

No. 156

AN ACT

To further amend sections three hundred and six, three hundred and seven, four hundred and ten, four hundred and thirteen, four hundred and seventeen, and four hundred and twenty-six, and to amend sections three hundred and eleven, and three hundred and seventeen, of the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred and thirty-six), entitled "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; and providing procedure for the determination of liability and compensation thereunder," as amended; by increasing, changing, and revising compensation schedules; fixing the time when compensation begins; providing that hernia shall be considered as a physical weakness and compensable only when certain proof given; providing a time limit for notice to employer in order to obtain compensation; fixing the time within which agreements or awards may be reviewed, modified, or reinstated, and the time within which rehearings may be granted by the board; providing for the payment of interest on certain compensation claims and for the payment of compensation to dependents and personal representatives where a claimant for compensation dies before final adjudication of his claim; making certain changes in practice and procedure under the said act; and fixing the date when this act becomes effective.

Workmen's compensation.

Section 306 of act of June 2, 1915 (P. L. 736), further amended.

Section 1. Be it enacted, &c., That section three hundred and six of the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred and thirty-six), entitled "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; and providing procedure for the determination of liability and compensation thereunder," as amended by the act, approved the twenty-sixth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, six hundred and forty-two), entitled "An act to amend an act, approved the second day of June, Anno Domini one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred and thirty-six), entitled '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; and providing procedure for the determination of liability and compensation thereunder,' and providing when the same shall become effective," and by the act, approved the twenty-ninth day of March, one thousand nine hundred and twenty-three (Pamphlet Laws, forty-eight), entitled "An act to amend clause (c) of section three hundred and six of an act, approved the second day of June, one thousand nine hundred and fifteen (Pam-

phlet Laws, seven hundred and thirty-six), entitled '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; and providing procedure for the determination of liability and compensation thereunder,' as amended," be and the same in hereby amended to read as follows:

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

Schedule of compensation.

(a) For the first five hundred weeks after the [tenth] *seventh* day of total disability, [sixty] *sixty-five* 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 [twelve] *fifteen* dollars per week nor less than [six] *seven* dollars per week, and shall not exceed in aggregate the sum of [five thousand] *sixty-five hundred* dollars: Provided, That, if at the time of injury the employe receives wages of less than [six] *seven* dollars per week, then he shall receive the full amount of such wages per week as compensation. 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 hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

Total disability.

(b) For disability partial in character (except the particular cases mentioned in clause (d)), [sixty] *sixty-five* 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 [twelve] *fifteen* dollars per week. This compensation shall be paid during the period of such partial disability; not, however, beyond three hundred weeks after the [tenth] *seventh* day of such partial disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for such total disability.

Partial disability.

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

Permanent injuries.

For the loss of a hand, [sixty] *sixty-five* per centum of wages during one hundred and seventy-five weeks.

For the loss of an arm, [sixty] *sixty-five* per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, [sixty] *sixty-five* per centum of wages during one hundred and fifty weeks.

For the loss of a leg, [sixty] *sixty-five* per centum of wages during two hundred and fifteen weeks.

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

For the loss of a thumb, [sixty] *sixty-five* per centum of wages during sixty weeks.

For the loss of a first finger, commonly called index finger, [sixty] *sixty-five* per centum of wages during thirty-five weeks.

For the loss of a second finger, [sixty] *sixty-five* per centum of wages during thirty weeks.

For the loss of a third finger, [sixty] *sixty-five* per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, [sixty] *sixty-five* per centum of wages during fifteen weeks.

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

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

For the loss of any two or more such members, or the permanent loss of the use of the hand, arm, foot, leg, or eye, as hereinbefore provided, not constituting total disability, [sixty] *sixty-five* per centum of wages during the aggregate of the periods specified for each.

For serious and permanent disfigurement of the head or face of such a character as to produce an unsightly appearance, and such as is not usually incident to the employment, [sixty] *sixty-five* per centum of wages not to exceed one hundred and fifty weeks.

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

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

This compensation shall not be more than [twelve] *fifteen* dollars per week nor less than [six] *seven* dollars per week: Provided, That, if at the time of injury

the employe receives wages of less than [six] *seven* dollars per week, then he shall receive the full amount of such wages per week as compensation.

(d) No compensation shall be allowed for the first [ten] *seven* days after disability begins, except as hereinafter provided in clause (e) of this section.

When compensation begins.

(e) During the first thirty 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 one hundred dollars (\$100). If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employe may procure the 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 thirty 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, medicines, and supplies, tendered to him by his employer, he shall forfeit all right to compensation for any injury or any increase in his incapacity shown to have resulted from such refusal.

Surgical and medical services.

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

Death of employe.

(g) *Hernia shall be considered as a physical weakness or ailment, which ordinarily develops gradually, and shall not be compensable, unless conclusive proof is offered that the hernia was immediately precipitated by such sudden effort or severe strain that: first, the descent of the hernia immediately followed the cause; second, there was actual pain in the hernial region; third, the above manifestations were of such severity that the same were immediately noticed by the claimant and communicated to the employer, or a representative of the employer, within forty-eight hours after the occurrence of the accident.*

Hernia.

Section 307
amended.

Section 2. That section three hundred and seven of said act, as amended by the act, approved the eleventh day of July, one thousand nine hundred and twenty-three (Pamphlet Laws, one thousand and sixty), entitled "An act to amend section three hundred and seven of an act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred and thirty-six), entitled '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; and providing procedure for the determination of liability and compensation thereunder,' as amended," be and the same is hereby further amended to read as follows:

Compensation in
case of death of
employe.

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

[To the child or children, if there be no widow nor widower entitled to compensation, thirty per centum of wages of deceased, with ten per centum additional for each child in excess of two, with a maximum of sixty per centum, to be paid to their guardian.]

To child or chil-
dren.

1. *If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children as follows:*

(a) *If there be either one or two children, thirty-three per centum of wages of deceased, but not in excess of seven dollars and fifty cents per week.*

(b) *If there be three children, forty-four per centum of wages of deceased, but not in excess of ten dollars per week.*

(c) *If there be four children, fifty-five per centum of wages of deceased, but not in excess of twelve dollars and fifty cents per week.*

(d) *If there be five children, sixty-two and one-half per centum of wages of deceased, but not in excess of fourteen dollars per week.*

(e) *If there be six or more children, sixty-five per centum of wages of deceased, but not in excess of fifteen dollars per week.*

To widow or wid-
ower, if no chil-
dren.

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

If one child.

3. To the widow or widower, if there be one child, [fifty] *fifty-five per centum of wages, but not in excess of twelve and a half dollars per week.*

If two children.

4. To the widow or widower, if there be two [or more] children, [sixty] *sixty-two and one-half per centum of wages, but not in excess of fourteen dollars per week.*

If three or more
children.

4½. *To the widow or widower, if there be three or more children, sixty-five per centum of wages, but not in excess of fifteen dollars per week.*

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] *twenty-five* per centum of wages, *but not in excess of five dollars 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] *forty-five* per centum of wages, *but not in excess of ten dollars per week*.

To father and mother.

6. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent to any extent upon the decedent for support at the time of his death, fifteen 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 per centum, such compensation to be paid to their guardian.

To brothers and sisters.

7. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding one hundred *and fifty* 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).

Expense of burial.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, and sister is under the age of sixteen. 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 for 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. The terms "child" and "children" shall include stepchildren and adopted children and children to whom he stood in loco parentis, if members of decedent's household at the time of his death, 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 the remarriage of any widow, other than a nonresident alien widow, the employer shall pay to such widow the then value of the compensation payable to her, during one-third of the period during which compensation then remains payable, but not exceeding one hundred weeks,

When compensation shall be payable.

"Child" and "children."

Remarriage of dependent.

Proviso.

calculated in accordance with the provisions of section three hundred and sixteen of this article. 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.

Basis of compensation.

The wages upon which death compensation shall be based shall not in any case be taken to exceed [twenty] *twenty-four* dollars per week, nor be less than [ten] *twelve* dollars per week.

Period of payment.

This compensation shall be paid during three hundred 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 weeks until such child reaches the age of sixteen, [at the rate of fifteen per centum of wages if there be but one child with ten per centum additional for each additional child with a maximum of fifty per centum] *at the rate of seventeen and one-half per centum of wages, but not in excess of three dollars and seventy-five cents per week, if there be one child; twenty-seven and one-half per centum of wages, but not in excess of six dollars and twenty-five cents per week, if there be two children; thirty-eight and one-half per centum of wages, but not in excess of eight dollars and seventy-five cents per week, if there be three children; fifty per centum of wages, but not in excess of eleven dollars and twenty-five cents per week, if there be four children; fifty-five per centum of wages, but not in excess of twelve dollars and fifty cents per week, if there be five children; and sixty per centum of wages, but not in excess of thirteen dollars and seventy-five cents per week, if there be six children or more.* The board

Payment to guardian.

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 widower* on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent, may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so

order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Account.
Bond.

Section 3. That section three hundred and eleven of said act be and the same is hereby amended to read as follows:

Section 311 amended.

Section 311. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employe or some one in his behalf, or some of the dependents or some one in their behalf, shall give notice thereof to the employer within fourteen days after the accident, no compensation shall be due until such notice be given or knowledge obtained; but if the employe or other beneficiary shall show that his delay in giving notice was due to his mistake or ignorance of fact or of law, or to his physical or mental inability, or to fraud, misrepresentation or deceit, or to any other reasonable cause or excuse, then compensation shall be allowed, unless the employer shall show that he did not know, and by reasonable diligence could not have learned, of the accident, and that he was prejudiced by the delay; in which case he shall be relieved to the extent of such prejudice; *and, unless such knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed.*

Notice to employer of injury.

Section 4. That section three hundred and seventeen of said act be and the same is hereby amended to read as follows:

Section 317 amended.

Section 317. At any time after the approval of an agreement or after the entry of the award, a sum equal to all future instalments of compensation may (where death or the nature of the injury renders the amount of future payments certain), with the approval of the [bureau] board, be paid by the employer to any savings bank, trust company, or life insurance company, in good standing and authorized to do business in this State, and such sum, together with all interest thereon, shall thereafter be held in trust for the employe or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the prothonotary's docket, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same periods as are herein required of the employer, until said fund and interest shall be exhausted. In the appointment of the trustee preference shall be given in the discretion of the [court] board, to the choice of the employe or the dependents of the deceased employe. Should, however, there remain any

Payment of award to a trustee.

Payments from fund.

Unexpended balance.

unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Section 410, further amended.

Section 5. That section four hundred and ten of said act, as amended by the said act, approved the twenty-sixth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, six hundred and forty-two), be and the same is hereby amended to read as follows:

Claim to be presented to board upon failure to agree.

Section 410. If, after any accident, the employer and the employe or his dependent, concerned in any accident shall fail to agree upon the facts thereof and the compensation due under this act, the employe or his dependents may present a claim for compensation to the board.

Interest.

Whenever any claim for compensation is presented to the board, other than claims of nonresident alien dependents, and is finally adjudicated in favor of the claimant, the amounts of compensation actually due at the time the first payment is made after such adjudication, shall bear interest at the rate of six per centum per annum and such interest shall be payable to the same persons as the compensation is payable.

Payment in case claimant dies before final adjudication.

In case any claimant shall die before the final adjudication of his claim, the amount of compensation due such claimant to the date of death shall be paid to the dependents entitled to compensation, or, if there be no dependents, then to the estate of the decedent.

Section 413 further amended.

Section 6. That section four hundred and thirteen of said act, as amended by the act approved the twenty-sixth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, six hundred and forty-two), be and the same is hereby amended to read as follows:

Review and modification of agreements.

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an original or supplemental agreement, upon petition filed with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement was procured by the fraud, coercion, or other improper conduct of a party, or was founded upon a mistake of law or of fact.

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

The board, or referee designated by the board, may, at any time, modify, reinstate, suspend, or terminate an original or supplemental agreement or an award, upon petition filed by either party with such board, upon proof that the disability of an injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of the date upon which it is shown that the disability of the in-

jured employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: *Provided, That, except in the case of eye injuries, an agreement or an award can only be reviewed, modified, or reinstated during the time such agreement or award has to run, if for a definite period; and, except in the case of eye injuries, no agreement or award shall be reviewed, or modified, or reinstated, unless a petition is filed with the board within one year after the date of the last payment of compensation, with or without an agreement.*

Proviso.

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

Powers of board or referee.

When petition a supersedeas.

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend the payment of compensation fixed in the agreement or by the award, in whole or to such extent as the facts alleged in the petition would, if proved, require.

Section 7. That section four hundred and seventeen of said act, as amended by the said act, approved the twenty-sixth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, six hundred and forty-two), be and the same is hereby amended to read as follows:

Section 417 further amended.

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

Hearing on petition.

Notice.

Time of hearing.

Secretary to serve notice.

Section 8. That section four hundred twenty-six of said act, as amended by the said act approved the twenty-sixth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, six hundred and forty-

Section 426 further amended.

two), be and the same is hereby further amended to read as follows:

Rehearing.

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth to whom an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board has made an award or disallowance of compensation or other order or ruling, or has sustained or reversed any action of a referee, *but such rehearing shall not be granted more than one year after the board has made such award, disallowance, or other order or ruling, or has sustained or reversed any action of the referee.* If the board shall grant a rehearing of any petition from the board's action on which an appeal has been taken to and is pending in, the court of common pleas of any county of this Commonwealth under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: *Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article.*

Limitation.

Proviso.

Effective date.

Section 9. The provisions of sections one and two of this act shall not apply to any accident or injury occurring prior to midnight, on the thirty-first day of December, one thousand nine hundred and twenty-seven, but all such accidents and injuries shall be compensated in the manner and according to the schedules as fixed prior to the passage of this act. The remaining provisions of this act shall be in force upon its passage and approval.

APPROVED—The 13th day of April, A. D. 1927.

JOHN S. FISHER

No. 157

AN ACT

Authorizing cities of the third class to establish a pension fund for employes of said cities who are not now protected by pension authorized by the laws of this State and in force at the time of the passage of this act.

Whereas, The laws of the Commonwealth authorize cities of the third class to create and maintain pension funds for the benefit of volunteer firemen and police; and