

## No. 55

## AN ACT

## HB 1397

Amending the act of June 21, 1939 (P.L.566, No.284), 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," further defining "occupational disease" and providing for the running of certain statutes of limitation applicable to certain benefits.

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

Section 1. Clause (c) of section 108, act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act," is amended to read:

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

\* \* \*

(c) Poisoning by methanol, carbon bisulphide, *carbon monoxide*, hydro carbon distillates (naphthas and others), or halogenated hydro carbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact with, handling thereof, or exposure thereto.

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Section 2. Section 315 of the act, amended November 10, 1965 (P.L.695, No.335), is amended to read:

Section 315. In cases of disability all claims for compensation shall be forever barred, unless, within sixteen months after compensable disability begins, the parties shall have agreed upon the compensation payable under this article, or unless, within sixteen months after compensable disability begins, one of the parties shall have filed a petition as provided in article four hereof. *Where, however, a person is receiving benefits pursuant to the act of June 28, 1935 (P.L.477, No.193), referred to as the Heart and Lung Act, the sixteen-month period in which parties must agree on compensation payable or file a petition for compensation in cases of personal injury or cases of death, shall not begin to run until the expiration of the receipt of benefits pursuant to the Heart and Lung Act.* In cases of death all claims for

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

In cases of total disability from silicosis, anthraco-silicosis, coal worker's pneumoconiosis, and asbestosis where the claim is allowed, compensation shall be payable and commence as of the date the claim is filed.

Section 3. Sections 413 and 434 of the act, amended February 28, 1956 (P.L.1095, No.355), are amended to read:

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an existing original or existing supplemental agreement, upon petition filed by either party with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement was in any material respect incorrect.

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 the employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of date upon which it is shown that the disability of the employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: Provided, That an agreement or an award can only be reviewed, modified, or reinstated during the time such agreement or award has to run, if for a definite period; and no agreement or award shall be reviewed, or modified, or reinstated, unless a petition is filed with the board within two years after the date of the most recent payment of compensation made prior to the date of filing such petition. *Where, however, a person is receiving benefits pursuant to the act of June 28, 1935 (P.L.477, No.193), referred to as the Heart and Lung Act, the two-year period in which a petition to review, modify, or reinstate a notice of compensation, agreement, or award must be filed, shall not begin to run until the expiration of the receipt of benefits pursuant to said Heart and Lung Act.* Where compensation has been suspended because the employe's earnings are equal to or in excess of his wages prior to the disability payments under the agreement or award may be resumed at any time during the period for which compensation for partial disability is payable, unless it be

shown that the loss of earnings does not result from the disability due to the exposure.

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

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend 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 434. A final receipt, given by an employe or dependent entitled to compensation under a compensation agreement or award, shall be prima facie evidence of the termination of the employer's liability to pay compensation under such agreement or award: Provided, however, That the board, or a referee designated by the board, may, at any time within two years from the date to which payments have been made, set aside a final receipt, upon petition filed with the board, if it be conclusively proved that all disability due to the occupational disease in fact had not terminated. *Where, however, a person is receiving benefits pursuant to the act of June 28, 1935 (P.L.477, No.193), referred to as the Heart and Lung Act, the two-year period within which the board or a referee designated by the board may set aside a final receipt upon petition filed with the board, shall not begin to run until the expiration of receipt of benefits under the Heart and Lung Act.*

Section 4. This act shall take effect in ninety days.

APPROVED—The 4th day of April, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 55:

A handwritten signature in cursive script, reading "C. McLaughlin Tucker".

Secretary of the Commonwealth.