and such additional evidence as the parties may submit. After such hearing upon review, the commission shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed.

Such review and hearing may be held in its office or elsewhere as the commission may deem advisable: *Provided,* that the taking of testimony on such hearing may be had before any member of the commission and in the event either of the parties may desire an argument before others of the commission, such argument may be had upon written demand therefor filed with the commission at least five days before the date of the hearing, in which event such argument shall be had before not less than a majority of the commission: *Provided,* that the commission shall give ten days' notice to the parties or their attorneys of the time and place of such taking of testimony and of such argument.

In any case the commission in its decision may in its discretion find specially upon any question or questions of law or fact which shall be submitted in writing by either party, whether ultimate or otherwise. Any party may, within twenty days after receipt of notice of the commission's decision, or within such further time not exceeding thirty days, as the commission may grant, file with the commission either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct transcript of evidence of the additional proceedings presented before the commission, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or transcript of evidence to be authenticated by the signature of the parties or their attorneys, and in the event that they do not agree, then the authentication of such transcript of evidence shall be by the signature of any member of the commission. If a reporter does not for any reason furnish a transcript of the proceedings before the arbitrator in any case for use on a hearing for review before the industrial commission, within the limitations of time as fixed in this section, the industrial commission may, in its discretion, order a trial *de novo* before the industrial commission in such case upon application of either party. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the decisions of the arbitrator and of the industrial commission and the statement of facts or transcripts of evidence herein provided for shall be the record of the proceedings of said commission, and shall be subject to review as hereinafter provided.

(f) The decision of the industrial commission acting within its powers, according to the provisions of paragraph (e) of this section shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided: *Provided, however,* that the arbitrator or the commission may on his or its own motion, or on the motion of either party, correct any clerical error or errors in computation within

fifteen days after the date of any award by such arbitrator or any decision on review of the commission, and shall have the power to recall the original award on arbitration or decision on review, and issue in lieu thereof such corrected award or decision. Where such correction is made the time for appeal or review herein specified shall begin to run from the date of the receipt of the corrected award or decision.

(1) The circuit court of the county where any of the parties defendant may be found, except in such cases as arise in a proceeding in which, under paragraph (b) of this section, the decision of the arbitrator or committee of arbitration has become the decision of the industrial commission, shall by writ of certiorari to the industrial commission have power to review all questions of law and fact presented by such record; provided no additional evidence shall be heard in the circuit court. Such suit by writ of certiorari shall be commenced within twenty days of the receipt of notice of the decision of the commission. Such writ of certiorari and writ of *scire facias* shall be issued by the clerk of such court upon praecipe returnable on a designated return day, not less than ten or more than sixty days from the date of issuance thereof, and the praecipe shall contain the last known address of other parties in interest and their attorneys of record who are to be served by *scire facias*. Service upon any member of the industrial commission or the secretary or the assistant secretary thereof shall be service upon the commission, and service upon other parties in interest and their attorneys of record shall be by *scire facias,* and such service shall be made upon said commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the writ to the office of the said commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the writ of *scire facias* shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the writ of certiorari to the office of the industrial commission, and a copy of the writ of *scire facias* to the other parties in interest or their attorney or attorneys of record, and the clerk of said court shall make certificate that he has so sent said notices in pursuance of this section, which shall be evidence of service on the commission and other parties in interest.

The industrial commission shall not be required to certify the record of their proceedings to the circuit court, unless the party commencing the proceedings for review in the circuit court as above provided, shall pay to the commission the sum of ten cents per one hundred words of testimony taken before said commission and six cents per one hundred words of all other matters contained in such record, and it shall be the duty of the commission, upon such payment, to prepare a true and correct typewritten copy of such testimony and a true and correct copy of all other matters contained in such record, and certified to by the secretary or assistant secretary thereof.

In its decision on review the industrial commission shall determine in each particular case the amount of the probable cost of the record to be filed as a return to the writ of certiorari in that case and no praecipe for a writ of certiorari may be filed and no writ of certiorari shall issue

unless the party seeking to review the decision of the industrial commission shall exhibit to the clerk of the said circuit court a receipt showing payment of the sums so determined to the industrial commission.

(2) No such writ of certiorari shall issue unless the one against whom the industrial commission shall have rendered an award for the payment of money shall upon the filing of his praecipe for such writ file with the clerk of said court a bond conditioned that if he shall not successfully prosecute said writ, he will pay the said award and the costs of the proceedings in said court. The amount of the bond shall be fixed by any member of the industrial commission and the surety or sureties of said bond shall be approved by the clerk of said court.

The State and every county, city, town, township, incorporated village, school district, body politic or municipal corporation having a population of five hundred thousand or more against whom the industrial commission shall have rendered an award for the payment of money shall not be required to file a bond to secure the payment of said award and the costs of the proceedings in said court to authorize said court to issue such writ of certiorari.

The court may confirm or set aside the decision of the industrial commission. If the decision is set aside and the facts found in the proceedings before the commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the industrial commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper.

Judgments and orders of the circuit court under this Act shall be reviewed only by the Supreme Court upon a writ of error which the Supreme Court in its discretion may order to issue, if applied for within thirty days after the rendition of the circuit court judgment or order sought to be reviewed. The writ of error when issued shall operate as a supersedeas.

The bond filed with the praecipe for the writ of certiorari as provided in this paragraph shall operate as a stay of judgment or order of the circuit court until the time shall have passed within which an application for a writ of error can be made, and until the Supreme Court has acted upon the application for a writ of error, if such application is made.

It shall be the duty of the clerk of any court rendering a decision affecting or affirming an award of the commission promptly to furnish the commission with a copy of such decision, without charge.

The decision of a majority of the members of the committee of arbitration or of the industrial commission, shall be considered the decision of such committee or commission, respectively.

(g) Either party may present a certified copy of the award of the arbitrator, or a certified copy of the decision of the industrial commission when the same has become final, when no proceedings for review are pending, providing for the payment of compensation according to this Act, to the circuit court of the county where the last exposure occurred or either of the parties are residents, whereupon said court shall render a judgment in accordance therewith; and in case where the employer refuses to pay compensation according to such final award or such final

decision upon which such judgment is entered, the court shall in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment for the person in whose favor the judgment is entered, which judgment and costs taxed as herein provided shall, until and unless set aside, have the same effect as though duly rendered in an action duly tried and determined by said court, and shall with like effect, be entered and docketed. The circuit court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

Judgment shall not be entered until fifteen days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the industrial commission, which commission shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent.

(h) An agreement or award under this Act providing for compensation in installments, may at any time within eighteen months after such agreement or award be reviewed by the industrial commission at the request of either the employer or the employee, on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended; and on such review compensation payments may be reestablished, increased, diminished or ended: *Provided* that the commission shall give fifteen days' notice to the parties of the hearing for review: And, *provided, further,* any employee, upon any petition for such review being filed by the employer, shall be entitled to one day's notice for each one hundred miles necessary to be traveled by him in attending the hearing of the commission upon said petition, and three days in addition thereto, and such employee shall, at the discretion of the commission, also be entitled to five cents per mile necessarily traveled by him within the State of Illinois in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the commission as costs and deposited with the petition of the employer: *Provided, further,* that when compensation which is payable in accordance with an award or settlement contract approved by the industrial commission, is ordered paid in a lump sum by the commission, no review shall be had as in this paragraph mentioned.

(i) Each party, upon taking any proceedings or steps whatsoever before any arbitrator, committee of arbitration, industrial commission or court, shall file with the industrial commission his address, or the name and address of any agent upon whom all notices to be given to such party shall be served, either personally or by registered mail, addressed to such party or agent at the last address so filed with the industrial commission: *Provided,* that in the event such party has not filed his address, or the name and address of an agent, as above provided, service of any notice may be had by filing such notice with the industrial commission.

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered, and after the taking of such testimony or after such decision has become final, the employee dies, then in any subsequent proceeding brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceedings and such final decision, if any, shall be taken as final adjudication of any of the issues which are the same in both proceedings.

(k) In any cases where there has been any unreasonable or vexatious delay of payment or intentional under-payment of compensation, or proceedings have been instituted or carried on by the one liable to pay the compensation, which do not present a real controversy, but are merely frivolous or for delay, then the commission may award compensation additional to that otherwise payable under this Act equal to fifty per centum of the amount payable at the time of such award. Failure to pay compensation in accordance with the provisions of section 8, paragraph (i) of this Act, shall be considered unreasonable delay.

§ 20. The industrial commission shall report in writing to the Governor on the 30th day of June, annually, the details and results of its administration of this Act, in accordance with the terms of this Act, and may prepare and issue such special bulletins and reports from time to time as in the opinion of the commission seems advisable.

§ 21. No payment, claim, award or decision under this Act shall be assignable or subject to any lien, attachment or garnishment, or be held liable in any way for any lien, debt, penalty or damages. And the compensation allowed by any award or decision of the commission shall be entitled to a preference over the unsecured debts of the employer, wages excepted, contracted after the date of the disablement of an employee. A decision or award of the industrial commission against an employer for compensation under this Act, or a written agreement by an employer to pay such compensation shall, upon the filing of a certified copy of the decision or said agreement, as the case may be, with the recorder of deeds of the county, constitute a lien upon all property of the employer within said county, paramount to all other claims or liens, except mortgages, trust deeds, or for wages or taxes, and such liens may be enforced in the manner provided for the foreclosure of mortgages under the laws of this State. Any right to receive compensation hereunder shall be extinguished by the death of the person or persons entitled thereto, subject to the provisions of this Act relative to compensation for death received in the course of employment, and subject to the provisions of paragraph (e) of section 8 of this Act relative to specific loss: *Provided,* that upon the death of a beneficiary, who is receiving compensation provided for in section 7, leaving surviving a parent, sister or brother of the deceased employee, at the time of his death dependent upon him for support, who were receiving from such beneficiary a contribution to support, then that proportion of the compensation of the beneficiary which would have been paid but for the death of the beneficiary, but in no event exceeding said unpaid compensation, which the contribution of the beneficiary to the dependent's support within one

year prior to the death of the beneficiary bears to the compensation of the beneficiary within that year, shall be continued for the benefit of such dependents, notwithstanding the death of the beneficiary.

§ 22. Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this Act within seven days after the disablement shall be presumed to be fraudulent.

§ 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this Act in regard to the amount of compensation which may be payable to such employee, personal representative or beneficiary hereunder except after approval by the industrial commission; *provided, however,* that any employee who prior to the taking effect of this Act has contracted silicosis or asbestosis but is not disabled therefrom, may within sixty days after the taking effect of this Act, file with the industrial commission a request for permission to waive full compensation on account of disability or death resulting from silicosis or asbestosis, or any direct result thereof, supported by medical evidence satisfactory to the industrial commission, that he has actually contracted silicosis or asbestosis but is not disabled therefrom, and if the industrial commission shall approve such waiver, the compensation payable, for such resulting disability or death of such employee, after futher exposure in the employment of any employer who has elected pursuant to paragraphs (a) and (b) of section 4 of this Act, shall be fifty percentum of the compensation which but for such waiver would have been payable by any such employer.

§ 24. No proceedings for compensation under this Act shall be maintained unless notice has been given to the employer of disablement arising from an occupational disease as soon as practicable after the date of the disablement.

In case of mental incapacity of the employee or any dependents of a deceased employee who may be entitled to compensation, under the provisions of this Act, the limitations of time in this section of this Act provided shall not begin to run against said mental incompetents until a conservator or guardian has been appointed. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the disabling disease may be given orally or in writing: *provided,* no proceedings for compensation under this Act shall be maintained unless claim for compensation has been made within six (6) months after the occurrence of the disablement from the occupational disease; *provided further,* that in any case, unless application for compensation is filed with the industrial commission within one (1) year after the date of the disablement, or within one (1) year after the date of the last payment of compensation, if any has been paid, the right to file such application shall be barred.

§ 25. An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when for any length of time however short, he is employed in an occupation or process in which the hazard of the disease exists.

The employer liable for the compensation in this Act provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed upon regardless of the length of time of such last exposure, *provided,* that in cases of silicosis or asbestosis, the only employer liable shall be the last employer in whose employment the employee was last exposed during a period of sixty (60) days or more after the effective date of this Act, to the hazard of such occupational disease, and, in such cases, an exposure during a period of less than sixty (60) days, after the effective date of this Act, shall not be deemed a last exposure.

The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering such employer liable in accordance with the provisions of this Act.

§ 26. (a) Any employer electing to provide and pay the compensation provided for in this Act shall:

(1) File with the commission a sworn statement showing his financial ability to pay the compensation provided for in this Act, the affidavit to which statement shall be signed and sworn to by the president or vice president and secretary or assistant secretary of said employer if it be a corporation, or by all of the partners if it be a co-partnership, or by the owner if it be neither a co-partnership nor a corporation, or if any such employer fails to file such a sworn statement, or if the sworn statement of any such employer does not satisfy the commission of the financial ability of the employer who has filed it, the commission shall require such employer to,

(2) Furnish security, indemnity or a bond guaranteeing the payment by the employer of the compensation provided for in this Act, or

(3) Insure his entire liability to pay such compensation in some insurance carrier authorized, licensed, or permitted to do such insurance business in this State; *provided,* all policies of such insurance carriers insuring the payment of compensation under this Act shall cover all the employees and all such employer's compensation liability in all cases in which the last day of the last exposure to the occupational disease involved is within the effective period of the policy, anything to the contrary in said policy notwithstanding; *provided, further,* that no policy of insurance in effect at the time of the enactment of this Act, covering the liability of an employer for workmen's compensation, shall be construed to cover the liability of such employer under this Act for any occupational disease unless such liability is expressly accepted by the insurance carrier issuing such policy and is endorsed thereon; the insurance or security in force to cover compensation liability under this Act shall be separate and distinct from the insurance or security under the "Workmen's Compensation Act" and any insurance contract covering liability under either Act need not cover any liability under the other; nothing herein contained shall apply to policies of excess liability carriage secured by employers who have qualified under sub-paragraphs 1 or 2 of paragraph (a) of this section, or

(4) Make some other provision, satisfactory to the industrial commission, for the securing of the payment of compensation provided for in this Act, and

(5) Upon becoming subject to this Act and thereafter as often as the commission may in writing demand, file with the commission in form prescribed by it evidence of his compliance with the provisions of this section.

(b) The sworn statement of financial ability, or security, indemnity or bond, or amount of insurance, or other provisions, filed, furnished, carried, or made by the employer, as the case may be, shall be subject to the approval of the commission, upon the approval of which, the commission shall send to the employer written notice of its approval thereof. A certificate of compliance with the provisions of subparagraphs 2 and 3 of paragraph (a) of this section shall within five days after the effective date of said policy be delivered by the insurance carrier to the industrial commission. Said policy shall remain in full force and effect until thirty days after receipt by the industrial commission of notice of its cancellation or expiration and shall cover all compensation liability occurring during said time.

(c) Whenever the industrial commission shall find that any corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or other insurer effecting workmen's compensation insurance in this State shall be insolvent, financially unsound, or unable fully to meet all payments and liabilities assumed or to be assumed for compensation insurance in this State, or shall practice a policy of delay or unfairness toward employees in the adjustment, settlement, or payment of benefits due such employees, the said industrial commission may after reasonable notice and hearing order and direct that such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer, shall from and after a date fixed in such order discontinue the writing of any such workmen's compensation insurance in this State. Subject to such modification of said order as the commission may later make on review of said order, as herein provided, it shall thereupon be unlawful for any such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer to effect any workmen's compensation insurance in this State. All orders made by the industrial commission under this section shall be subject to review by the courts, said review to be taken in the same manner and within the same time as provided by section 19 of this Act for review of awards and decisions of the industrial commission, upon the party seeking said review filing with the clerk of the court to which said review is taken a bond in an amount to be fixed and approved by the judge of the court to which said review is taken, conditioned upon the payment of all compensation awarded against said person taking said review pending a decision thereof, provided that upon said review the circuit court shall have power to review all questions of fact as well as of law.

(d) The failure or neglect of an employer to comply with any of the provisions of paragraph (a) of this section or the failure or refusal of an insurance carrier to comply with any order of the industrial commission pursuant to paragraph (c) of this section, shall be deemed a misdemeanor punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, for each day of such refusal or

neglect until the same ceases. Each day of such refusal or neglect shall constitute a separate offense. *Provided,* that the penalty provided for in this paragraph shall not attach and shall not begin to run until the final determination of the order of the commission.

In all prosecutions under this section the venue may be in any county wherein said employer or insurance carrier has property or maintains a principal office. Upon the failure or refusal of any employer or insurance carrier to comply with the orders of the industrial commission under this section, or the order of the court on review after final adjudication, it shall be the duty of the industrial commission immediately to report said failure or refusal to the Attorney General and it shall be the duty of said Attorney General within thirty days after receipt of said notice, to institute prosecutions and promptly prosecute all reported violations of this section.

§ 27. (a) This Act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employees, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm or corporation for him: *Provided,* the employer contributes to such association or department an amount not less than the full compensation herein provided, exclusive of the cost of the maintenance of such association or department and without any expense to the employee. This Act shall not prevent the organization and maintaining under the insurance laws of this State of any benefit or insurance company for the purpose of insuring against the compensation provided for in this Act, the expense of which is maintained by the employer. This Act shall not prevent the organization or maintaining under the insurance laws of this State of any voluntary mutual aid, benefit or relief association among employees for the payment of additional accident or sick benefits.

(b) No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

(c) Any contract, oral, written or implied, of employment providing for relief benefit, or insurance or any other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this Act shall be null and void, and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a misdeameanor and punishable by a fine of not less than ten dollars nor more than one thousand dollars, or imprisonment in the county jail for not more than six months, or both, in the discretion of the court.

§ 28. In the event the employer does not pay the compensation for which he is liable, then an insurance company, association or insurer which may have insured such employer against such liability shall become primarily liable to pay to the employee, his personal representative or beneficiary the compensation required by the provisions of this

Act to be paid such employer. The insurance carrier may be made a party to the proceedings to which the employer is a party and an award may be entered jointly against the employer and the insurance carrier.

§ 29. Where a disablement or death for which compensation is payable by the employer under this Act was not proximately caused by the negligence of the employer or his employees, and was caused under circumstances creating a legal liability for damages in some person other than the employer to pay damages, such other person having also elected to provide and pay compensation under this Act, the right of the employee or personal representative to recover against such other person shall be transferred to his employer and such employer may bring legal proceedings against such other person to recover the damages sustained, in an amount not exceeding the aggregate amount of compensation payable under this Act, by reason of the disablement or death of such employee.

Where the disablement or death for which compensation is payable under this Act was not proximately caused by the negligence of the employer or his employees and was caused under circumstances creating a legal liability for damages on the part of some person other than the employer to pay damages, such other person not having elected to provide and pay compensation under this Act, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this Act. In such case, however, if the action against such other person is brought by the disabled employee or his personal representative and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative.

If the disabled employee or his personal representative shall agree to receive compensation from the employer or accept from the employer any payment on account of such compensation, or to institute proceedings to recover the same, the said employer may have or claim a lien upon any award, judgment or fund out of which such employee might be compensated from such third party.

In such actions brought by the employee or his personal representative, he shall forthwith notify his employer by personal service or registered mail, such fact and of the name of the court in which such suit is brought, filing proof thereof in such action. The employer may, at any time thereafter join in said action upon his motion so that all orders of court after hearing and judgment shall be made for his protection. No release or settlement of claim for damages by reason of such disability or death, and no satisfaction of judgment in such proceedings, shall be valid without the written consent of both employer and employee or his personal representative, except in the case of the employers, such consent shall not be required where said employer has been fully indemnified or protected by court order.

In the event the said employee or his personal representative shall fail to institute a proceeding against such third person at any time

prior to three months before said action would be barred at law said employer may in his own name, or in the name of the employee, or his personal representative, commence a proceeding against such other person for the recovery of damages on account of such disability or death to the employee, and out of any amount recovered the employer shall pay over to the injured employee or his personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this Act, and costs, attorney's fees and reasonable expenses as may be incurred by such employer in making such collection or in enforcing such liability.

§ 30. It shall be the duty of every employer within the compensation provisions of this Act to send to the industrial commission in writing an immediate report of all occupational diseases arising out of and in the course of the employment and resulting in death; it shall also be the duty of every such employer to report between the 15th and the 25th of each month to the industrial commission all occupational diseases for which compensation has been paid under this Act, which entail a loss to the employee of more than one week's time, and in case the occupational disease results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result therefrom. All reports shall state the date of the disablement, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the person, the specific occupation of the person, the nature and character of the occupational disease, the length of disability, and, in case of death, the length of disability before death, the wages of the employee, whether compensation has been paid, to the employee, or to his legal representatives or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The making of reports as provided herein shall relieve the employer from making such reports to any other officer of the State.

§ 31. Every employer operating under the compensation provisions of this Act shall, under the rules and regulations prescribed by the industrial commission, post printed notices in their respective places of employment in such number and at such places as may be determined by the commission, containing such information relative to this Act as in the judgment of the commission may be necessary to aid employees to safeguard their rights under this Act.

§ 32. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause, or provision of this Act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, or any other person charged with the duty of administering or enforcing the provisions of this Act, shall be deemed a misdemeanor, punishable by a fine of not less than $10.00 nor more than $500.00, at the discretion of the court.

§ 33. "An Act to promote public health by protecting certain employees in this State from dangers of occupational diseases, and pro-

viding for the enforcement thereof," approved May 26, 1911, as amended, and section 4 of "An Act in relation to employments creating poisonous fumes or dusts in harmful quantities, and to provide for the enforcement thereof," approved June 29, 1915, are hereby repealed.

§ 34. No repeal of any act or part thereof herein contained shall extinguish or in any way affect any right of action thereunder, existing at the time this Act takes effect; and no employer shall be liable for compensation or damages under this Act in any case in which the disablement on which claim is predicated shall have occurred prior to the date this Act becomes effective; *provided* that nothing in this section shall affect any case in which exposure as defined in this Act shall have taken place after the effective date of this Act.

§ 35. This Act shall take effect on October 1, 1936.

APPROVED March 16, 1936.

PARKS.

LAYING OF TRACKS—CHICAGO PARK DISTRICT.

§ 1. Authorizing Park District to laying of tracks. § 2. Expenses.

(HOUSE BILL NO. 3. FILED MARCH 20, 1936.)

AN ACT *authorizing the Chicago Park District to permit the laying of tracks and the operation of electric surface car lines through the parks under its control for the purpose of connecting with other parts of electric surface car lines outside of the parks.*

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

SECTION 1. The Chicago Park District is authorized to permit the laying of tracks and the operation of electric surface car lines by electric surface car companies through any park or parks under control of said district for the purpose of connecting with electric surface car lines outside of said park or parks: *Provided, however,* that such tracks may be laid only through such parks on a highway which heretofore has been in use as a highway for general traffic purposes and is sufficient in width to accommodate street cars, vehicles and pedestrians using the highway at the same time; *and provided further,* that such use shall be for the sole purpose of connecting existing facilities necessary for the good of the public service.

§ 2. The Chicago Park District shall grant permission subject to the requirement that all expenses for alterations, location or relocation of existing facilities and the repair and upkeep of the same shall be borne by the company or companies to which such permission is granted.

FILED March 20, 1936.

This bill having been filed in this office by the Governor without approval, and it having been presented to him ten days, Sundays excepted, prior to this date, the General Assembly being in session, it has thereby become a law.

Witness my hand this 20th day of March, A. D. 1936.

EDWARD J. HUGHES,
Secretary of State.