

party, or both, as the board may direct. If any sum so taxed shall not be paid by the party directed to repay, the same may be collected as costs are now collectible].

Appropriation.

The sum of fifty thousand dollars (\$50,000) is hereby appropriated to the Department of Labor and Industry for compensation payable by the Commonwealth under this section for the biennium one thousand nine hundred fifty-three—one thousand nine hundred fifty-five.

APPROVED—The 24th day of August, A. D. 1953.

JOHN S. FINE

No. 394

AN ACT

To further amend the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws 736), entitled, as amended, "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," by further regulating payment of compensation and changing notice requirements in *certain cases.

The Pennsylvania Workmen's Compensation Act.

Clauses (a) and (b), the last paragraph of clause (c), and clauses (d), (f) and (h) of section 306, act of June 2, 1915, P. L. 736, clauses (a), (c) and (d) of which were last amended by act of January 2, 1952, P. L. 1803, clauses (b) and (f) of which were last amended by act of May 14, 1949, P. L. 1369, and clause (h) of which was last amended by act of May 18, 1945, P. L. 671, further amended.

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

Section 1. Clauses (a) and (b), the last paragraph of clause (c), and clauses (d), (f) and (h) of section 306 of the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws 736), entitled, as amended, "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," clauses (a), (c) and (d) of which were last amended by the act, approved the second day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1803), clauses (b) and (f) of which were last amended by the act, approved the fourteenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1369), and clause (h) of which was last amended by the act, approved the eighteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 671), are hereby further amended to read as follows:

Schedule of compensation.

Section 306. The following schedule of compensation is hereby established for injuries resulting in total disability.

* "herein" in original.

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

Total disability.

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

Partial disability.

(c) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:

Permanent injuries.

* * * * *

This compensation shall not be more than [thirty dollars] *thirty-two dollars and fifty cents* per week nor less than [twenty dollars] *twenty-two dollars and fifty cents* per week: Provided, That if at the time of injury

Rate of compensation.

the employe receives wages of less than [twenty dollars] *twenty-two dollars and fifty cents* per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than [ten dollars] *twelve dollars and fifty cents* per week.

When compensation begins.

(d) The period of total disability mentioned in clause (a), three hundred *and fifty* weeks mentioned in clause (b), and the specific periods (or aggregate specific periods as the case may be) mentioned in clause (c), shall begin to run seven days after disability begins, and shall run concurrently.

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Surgical and medical services.

(f) During the first [ninety] *one hundred and twenty* days after disability begins, the employer shall furnish reasonable surgical and medical services, medicines, and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies shall not exceed [two hundred and twenty-five] *four hundred and fifty* dollars. If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employe may procure same and shall receive from the employer the reasonable cost thereof within the above limitations. In addition to the above service, medicines and supplies, hospital treatment, services and supplies shall be furnished by the employer for the said period of [ninety] *one hundred and twenty* days. The cost for such hospital treatment, service and supplies shall not in any case exceed the prevailing charge in the hospital for like services to other individuals. If the employe shall refuse reasonable surgical, medical and hospital services, treatment, medicines and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for any injury or any increase in his incapacity shown to have resulted from such refusal. Whenever an employe shall have suffered the loss of a limb, part of a limb, or an eye, the employer shall furnish to the employe, in addition to the aforementioned surgical and medical services, medicines and supplies, an artificial limb or eye of a type and kind recommended by the doctor attending such employe in connection with such injury: *Provided, That the provisions of this section shall apply in injuries where no loss of earning power occurs.*

Medicines and supplies, hospital treatment, services and supplies.

Effect of refusal of employe to accept such services and treatment.

Artificial limb or eye.

Proviso.

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Hernia.

(h) Where claim is made for hernia, claimant must notify the employer or a representative of the employer within [forty-eight hours] *five calendar days* after the occurrence of the accident.

Section 2. Section 306.1 of said act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred forty-seven (Pamphlet Laws 873), is hereby further amended to read as follows:

Section 306.1. If an employe, who has incurred (through accident or otherwise) permanent partial disability, through the loss, or loss of use of, one hand, one arm, one foot, one leg or one eye, incurs total disability through a subsequent injury, causing loss, or loss of use of, another hand, arm, foot, leg or eye, he shall be entitled to additional compensation as follows:

After the cessation of payments by the employer for the period of weeks prescribed in Clause (c) hereof, for the subsequent injury, additional compensation shall be paid during the continuance of total disability, at the weekly compensation rate applicable for total disability, for the remainder of the [five] *seven* hundred week period provided in Clause (a) hereof. This additional compensation shall be paid by the Commonwealth only upon an award by a compensation referee or the board. All claims for such additional compensation shall be forever barred unless the employe shall have filed a petition therefor with the board within one year after the last payment made under Clause (c) hereof out of the general fund in the State Treasury. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated to the Department of Labor and Industry for compensation payable, by the Commonwealth, under this section, for the biennium one thousand nine hundred * forty-five—one thousand nine hundred forty-seven.

The Department of Labor and Industry shall be charged with the conservation of the assets of said appropriation. In furtherance of this purpose, the Attorney General shall appoint a member of his staff to represent the Commonwealth in all proceedings brought to enforce claims against the Commonwealth. In its award the Workmen's Compensation Board of the Department of Labor and Industry shall specifically find the amount the injured employe shall be paid weekly, the number of weeks compensation which shall be paid by the employer, the date upon which payments out of the State appropriation shall begin, and if possible the length of time such payments shall continue; all payments to cease upon the death of claimant.

Any benefits received by any employe, or to which he may be entitled, by reason of such increased disability, from any State or Federal fund or agency to which said employe has not directly contributed, shall be regarded as a credit to any award made against the Commonwealth as aforesaid, excepting those benefits received by an

Section 306.1, said act, as last amended by act of June 21, 1947, P. L. 873, further amended.

Permanent partial disability becoming total through subsequent injury.

* "and" deleted from original.

employe by reason of service connected physical injuries, incurred during any war between the United States of America and any foreign country.

Section 307, said act, as last amended by act of January 2, 1952, P. L. 1803, further amended. Compensation in case of death of employe.

To child or children, if no widow nor widower.

Section 3. Section 307 of said act, as last amended by the act, approved the second day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1803), is hereby further amended to read as follows:

Section 307. In case of death, compensation shall be computed on the following basis, and distributed to the following persons:

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

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

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

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

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

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

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

To widow or widower, if no children.

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

To widow or widower, if one child.

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

To widow or widower, if two children.

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

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

To widow or widower, if three or more children.

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

To father or mother, if no widow, widower or children.

Proviso.

Further proviso.

6. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, [fifteen] *twenty-two* per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of [twenty-five] *thirty-two* per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

To brothers and sisters, if no widow, widower, children, or dependent parents.

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

Burial expenses.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of [sixteen] *eighteen*. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include step-children, adopted children and children to whom he stood in loco parentis, and shall include

When compensation payable.

"Child" and "children."

Right to compensation to cease in certain cases.	posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow, the compensation of such widow shall continue as hereinbefore provided for one-third of the period during which compensation then remains payable to her:
Proviso: Remarriage of widow.	Provided further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.
Further proviso: Meretricious relationship.	
Basis of death compensation.	The wages upon which death compensation shall be based shall not in any case be taken to exceed [forty-five] <i>forty-nine</i> dollars per week, nor be less than [twenty-five dollars and fifty cents] <i>twenty-nine dollars and fifty cents</i> per week.
Period of compensation.	This compensation shall be paid during three hundred <i>and fifty</i> weeks, and in the case of children entitled to compensation under this section, the compensation of each child shall continue, after said period of three hundred <i>and fifty</i> weeks, until such child reaches the age of [sixteen] <i>eighteen</i> , at the rate of [seventeen] <i>twenty-four</i> and one-half per centum of wages, but not in excess of [six dollars and ninety cents] <i>nine dollars and forty cents</i> per week, if there is one child; [twenty-seven] <i>thirty-four</i> and one-half per centum of wages, but not in excess of [ten dollars and fifty cents] <i>thirteen dollars</i> per week, if there are two children; [thirty-eight] <i>forty-five</i> and one-half per centum of wages, but not in excess of [fifteen dollars] <i>seventeen dollars and fifty cents</i> per week, if there are three children; [fifty] <i>fifty-seven</i> per centum of wages, but not in excess of [nineteen dollars and fifty cents] <i>twenty-two dollars</i> per week, if there are four children; [fifty-five] <i>sixty-two</i> per centum of wages, but not in excess of [twenty-one dollars] <i>twenty-three dollars and fifty cents</i> per week, if there are five children; and [sixty] <i>sixty-six and two-thirds</i> per centum of wages, but not in excess of [twenty-four dollars] <i>twenty-six dollars and fifty cents</i> per week, if there are six children or more.
Rate of compensation.	
Payment to guardian of minors.	The board may, if the best interest of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a

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

Payment to surviving parent if there be no guardian.

Board may require accounting and filing of bond.

APPROVED—The 24th day of August, A. D. 1953.

JOHN S. FINE

No. 395

AN ACT

To further amend the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," by making changes relating to rates, payments and amounts of compensation.

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

Section 1. Clause 2 of subsection (a) and subsection (g) of section 301 of the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and In-

The Pennsylvania Occupational Disease Act.

Clause 2 of subsection (a) and subsection (g) of section 301, act of June 21, 1939, P. L. 566, clause 2 of subsection (a) of which was last amended by act of January 2, 1952, P. L. 1811, amended or further amended.