

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.

dustry, 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," clause 2 of subsection (a) of which was last amended by the act, approved the second day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1811), are hereby amended or further amended to read as follows:

Agreement between employer and employe.

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

\* \* \* \* \*

Maximum compensation for disability and death resulting from silicosis, etc.

2. The maximum compensation payable under this article for disability and death resulting from silicosis, anthraco-silicosis, or asbestosis shall not exceed the sum of [six] seven thousand five hundred dollars [(\$6500)] (\$7500), which shall be full and complete payment for all disability, present or future, or for death from such occupational diseases arising out of employment by any and all employers in this Commonwealth.

\* \* \* \* \*

Which employer liable.

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

Proviso.

*And provided further, That in those cases where disability or death is not conclusively proven to be the result of such last exposure, all compensation shall be paid by the Commonwealth. [and in such cases an] An exposure during a period of less than six months after*

Further proviso.

the effective date of this act shall not be deemed an exposure. The notice of disability or death and claim shall be made to the employer who is liable under this subsection, [and] his insurance carrier, if any, *and the Commonwealth.*

Section 2. Clauses (a) and (b), the last paragraph of clause (c), and clauses (d) and (f) of section 306 of said act, clauses (a), (c) and (d) of which were amended or last amended by the act, approved the second day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1811), and 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 1379), are hereby further amended to read as follows:

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

(a) For the first seven hundred weeks after the seventh day of total disability sixty-six and two-thirds per centum of the wages of the disabled employe as defined in section three hundred and nine; but the compensation shall not be more than [thirty 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 date when disability begins, 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 this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c)) sixty-six and two-thirds per centum of the difference between the wages of the disabled employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than [twenty-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

Notice to be given.

Clauses (a) and (b), the last paragraph of clause (c), and clauses (d) and (f) of section 306, said act, clauses (a), (c) and (d) of which were amended or last amended by act of January 2, 1952, P. L. 1811, and clauses (b) and (f) of which were last amended by act of May 14, 1949, P. L. 1379, further amended.  
Schedule of compensation.

Total disability.

Proviso

Partial disability followed by total disability.

Partial disability.

Total disability followed by partial disability.

"Earning power."

Schedule of compensation for disability resulting from loss or loss of use of members.

Rate of compensation.

Proviso.

When period of total disability begins to run.

Surgical and medical services, medicines and supplies.

Refusal of employer to furnish such services, etc.

Hospital treatment, services and supplies.

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 disability begins 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.

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

\* \* \* \* \*

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 disability 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.

(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.

\* \* \* \* \*

(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 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 indi-

viduals. If the employe shall refuse reasonable surgical, medical, and hospital services, medicines, and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for disability or any increase in his disability shown to have resulted from such refusal: *Provided, That the provisions of this section shall apply in injuries where no loss of earning power occurs.*

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

Proviso.

Section 3. Section 307 and subsection (a) of section 308 of said act, as last amended by the act, approved the second day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1811), are hereby further amended to read as follows:

Section 307 and subsection (a) of section 308, said act, as last amended by act of January 2, 1952, P. L. 1811, further amended.

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

Compensation in case of death.

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:

To child or children where no widow nor widower.

(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.

Compensation payable where one child.

(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.

Two children.

(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.

Three children.

(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.

Four children.

(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.

Five children.

(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.

Six or more 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 no children.

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 one child.

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.

To widow or  
widower, if three  
or more children.

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

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

6. If there be neither widow, widower, nor children, entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of his death, [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 his death, 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.

Proviso.

Further proviso.

To brothers and  
sisters, if no  
widow, widower,  
children, or de-  
pendent parents.

7. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, [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.

Burial expenses.

8. 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).

When compensa-  
tion payable.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of [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 stepchildren, adopted children, and children to whom he stood in loco parentis and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow the compensation of such widow shall continue, as hereinbefore provided, for one-third of the period during which compensation then remains payable to her: Provided further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

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

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

"Child" and "children."

Right to compensation to cease in certain cases.

Proviso: Remarriage of widow.

Further proviso: Meretricious relationship.

Basis of death compensation.

Period of compensation.

Rate of compensation.

Payment to guardian of minor.

Payment to surviving parent if there be no guardian.

Board may require accounting and filing of bond.

When compensation is payable jointly by employer and Commonwealth.

Proportions of payments by employer and Commonwealth, between certain dates.

If disability begins after September 30, 1951.

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.

Section 308. (a) When compensation is awarded because of disability or death caused by silicosis, anthraco-silicosis, asbestosis, or any other occupational disease which developed to the point of disablement only after an exposure of five or more years, the compensation for disability or death due to such disease shall, *except as otherwise provided in subsection (g) of section 301*, be paid jointly by the employer and the Commonwealth, in accordance with the following provisions: If disability begins between October 1, 1939, and September 30, 1941, both dates inclusive, the employer shall be liable for and pay fifty per centum of the compensation due and the Commonwealth fifty per centum thereof. Thereafter, depending upon the date when disability begins, the proportions of compensation for which the employer and the Commonwealth shall respectively become liable shall be: If disability begins between October 1, 1941, and September 30, 1943, the employer sixty per centum and the Commonwealth forty per centum; if between October 1, 1943, and September 30, 1945, the employer seventy per centum and the Commonwealth thirty per centum; if between October 1, 1945, and September 30, 1947, the employer eighty per centum and the Commonwealth twenty per centum; if between October 1, 1947, and September 30, 1951, the employer ninety per centum and the Commonwealth ten per centum. If disability begins after September 30, 1951, the employer shall be liable for sixty per centum of the compensation due and the Commonwealth forty per centum.

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

JOHN S. FINE